

IPR and Franchisors

The key to a successful franchise is a strong brand. In order to have a strong brand it needs to be distinctive and well protected and have an ethos which is supported by all that the franchise does. The key to protection is through intellectual property rights.

Trade Marks

A registered trade mark protects a word and/or logo or strap line and in certain circumstances can even protect a colourway. Registered trade marks last for 10 years and are renewable for further periods of 10 years in perpetuity on payment of the relevant filing fees and renewal fees. The system is run by the UK Intellectual Property Office (www.ipo.gov.uk)

To be capable of registration a trade mark must be distinctive and not descriptive of the goods or services to which it is to be applied.

It is important before settling on a mark to try and check that there are no other marks in us which are the same or highly similar. Good places to check for this are:

- Companies House register of Company names www.companieshouse.gov.uk
- Trade marks register www.ipo.gov.uk
- Domain name registers www.allwhois.com
- Google search
- Consider whether overseas searches are needed if you have international plans

Domain Names

Ideally your domain name should match your brand. Therefore when selecting a brand name check to see if the corresponding domain name is available. Also consider a domain strategy and whether you will want domains with geographic references to match territories.

Copyright

Copyright arises automatically when an original piece of written work is created. It is owned by the author (or in the case of an employee in the course of their job – their employer) and last for the life of the author plus 70 years. There is no facility to register it and therefore the way that you tell the world you own copyright is by putting a copyright notice at the end of the work. This consists of a letter c in a circle followed by the name of the owner and the year of creation.

This should be used on websites and all marketing materials and manuals.

Brand Guidelines

Include in your operating manual brand guidelines to govern how the brand is used in order to ensure consistency amongst franchisees and to enable you to police use.

Commissioned Works

It is often the case that marketing professionals or designers are retained to devise a brand, logo or website. Whilst many will check that there are no other similar brands using the mark they devise some do not. It is therefore important to satisfy yourself that there are no other brands which are the same or similar and may cause you difficulties in the future.

It is also important to note that generally a person commissioned to do work will own the intellectual property rights in that work unless there is a contractual arrangement that expressly says otherwise. Therefore always ensure that own the end result of that you obtain a full licence to use it.

Information provided by Blake Laphorn Solicitors