

Sign Language

Symbols and logos abound in our fast paced, quick fix, instant recognition culture, but what do the three symbols used in relation to Intellectual Property actually mean?



The © symbol indicates that someone wishes to assert their copyright in a work. A common misconception is that something can be “copyrighted”. This is simply not the case. Copyright arises automatically on the creation of a copyright work and there is no register for copyright in European countries. The best way to protect your copyright work is to be aware of your rights. With the exception of a very small number of countries where it is a requirement, copyright exists in a work whether or not the symbol is used – the © merely acts as a deterrent to copying and a declaration of the ownership of the copyright. Copyright is infringed by copying any copyright work and (despite what people might say) it is breached by copying a CD without permission – even if it’s just to have an extra copy in your car!

TM

As someone once said TM stands for “Totally Meaningless”! The TM symbol does not indicate that a trade mark is actually registered, only that it is being used in a trade mark sense. The owner of the mark is seeking to protect it by asserting it is a trade mark without going to the bother or expense of having it registered. This works for some people, but does mean that an enforcement action to protect the mark is much more difficult than if it was registered. For an unregistered mark you may only seek redress through the courts in what is known as a passing off action. For this to succeed you must persuade the court, first that the mark used by someone else is associated in the public mind with your goods or services, secondly that the other person's goods or services have been mistaken for your own and thirdly that you have suffered loss as a result.

The simple advice here is that if the mark is important to your business, register it.



The ® symbol can only be used in relation to registered trade marks. You are actually breaking the law (Section 95 of the Trade Marks Act 1994) if you use the ® or the abbreviation “RTM” in relation to an **un**registered mark. However, you should bear in mind that just because a logo doesn’t have the ® or has the TM doesn’t necessarily mean it isn’t a registered mark. Users of trade marks do not have to use the ® if the trade mark is registered - once again it serves only as a warning to others. Registration of a trade mark is often relatively straightforward and worth the moderate expense. If your mark is registered you may sue for infringement under trade mark law. For this to succeed you only have to show that someone has used a mark which is the same as, or similar to, your registered mark, on goods or services which are the same as, or similar to, the goods or services for which your mark is registered.

Considerable time and money are invested creating exciting new products and innovative services and devising appealing names and logos to suit them. More expense is incurred promoting goods and services through advertising campaigns....don’t let someone else benefit from your hard work....make your mark count by protecting it properly.

For more information on how to protect your intellectual property contact:

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