

To ® or not to ®

Positive steps should be taken to ensure the correct use of trade marks on labels and in advertising and promotional materials and there are important benefits to be gained from placing others on notice of your trade mark rights. The basic rules include:

Trade marks should be distinguished from their surroundings

A trade mark may be given trade mark significance in many ways:

- using it in letters of a different colour, size or font from its surroundings
- accompanied by ™ or ® as appropriate adjacent to the trade mark
- using it in capital letters or in quotation marks
- where possible accompanying the trade mark by the product name
- never using the trade mark as a product description or pluralised
 - CORRECT HOOVER® vacuum cleaners are the best
 - INCORRECT Hoover's are the best

Unregistered trade marks should be identified as trade marks

A trade mark which is unregistered or subject of a pending application for registration may be given trade mark significance by:

- placing the letters ™ adjacent to the trade mark
- using an * referring to a footnote which states *Trade Mark of XYZ Pty Ltd

Registered trade marks should be identified as registered

It is possible to place others on notice that your trade mark is registered by:

- using the ® adjacent to the trade mark
- using an * which refers to a footnote stating *Registered Trade Mark of XYZ Pty Ltd

It is an offence under the Trade Marks Act 1995 to suggest that a trade mark is registered when it is not and therefore you should not use Registered Trade Mark or ® until registration takes place.

Contact us

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