



What Can I Do When My Trade Mark Has Been Infringed?

Client Fact Sheet

DISCLAIMER

This factsheet provides an overview of key commercial terms and definitions commonly used in business and legal contexts. It is intended for general informational purposes only and **does not constitute legal, financial, or professional advice**. No reliance should be placed on this information as a substitute for professional guidance. For advice specific to your circumstances, please contact our sister business YLP Legal to discuss your situation with a qualified professional.

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Introduction

Discovering that your trade mark has been infringed can be frustrating and disruptive to your business. Whether someone is using a confusingly similar brand name, logo, or selling counterfeit products, prompt and strategic action is key to protecting your rights and limiting the damage caused to your brand.

Identifying Infringement

First, ensure that what you have identified amounts to trade mark infringement. Common signs include:

1. A competitor using a name or logo that is identical or very similar to yours;
2. Counterfeit goods being sold under your brand name;
3. Your trade mark appearing on unauthorized websites, social media, or product listings;
4. A new business operating in your industry using branding similar to yours that is likely to cause confusion for consumers in the market place.

It is important to document any instances of suspected infringement, including taking photos or screenshots, recording dates, and recording where the activity occurred.

Steps You Can Take

1. Confirm your rights
 - a. Check that your trade mark is registered, valid, and covers the relevant goods or services. If your trade mark is unregistered, this does not mean that you have no rights, it may just be harder to enforce those rights.
 - b. Make sure the infringing use is in a similar commercial space to yours (e.g. same industry or customer base).
2. Gather evidence
 - a. Collect clear and dated examples of the infringement (e.g. product listings, website captures, packaging).
 - b. Record how and where the infringement was discovered and any impact on your business (confused customers, lost sales, brand damage).
3. Monitor the infringement
 - a. Track how widespread the activity is. Is it local or online? Is it expanding? Are multiple methods or online platforms involved?
4. Consider a commercial response
 - a. Sometimes a direct, informal approach (such as contacting the other party) may resolve the issue.
 - b. In other cases, a more formal response may be appropriate, depending on the severity of the infringement or the commercial risk posed to your business.



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Steps You Can Take (Continued)

4. Consider a commercial response
 - a. Sometimes a direct, informal approach (such as contacting the other party) may resolve the issue.
 - b. In other cases, a more formal response may be appropriate, depending on the severity of the infringement or the commercial risk posed to your business.
5. Issue a cease and desist notice
 - a. A professionally drafted letter by an intellectual property solicitor can clearly assert your rights, request the infringing conduct stop, and set out the actions you expect.
 - b. This step can often resolve the issue without needing to take more formal legal action.
6. Request take down or removal (if online)
 - a. Platforms such as Google, Facebook, Instagram, eBay and Shopify offer intellectual property complaint mechanisms to remove infringing content.
 - b. These requests are usually faster and cost-effective, particularly for counterfeit or scam-related issues.
7. Explore Enforcement Options
 - a. If informal steps fail, there are various enforcement options that may include mediation, negotiation or legal action.
 - b. Taking action helps to protect the strength and integrity of your brand in the long term.

What can I do to Ensure Ongoing Protection?

1. Consider trade mark monitoring or due diligence services like those offered by YLP Advisory to detect infringement early.
2. Review your trade mark portfolio on a regular basis to ensure it reflects your current business offerings and properly covers all key brand assets.
3. Establish brand usage guidelines and educate your team on how to identify and report misuse.

Timely action helps prevent further damage and demonstrates that your trade mark is actively monitored and protected.

How can YLP Advisory Help?

YLP Advisory offers strategic services to help you monitor and protect your trade mark assets through our trade mark due diligence service.

If formal enforcement action is required, we work closely with our trusted legal partner, YLP Legal – Your Legal Partner to ensure your rights are protected and the matter is escalated effectively.

If you believe your trade mark is being infringed, contact our team to discuss the best next step for your brand.

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