

## Proper use of trade marks

**A registered trade mark is a valuable IP asset and like any item of value it requires care and attention. Using a registered trade mark properly not only validates it, it also ensures that the mark does not fall into generic use.**

Allowing a registered trade mark to be used in a descriptive manner for a product or service could result in the registration becoming vulnerable to removal from the trade marks register by an interested third party. In the alternative, if a registered trade mark has fallen into generic use it can be extremely difficult, if not impossible, to stop competitors from using the trade mark.

The terms 'escalator', 'linoleum' and 'gramophone' were originally registered trade marks but the trade mark owners lost their exclusive rights when those trade marks were used on a day-to-day basis to describe the product in general rather than as a trade mark/brand name for those products.

Adhering to the following parameters of use should ensure that the validity and integrity of your trade mark is maintained and avoid the 'generic trap':

- Wherever possible use <sup>TM</sup> or <sup>®</sup> in superscript after the trade mark
- Always use in the singular
- Never use in the possessive format unless the trade mark is intended always to be used in that format
- Use the trade mark as a proper adjective and not as a noun
- Endeavour to ensure that the trade mark stands out from its surroundings, e.g. portray it in capitals; employ different colours; use a different typeface
- Use it in the precise form in which it is registered
- Monitor the use of the trade mark by licensees, franchisees or distributors to ensure compliance with the above points