

Mistakes to avoid when you
register a trade mark in
THE CLOTHING INDUSTRY



page white and farrer
european IP

Intellectual property masterclass



James Cornish

Partner

Chartered Trade Mark Attorney



Taryn Byrne

Partner

Chartered Trade Mark Attorney



Intellectual property masterclass

- Spending time investing in a brand which cannot be protected by a trade mark registration can waste resources.
- This presentation outlines nine common errors to avoid when launching a new fashion brand.

Common errors – with names

Error #1	Examples
Proposing a brand name which is generic or devoid of any distinctive character.	Trade mark applications were refused for: <ul style="list-style-type: none">• essential layer• Enjoy fur• We love couture• Be You. Be Your Own Bride• One of a Kind• Total Black• Keep it Pretty• Queen Elizabeth 2

Common errors - with names

Error #2	Examples
Proposing a brand name which is potentially deceptive.	Trade mark applications were refused for: <ul style="list-style-type: none">• ONZIE (deceptive as it suggests goods are a ONESIE)• Supersocks

Common errors – with names

Error #3	Examples
Proposing a brand name which includes words which are commonplace.	Trade mark applications were refused for: <ul style="list-style-type: none">• Don't Just Fit In• Find Your Own Perfect Fit• Violet• Woolland• IdealFit

Common errors - with names

Error #4	Examples
<p>Proposing a sign which is ...</p> <p>... descriptive and exclusively consists of indications that describe the characteristics of the clothing industry.</p> <p>The purpose of this is to prevent clothing companies monopolising terms which should be freely available for use by all</p>	<p>Trade mark applications were refused for:</p> <ul style="list-style-type: none">• PJS TO GO.• Workwear Technology• All Winter

Common errors - with names

Error #5	Examples
<p>Proposing a brand name which ...</p> <p>... includes words which may have some distinctive meaning, but also have a descriptive meaning.</p>	<p>Trade mark applications were refused for:</p> <ul style="list-style-type: none">• Get in shape without setting foot in a gym• Intelligent Molecules• Home Grown Cotton Proudly Grown in the USA




Common errors – with names

Error #6	Examples
<p>Proposing a brand name which ...</p> <p>... although descriptive has become distinctive through extensive use for your business, but not in the whole jurisdiction in which you seek rights eg not European Union wide.</p>	<p>Trade mark application was refused for:</p> <ul style="list-style-type: none">• Silver Jeans

Common errors – with words

Error #7	Examples
Proposing a name which is descriptive, promotional or laudatory.	Trade mark applications were refused for: <ul style="list-style-type: none">• Justforu.• Smart1• Truly Great Company• Raw Silk• Paris Chic• Better Sweater

Common errors – with logos

Error #8	Examples
<p>Proposing a stylisation or weak logo which ...</p> <p>... does not make a descriptive brand into a distinctive brand.</p>	<p>Trade mark applications were refused for:</p> <ul style="list-style-type: none">• Ocean Plastic • Buttoned Down • The Great Canadian Outdoor Company Established since 1988 

Common errors – with categories

Error #9	Examples
<p>Applying for registration for services without care, including ...</p> <p>... for lists of services that stress the descriptiveness of the brand, by failing to exclude categories of services where the sign is descriptive, or deceptive.</p>	<p>Trade mark applications were refused for:</p> <ul style="list-style-type: none">• Gumboots• Hotpants• Sexy Comfortable Lingerie

Intellectual property expertise in the clothing sector

Page White and Farrer supports clothing companies and retailers of clothing. We assist with the creation of the business, choice of name, protection and enforcement of brands, both for start up businesses and large corporations with many brands.

We build close relationships with our clients, and our customised working approach means that we are always available for guidance, advice and support regarding your intellectual property.

We excel at identifying creative solutions for any intellectual property issues. Our clients say that we are '**responsive, approachable, commercially orientated and great to work with**'.

How to avoid these common errors when developing a new brand in the clothing sector



Pick up the phone and call us for an informal consultation on:

44 (0) 207 831 7929

**James Cornish
Taryn Byrne**

or email
trademarks@pagewhite.com

T: [@PageWhite_IP](https://twitter.com/PageWhite_IP)