

A - Z Home Loans

RE: “A review of the relationship between trade marks and business names, company names and domain names”

I came across your article this morning and found it very interesting. I certainly agree that urgent action is required to educate or preferably to fix the misconceptions about the rights provided by a Company Name.

Our situation

Example 2 is written almost expressly for us!

We are a home loans broker trading under our registered company name “A-Z Home Loans”. We have been receiving letters from another broker’s solicitor claiming we desist from using our name because it similar to theirs “A to Z Mortgages”.

We had been ignoring their letters until recently when they informed us of their approval for a Trade Mark of their logo and name. Example 2 seems to indicate that we might be required by a court of law to change our name.

However, we have been trading with our Company Name prior to the registration of their Trade Mark. I couldn’t in your article the implications this would have.

Questions

Could you explain the rights granted by a Trade Mark over a Company Name where a business has been trading under that name prior to the date of registration of the TM?

Submissions

Registering a Company Name is pointless (and could ultimately be very costly) if it cannot be used as a trading name because someone has Trade Marked that name.

The Two-tier trade mark system –appeals to me more so than the other solutions. Why? Because it offers protection to people who are acting in good faith. Two-tier makes good sense because there are 2 different objectives in seeking registration.

1. To protect genuine intellectual property (of all sorts, graphics, logos, phrases, smells, etc)
2. To protect your trading name (so you can either commence legal action or defend yourself – as in our case).

Thanks for your time.

Warm Regards,
Ben Hodge

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