

# **Trade Mark <sup>TM</sup>**

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A Trade Mark is anything that can be represented graphically and which can distinguish one brand from another. This can be goods or services.

A Trade Mark may consist of words e.g Stiletto Workout (this may include your personal name). In particular it includes designs, special letters, numerals or the shape of the goods or packaging (The Nike Swoosh or your Stiletto Heel picture)

A business may have spent years building up goodwill with customers and potential clients. It would therefore be unfair if a newly formed business or operation made out that they owned the product or service that you spent years building up.

Under UK law traders are prevented from running their businesses in such a way as to steal a competitor's trade. I.e Gymbox stealing Stiletto Workout.

Anyone who suffers financial loss as a result of an activity of this kind is entitled to bring a **passing off** action.

## **Passing Off**

Passing Off is when a person like you builds up a reputation in an unregistered trade mark (Stiletto Workout) and is then harmed by another (GynBox) making use of that mark and the goodwill contained in it.

Passing Off protects a business from misrepresentation by others that they are connected with or part of the same business.

It is a matter of common law. Essential ingredients of Passing Off are:

- **Goodwill**
- **Misrepresentation**
- **Damage**

## **Registering Trade Marks**

Trade Marks can only be registered in respect of particular goods or classes of goods.

Once a trade mark has been registered, its owner is given the exclusive right for ten years to use the mark. You have to ensure you re-register it after the ten years.

### **Important Note:**

Trade marks may also be **licensed or assigned** to other users. So instead of franchising, perhaps you could license the use of your Trade Mark to others....just an idea.!