



Manual of signs

Difference between trade names and trademark

The terms trade name and trademark sometimes confuse business owners and consumers because they sound similar, also, a company may use its trade name in its trademark.

Identification

A trademark is a way of identifying the source of any product and/or service in the market. It can be a single word, a phrase, logo, symbol, image, design, or any combination thereof.

The trade name of a company is simply the name under which the company does business, and this name may be registered before the Commercial Register of Head Office city. Trade names have a mostly administrative function, such as for filing a corporate tax return or for billing.

The trade name may give some rights function of the national law, but these rights always have a reduced scope than trademark rights.

Function

Companies use trademarks to differentiate their goods/services from the products/services of their competitors, so consumers can instantly recognize the brand and develop brand reputation.

It is to be noted that the term brand is a marketing term to talk about the identity of a company or of its products/services whereas the term trademark is a legal term, trademarks being defined by law and implying juridical consequences for their owners and those who infringe trademarks.

The use of the symbols "™" or "®" is recommended to inform people about the relevant trademark rights. However the use of such symbols is not mandatory in ETSI.

This use is highly recommended in USA where the use of these symbols is taken into account in litigation proceedings notably to consider the damages (the lack of use of these symbols may reduce the amount of damages).

The symbol "™" can be used as soon as a trademark is filed before its registration and can be used also when a trademark is registered.

The symbol "®" can be used only when a trademark is registered otherwise, it will be regarded as an offence.

On the principle, if the trademark is used somewhere else than in the country in which it was registered, the country of registration must be shown in close proximity to the symbol "®".

To avoid any confusion, and due to the fact that the symbol "™" indicates that the organization using the trademark claims certain rights in it, ETSI has decided to always use the symbol "™".

What is a copyright?

Copyright protects a concrete expression of ideas in all work of the mind (literary and artistic works, works of applied art,) provided that the work is original and fixable on a tangible form.

Ideas as such are not protectable.

Even if it is not mandatory, the use of the symbol © is highly recommended to inform people about a copyright associated to a work.



The question we should ask ourselves

Is ETSI entitled to publish this picture – who has provided it and is it certain there is no copyright issue? e.g. "I am not aware that Mobil or Gaz de France are members of ETSI".

Therefore the status of this picture should be double checked – who provided these documents and could the content of the picture be given in a more neutral way? e.g. instead of using the picture something could be written such as "In the area of petrochemicals an important process parameter, the injection pressure at the wells must be monitored etc. Such process is for example applied by Gaz de France in oil fields in the Emsland region of Germany."

When a picture embodies personal image (name and/or face/body of a person), other personal rights such as images rights can be claimed in addition to trademarks and copyrights.

All these rights may be cumulated.

ETSI policy

1. **Avoid, to the extent possible, the use of trademarks in our standards**, as mentioned in clause 4 of the EDRs.
2. **If this cannot be avoided, you shall inform the ETSI legal department** who will assess the associated risk, and provide the appropriate recommendation for trademark usage including the eventual requirement to request the associated trademark and/or copyright license.

The question about the right symbol to use (TM or ®) should be directed to the trademark owner, as he knows about the actual status of his rights.

A notice on trademark has been added in the IPR clause. From now on this is what will be displayed in all ETSI deliverables:

Intellectual Property Rights

Essential patents

IPRs essential or potentially essential to the present document may have been declared to ETSI. The information pertaining to these essential IPRs, if any, is publicly available for **ETSI members and non-members**, and can be found in ETSI SR 000 314: "*Intellectual Property Rights (IPRs); Essential, or potentially Essential, IPRs notified to ETSI in respect of ETSI standards*", which is available from the ETSI Secretariat. Latest updates are available on the ETSI Web server (<https://ipr.etsi.org/>).

Pursuant to the ETSI IPR Policy, no investigation, including IPR searches, has been carried out by ETSI. No guarantee can be given as to the existence of other IPRs not referenced in ETSI SR 000 314 (or the updates on the ETSI Web server) which are, or may be, or may become, essential to the present document.

Trademarks

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