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# BRAND OWNERS' GUIDE TO TRADEMARK USE

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Brand name protection isn't just about trademark registration. Marketing and advertising that communicate brand messages play an important role.

There are few "rules of the road" that come with federal trademark registration that must be followed in order to safeguard the legal protection for the trademarks, logos, and slogans that are protected brand assets.

The rules of engagement should be understood and followed by:

- Marketing Professionals**
- Advertising Professionals**
- Social Media Teams**
- Brand Managers**
- Outside Agencies**
- Distributors**
- Communications and PR Teams**
- Foreign Subsidiaries**
- Licensees**
- Digital Marketing Affiliates**
- The Media**

The most important is proper use of trademarks and brand names in advertising and marketing materials.

Brandaide can create a customized brand usage guide brands to share with one or more of your brand tribe based upon the following rules of the road. Meanwhile, do implement proper trademark usage from the beginning of your brand's life cycle using the following guide.

## WHAT IS A TRADEMARK?

A trademark is any word, name, symbol or device (or any combination thereof) that identifies and distinguishes the source of the goods of one brand from those of others. Similarly, a service mark is a word, name, symbol or device (or any combination thereof) that identifies and distinguishes the one company's services from those of another.

A trademark is not a trade name or corporate name. Trade names identify a company name, not a particular product or service. Conversely, trademarks only exist to the extent they are used to market and sell specific goods or services.

### EXAMPLE:

Apple, Inc.	Corporate name
APPLE® computers	Brand name

## WHY PROPER USE IS SUCH A BIG DEAL?

Brand assets are among the most valuable assets of any business. Legal protection for trademarks exists solely for the purpose of identifying and distinguishing goods and services in the market place. Trademarks help consumers make choices about products and services based upon their experiences. If a trademark ceases to function as an indicator of source, all rights are lost, meaning the term is not longer a trademark. Anyone can use it!

Correct use of brand names is critical for two reasons:

- 1. Trademark registration is not allowed absent evidence of public use that meets federal regulations**
- 2. Rights can be lost through improper use leading to genericide.**

## SAFEGUARD BRAND ASSETS

### FOLLOW THESE SIMPLE RULES

## A ADJECTIVE

Trademarks and service marks should be used as an adjective. They are not nouns. Not verbs. A mark should always be used as an adjective followed by a generic noun that defines the product or service. The risk of genericide increases when the public begins to use the trademark as the name of the product.

+ Correct: XEROX brand copier  
May I have a KLEENEX tissue

Who is your real estate agent?

- Wrong: XEROX these papers  
Hand me a Kleenex  
Can you bring me a STARBUCKS?

Who is your realtor?\*

\*REALTOR is a trademark for designating membership in a trade association.

Inclusion of both terms together, with the brand being more distinctive in appearance, reminds the consumer of the generic term, as well as the particular brand of the generic.

## AVOID THE TRADEMARK GRAVEYARD


**Aspirin, zipper, kerosene, corn flakes, escalator, thermos, pilates . . .**

these were all victims of genericide. Once trademarks, they eventually became synonymous with a general class of product or service. The irony is that these brands were, at one time, dominant in their respective markets. In a sense, they became a victim of their own success, they fell victim to genericide.

Brands like JEEP and XEROX invest not just in educating their teams, but also informing the public. No brand owner wants their trademark to be used to refer to the common name for the product itself.

Here's an example from JEEP that makes the point:

## They invented “SUV” because they can’t call them Jeep.



Jeep is a registered trademark. Good thing. No telling what kind of jacked-up station wagons they’d be trying to pass off as Jeep vehicles otherwise. Because sometime around the mid-80s, a craze took off. The era of the SUV was born. Fact is, we had them beat by a few decades.

As soon as the mighty little Jeep vehicle came back from World War II, people discovered how much fun a utility vehicle could be. What made it perfect for the army made it perfect for having a picnic in the hills. Or a hunting trip. Or a snowy drive up to the cabin. And ever since, our vehicles have had a heritage of earning their name by getting the tires dirty and doing what comes naturally. Each is rugged enough, dependable enough, unstoppable enough, and agile enough to be a Jeep all-purpose, fun-making machine. When heading straight out into the unknown, it’s good to know you’re going there in a vehicle that’s been heading down that muddy road from the beginning. That’s Jeep 4x4. And that’s a heritage no “SUV” can ever stake claim to. [Jeep.com](#)



**Have fun out there. Jeep**

**Definition:** Genericide is a term for gentrification, the historical process whereby a brand name or trademark is transformed through popular usage into a common noun.

## A ASSOCIATE

When launching a new brand name and establishing legal rights, associate the brand name with the product or service. While this sounds obvious, it’s not as simple as it sounds. Federal regulations require that the mark be used in connection with the sale or advertising of the goods or services, on the goods themselves, or displays associated with the goods. Advertising samples must meet the test or trademark registration will be refused.

Today’s brands selling products online can establish and registered a trademark for an online retail store for the products sold in the online store.

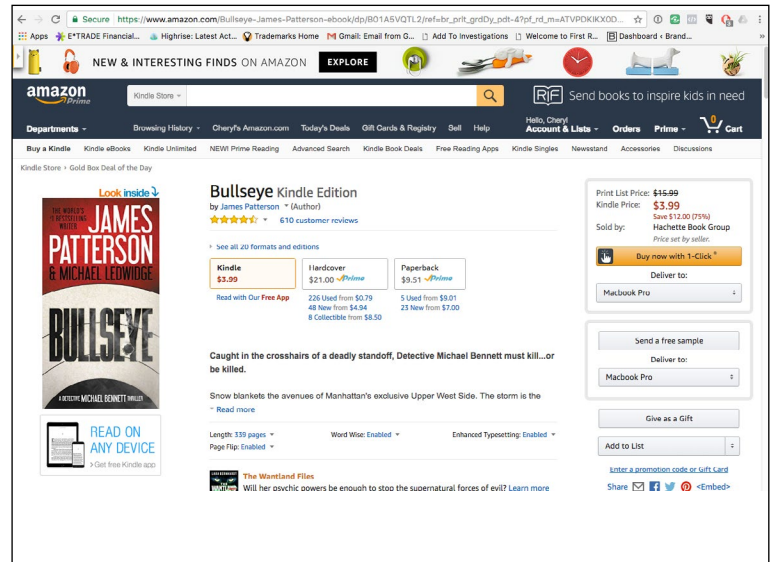
The days of bricks and mortar stores alone are long gone. Any brand selling products or services online often has legal rights in an online retail store for types of products.



AMAZON is a great example:

1. The trademark is visible on the page with the products, “an online store display” similar to the idea of a point of sale display at a retail location; and
2. A shopping card or toll free number, a visible way to order the product online.

Resource: Rules of Use for Online Displays



## D DISTINCTIVE

Use marks in a different or distinctive font, all caps, bold, to set the mark apart from descriptive copy or generic words.

Avoid descriptive use of trademarks in a sentence.

Avoid all lower case

- + Correct:     APPLE computers  
                     XEROX copier
- Incorrect:    These are xerox copies

## MEDIA INSTRUCTION

The Media can play an important role in the health of a brand name by following the rules above. When referring to brands or writing about them in news article, it's important that they don't end up being used to describe action, i.e, as a verb.

Example:

- + Correct: The results of a GOOGLE search revealed . . . .
- Incorrect: He Googled the term and learned . . . .

## DOES YOUR BRAND OR THE BRAND YOU REPRESENT HAVE ITS OWN BRAND USAGE GUIDE?

The brand usage guide should be shared with team members and stakeholders. The brand usage guide instructs distributors, affiliates, licensees, agencies, communication teams on the proper use of all company brand names. Contact us to get your guide created or reviewed.

This is an educational service of **Brandaide** and **Hodgson Legal**

Contact Brandaide at:  
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[service@brandaide.com](mailto:service@brandaide.com)

**MARKETING PROS:**

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**REVEALED HERE**

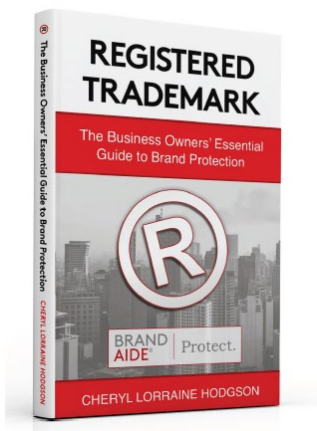
Cheryl's Proven 3-step Process

**SELECT | SECURE | SUSTAIN™**  
**BRANDS BUILT TO LAST**

*We buy the book, you pay for shipping, and you receive  
my easy-to-follow best selling guide.*

**REGISTERED TRADEMARK:**

**The Business Owners' Essential Guide to Brand Protection**



**SEND MY GUIDE**





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