

## Choosing Business Names

Everyone normally has the right to use his or her name for the business (although changing your name to H. Arrods does not cut it!). You do not have to register your business name but if you trade under a different name from your own then you either have to show on your business letterheads, invoices, receipts etc., your business name, your own name and any partners names (or the company name where you trade through a company with a different name from the business name) and your permanent business address. You must also display a notice at your business premises (even if you are working from home).

There are strict rules about what information should appear on letterheads. Failure to comply with these requirements can be a criminal offence but also may even mean that your contracts are unenforceable (by you, not against you). Companies must show the company's registered office (stated to be such), company registration number, the fact that it is registered in England and either all or none of the names of the directors - invoices, credit notes, etc must show your VAT number if you are VAT registered.

Before committing to a name you should read 'Business Names - Guidance Notes' which is available Companies' House, Companies Registration Office (even if you are not going to form a limited company) at Companies House, Crown Way, Maindy, Cardiff CF4 3UZ (02920 388588) - [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk). With companies you will not be allowed to register a name already in use but also names that include restricted words - e.g. "Royal" or "International" - for more information on restrictions, contact Companies House.

### Passing Off & Business Names

This is a legal expression to describe the using of a business or product/service name that is similar to or the same as that of a competitor (not necessarily in exactly the same business). Basically, the law says that it is not fair for you to take advantage of someone else's hard work in making a name for themselves.

The test is whether people will tend to be confused into thinking you are either the same company or associated with it. If found "guilty" of passing off, you will have to pay compensation to the other company for all profits you have made on the back of their name (plus a hefty legal bill for their lawyers, not to mention your own if you decide to defend the claim).

The difficult thing is that there is no way of guaranteeing that you are not "passing off" and being unaware of the problem is no defence. There is no official register of business names and, although you would be wise to check with Companies House and the Trademark Registry ([www.patent.gov.uk](http://www.patent.gov.uk)) to see that there are no companies or trademarks registered with the same or similar names, this will be no guarantee that the name is usable - you can otherwise look through telephone directories for your planned area of operation (possibly nationwide or even internationally) and check with any trade associations.

Bear in mind that these checks should also be carried out for any domain names you intend using as well as the names of any products or services you offer.

### NEED TO KNOW MORE?

For further information on trade mark protection, contact Maitland Kalton. Should you prefer to telephone, call us on +44 (0)207 278 1817.

Kaltons Solicitors, 9 White Lion Street, London N1 9PD, UK.  
Telephone +44 (0)207 278 1817; Fax: +44 (0)207 278 1835.