

09 Relative grounds - Representations of the Royal Family

1. Introduction

Subpart 3 of Part 2 of the Trade Marks Act 2002 (the Act) contains the relative grounds for not registering a trade mark, and incorporates sections 22 to 30 of the Act. Relative grounds are concerned with the conflict between the rights of the Applicant and those of other persons. These guidelines focus on the registrability of a trade mark under sections 24 of the Act.

Section 24 of the Act refers to marks that contain representations of the Royal Family. Under this section, the Commissioner must not register marks that contain representations of Her Majesty or any member of the Royal Family in the absence of consent.

2. Representations of the Royal Family

The Commissioner is prohibited from registering a trade mark that contains a representation, or an imitation of any representation, of Her Majesty or any member of the Royal Family in the absence of the relevant consent. Section 24 of the Act states:

The Commissioner must not register a trade mark that contains a representation of Her Majesty or any member of the Royal Family, or an imitation of any such representation, unless the applicant has obtained the consent of Her Majesty or the relevant member of the Royal Family to the registration of the trade mark.

A concern will be raised under section 24 of the Act where a trade mark application contains a representation, or an imitation of any representation, of Her Majesty or any member of the Royal Family. The Examiner will request that the Applicant supply the written consent of Her Majesty or the appropriate member of the Royal Family to the registration and use of the trade mark.

IPONZ has provided a guide for Applicants of persons that are regarded by the Queen as members of the Royal Family for the purposes of the UK Trade Marks Act 1994 in Appendix 1 [[link to Appendix 1](#)]. This list is merely indicative and is not exhaustive.

2.1 Consent

An Applicant may overcome a concern under section 24 of the Act by providing written consent of Her Majesty or the appropriate member of the Royal Family to the registration and use of the trade mark.

Where an Applicant has obtained consent, the Applicant must forward the consent document to IPONZ. The consent document should:

- Clearly identify the mark;
- Relate to the registration and use of the mark;
- Clearly identify the goods and services to which the consent relates;
- Carry the seal of Her Majesty or the relevant member of the Royal Family giving the consent; and
- Be an original document, or a certified copy thereof.

Upon receipt of a letter of consent, the Examiner must check that the consent document includes all of the necessary information, as outlined above. The Examiner may require further information be provided in relation to the above matters.

If Her Majesty or the relevant member of the Royal Family consents to the registration of the Applicant's mark in respect of a narrower specification of goods or services than that originally applied for, then the Applicant must request a limitation of the specification, pursuant to section 37(1) of the Act, so that the specification includes only those goods or services listed in the consent document.

3. Absolute grounds

An Examiner may raise a concern under section 17(1)(a) of the Act where a mark contains a representation, or an imitation of any representation, of Her Majesty or any member of the Royal Family. Section 17(1)(a) of the Act states:

The Commissioner must not register as a trade mark or part of a trade mark any matter...the use of which would be likely to deceive or cause confusion...

Pursuant to section 17(1)(a) of the Act, the Commissioner must not register any matter as a trade mark, or as part of a trade mark, if the use of that matter is likely to deceive or cause confusion.

See [Trade mark practice guidelines](#).

3.1 Deception and confusion

A concern may be raised under section 17(1)(a) of the Act where the mark contains a representation, or an imitation of any representation, of Her Majesty or any member of the Royal Family as the public may be deceived or confused into thinking that a connection exists between the Applicant and Her Majesty or the relevant member of the Royal Family.

Deception or confusion may occur if the trade mark or matter within the trade mark suggests that a connection exists between the Applicant and the member of the Royal Family represented in the trade mark, when in fact no connection exists. The connection may imply royal patronage, permission or approval of the goods or services to which the trade mark is applied.

The Applicant may overcome a concern under section 17(1)(a) by providing written consent of Her Majesty or the appropriate member of the Royal Family to the registration and use of the trade mark or by satisfying the Examiner that the use of the trade mark containing the representation of Her Majesty or the relevant member of the Royal Family would not deceive or confuse the public.