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Company name disputes up 43%

- IT giants move to protect their brands by taking action against “piggy-back” products

Legal disputes over company names have shot up 43% this year according to new research by Sweet & Maxwell, the leading legal information provider.

Instances where a company has been taken to tribunal over the registration of a similar, or misleading company name has leapt from 54 in 2009 to 77* in 2010*. (Year to October 2010)

Disputes typically occur when one company is thought to be using the name of another in order to cash in on the other entity’s fame. Once discovered, the original company’s owner can take the copy-cat company to a ‘Company Names Tribunal’ and force them to change their name.

Sweet & Maxwell says that a huge proportion of these cases are brought by major blue chip organisations who take steps to protect their brands from opportunistic start-ups who register similar names.

Sweet & Maxwell explain that the increasing use of Company Names Tribunals is clear indication that the legislation is becoming both more widely understood and accessible.

According to Sweet & Maxwell, opportunistic start-ups may look to piggy-back on the brand reputation of a well established company so that customers confuse their products with those of a market leader – which can cause a major problem for big businesses.

Sweet & Maxwell explain that problems start to occur when consumers fail to recognise the difference between the original brand and the newcomer to the market. A brand’s reputation – which can take years to build up – can be destroyed by foolhardy actions of an opportunistic company, whom the public perceive as having links with the larger organisation.

The Company Names Tribunal was established in October 2008 to deal with claims from companies who are in dispute over the opportunistic registration of company names. It has registered 131 disputes – to October 2010 – finding in favour of the applicant on all but two occasions.

Recent examples of opportunistic company name registration include:

- Quantum of Solace Limited – challenged by Danjaq (Part of EON, who hold the rights to the James Bond franchise)
- Kitty Kat UK Limited – challenged by Nestle
- Lloyds Bank Guaranteed Service Limited – challenged by Lloyds TSB
- BMW Windows Ltd – challenged by BMW.

US IT giants responsible for nearly quarter of claims

Since coming into force, 24% of claims have been made by American IT giants who have brought claims against a number of small IT start-ups who trade under their brand name.

Examples include Intel Corporation, who have brought 15 claims against companies who use the word 'Intel' in their name, and Sun Microsystems – creators of the Java programming language – who have taken action on six occasions for unlicensed use of the Java name.

Sweet & Maxwell say that these small IT start-ups are amongst the worst offenders of name infringement because the IT industry is awash with contractors who develop expert knowledge of company's products.

Sweet & Maxwell explain that contractors often work for long spells with the same company, and as a result develop a wealth of knowledge about the company's specialist tools and programmes.

According to Sweet & Maxwell, small software developers looking to set up their own company may be tempted to name their offering after another company's product to emphasise their specialist knowledge in the field.

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Notes to Editors:

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