



The Duchess of Sussex has recently come under scrutiny for her attempts to register various trade marks. Unless one takes the view that all publicity is good publicity, there are some simple lessons on branding to be drawn from her recent tribulations.

1. Do a clearance check of the register, or at least Google your proposed name in conjunction with the goods and services you plan to register it for.

Meghan tried to register “Archetypes” in the US and internationally, to coincide with the launch of her podcast of that name. Yet there was already an Archetypes trade mark on the US register in respect of highly similar goods and services, which would have shown up on a clearance check.

2. Check that your name is actually registrable.

When it came time for the Duchess to launch her lifestyle brand she went with “American Riviera Orchard”. Yet a Google search of US trade mark rules would have shown that in America, one cannot register geographic locations as trade marks: “American Riviera” is a well-known reference to Santa Barbara, California. The addition of the generic “orchard” couldn’t save the application.

3. Consider the timing of your launch in view of the strength of your application.

Given the weakness of “American Riviera Orchard”, Meghan was ultimately not well-

served by launching the brand before the trade mark was registered, since this led to some scathing press coverage. If you know your mark is borderline, you may be better served by waiting for application outcome before incurring the expense and publicity of a brand launch that you may have to retract and redo.

4. Try not to pick commonplace phrases or terms for your brand name.

Meghan's new lifestyle Netflix show is called "With Love, Meghan". Yet, there is already a lifestyle blog in the US called "With Love, Abigail".

5. See 1 above.

"American Riviera Orchard" has now been relaunched as "As Ever". In her announcement of her new brand, Meghan explained that "*As Ever essentially means 'as it's always been'*". And so it is: because no sooner did she soft launch it, but a US-based family clothing manufacturer of the same name raised highly publicised complaints online and vowed to continue trading, and it transpired that a Chinese company held the US trade mark ASEVER, so Meghan has had to remove certain Nice classes due to a likelihood of confusion, again exposing her to tabloid derision.