

Trademark Traps for Unwary, Part 1: Black-and-White Registrations Abroad are a Gray Area

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US trademark aficionados know that US registrations depicting logos in black and white allow the trademark owner to display the registered mark in any color. Filing in black and white is often a good way to achieve broader protection in the States, and it helps avoid your having to file a new application if you change the color of your logo in the future. The next time you want to protect your logo **outside** the USA, however, pause before you send that email to local counsel or submit your Madrid Protocol application depicting the logo in black and white. It's not safe to assume that a black-and-white registration outside the USA confers "universal" protection for a mark displayed in any color.

To elaborate: counsel in a number of jurisdictions have informed us that black-and-white registrations may not protect marks displayed in any color. We've heard this from the EU, Kazakhstan, and Thailand, among other places – though you will of course want to check this with your own local counsel, since this is a fact-specific issue. Worse yet, black-and-white registrations outside the USA may be subject to attack on non-use grounds if the trademark isn't used in black and white. (How often does that happen?!)

We haven't run across a treatise or other resource that drills down to this level of trademark nerddom, so this might be a good topic to add to the next edition of the Country Guides (accessible to members of the [International Trademark Association](#)). In the meantime – now you're equipped to ask some more pre-filing questions, to help ensure that your future logo applications will achieve maximum protection.

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