

Selection of the right name for start-ups - what you should know about

What should be taken into consideration when choosing a name for a start-up? Where are the risks? Which work steps have to be done before and after the name selection?

Basically, the procedure can be divided into five steps:

1. Positioning

What is the key scope of my business - and what distinguishes my business from others? Answering those questions affects the naming procedure only indirectly, but it is very important for every entrepreneur and should be well thought out and defined right before the name selection.

Start-ups frequently fail because they have not precisely thought out their business concept and do not have a clear picture of their unique features, their target audience and the messages to be communicated. Experience has shown that business concepts only result in success if they have a narrow focus, a clearly defined target group and if the special features of the business concept can be reduced to a few simple words. Only once you have defined the individual formulation of your own offerings, you should go on with the next step - the search for an adequate company name.

2. Name search and selection

The lack of knowledge of the complex legal conditions, the long-term enforceability of a name and its legal availability frequently result in approaches that are less promising. To avoid this, you should know first whether the aim is a regional, a national or even an international usability. Finally, the name must work well in communicative (linguistic) terms, in all target markets, without leading to misinterpretations.

Once you have specified the linguistic part, the next step is the adaption to the needs of the target group. For example, if you work in a very specialized, technical B2B environment, it can be assumed that the target group understands the English language. However, if you offer a smartphone app with a wide range of B2C services, the target group will be far greater and, with regards to their socio-demographic characteristics, much more complex.

In brand name creation, there are basically four types of names which must be differentiated in terms of linguistic and legal availability:

- **Acronyms:** Abbreviations like IBM, BMW or GE (General Electric)
- **Descriptive names** like Kinderschokolade or VW Transporter
- **Associative names** like Milka Lila Pause or Toyota Funcruiser
- **Artificial names** like Raffaello or Renault Twingo

Acronyms are in need of explanation and, due to their brevity, often difficult to enforce from the legal point of view, as there are too many similar designations. Moreover, the internet domains are rarely available and it is more difficult to communicate your message.

Descriptive names seem very appealing at first glance, because they directly identify the product or a product feature. The disadvantage is that their international usability is restricted and, above all, a legal protection is not possible, because descriptive names cannot be registered as a trademark.

Associative names are mostly used and also mostly preferred when creating brand names. In the product and service environment, they are explainable with limited commercial purposes and usually do not cause comprehension problems. The disadvantage is that, due to the multitude of already existing similar “name ideas” of other trademark owners, there is a high risk of infringement of earlier rights.

Invented, **artificial names** have the highest USP potential and therewith the best opportunities to be enforceable from the legal point of view. The disadvantage is that considerably more communicative efforts are needed to “charge” the name with a message and to position it uniquely.

3. Domains

The domain availability can also be an essential factor for the selection of a name. If the top level domains .DE, .COM, .NET and eventually .EU are available, they should be secured in any case, even if only one of them is needed for a long-term commercial use. Domains that seem to be already assigned at first glance are often only registered for stock and, in some cases, can be purchased for little money.

4. Trademark searches

Regularly the fallacy exists that a call to the German Patent and Trademark Office is sufficient to check the existence of already protected identical names in the intended product or service area.

This assumption is incorrect - the user of a new brand name has to ensure that there are no - neither identical nor similar - prior third party rights, that is, registered trademarks in the same product or service area that may cause legal conflicts in the future.

In fact, that means it has to be verified first by which trademark classes the intended products and services are covered. In Germany and mostly all other countries, there are 45 trademark classes: 1 to 34 for products, 35 to 45 for services. Within these classes, a trademark search for identical and similar trademark rights is necessary. On www.trademarkCHECK.de, you may order trademark searches that deliver all registered trademarks and all those representing a potential risk in the area of similarity at low cost.

5. Trademark protection

Once you have successfully passed steps 1 to 4, it is only a short step to anchor the name as a company name, e.g. in line with the foundation of a limited liability company, or to apply for trademark registration at the German Patent and Trademark Office.

If this is done without an attorney, a fee of 300,00 EUR must be paid for the application in three trademark classes. Provided that it is not rejected because of absolute grounds for refusal, e.g. due to the name's descriptive character, trademark protection will be granted for ten years after the expiry of the three month opposition period without contradictions.

If you prefer, as recommended, to take the step towards trademark protection together with an attorney, a few hundred Euros consultation fee will be due. But the money is well invested, as the lawyer will assist you in compiling the list of goods and services and help you in case of questions.

Once positioning, name search, protection of domains and trademarks are successfully completed, the name should be a solid foundation for the ongoing success of the newly founded start-up.