

BANKSY AND GROSS DOMESTIC PRODUCT

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We have written about the risks of not using a trade mark which could lead to the mark being removed from the register by a third party because of such non-use.

The importance of use is once again illustrated by the trade mark dispute in which the elusive and legendary street artist, BANKSY, has found himself.

It seems that a greeting cards company is alleging that as the BANKSY trade mark is not being used for merchandise under the various trade mark categories, the trade mark registrations should be removed from the register.

The reality is that the BANKSY mark has not been used for such products which has led to an ingenious strategy to protect the trade mark rights in the BANKSY mark.

To deal with the threat, BANKSY firstly created a store in London under the name GROSS DOMESTIC PRODUCT which will not open its doors but in which merchandise is displayed. This has been followed by an online store at www.grossdomesticproduct.com

The online store has an interesting character in that an online shopper will not be guaranteed the purchase of the item selected but will have to apply for the goods which are placed in the basket. Once a product is selected the following notice is shown on check-out:

- *We apologise in advance for what may prove to be a disappointing retail experience.*
- *Purchases are limited to one item per person, register your interest below.*

Please note:

There is no rush – sales are not allocated on a first come first served basis, but selected at random once vetted through the customer question. Our system automatically removes orders from duplicate IP addresses. Please refrain from submitting multiple orders.

Successful applicants will be notified by email within 2 weeks of submission, and sent a link to a private checkout to complete their online purchase. Incomplete transactions will be offered to other shoppers.

Further down on the same page the following notice appears which then requires the shopper to answer the question: **Why does art matter?**

Prove that you're not a robot (and a half decent human being) by answering the following question in no more than 50 words:

Some of the items which are available to purchase by way of application are copied below:



According to press reports, BANKSY is reportedly creating a number of different items to satisfy the various trade mark categories to ensure that the mark is in use.

Taking into account, the extreme secrecy surrounding his identity there is no wonder that Banksy has taken such steps as any litigation might force out his identity, which has created the mysteriousness around the artist which makes his artwork certainly even more desirable.

This is not the usual run of the mill case of non-use and is a bit more interesting than most, but illustrates once again the importance of using a trade mark to prevent an attack on the basis of non-use.



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