

# IP & LEGACY

3 July 2019     3 min read

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## NELSON MANDELA INTERNATIONAL DAY

18 July is Nelson Mandela International Day in remembrance and in honour of Nelson Mandela, celebrated each year on his birthday. Madiba's legacy is vigorously safeguarded and fundamental is the intellectual property residing in Nelson Mandela's image, name and quotations, owned and protected by the Nelson Mandela Foundation. Trade mark registrations include **NELSON MANDELA, 46664, NELSON MANDELA INTERNATIONAL DAY** and images of Nelson Mandela covering a wide range of goods and services with any unauthorised use thereof likely to be an infringement.<sup>[1]</sup> Guidelines produced by the Nelson Mandela Foundation are intended to protect the reput associated with Nelson Mandela's image and brand name, strongly discouraging the unauthorised use of Nelson Mandela's name and his legacy for commercial exploitation.

## PERSONAL NAMES

The immense value and reput associated with public figures cannot be underestimated and all necessary steps should be taken to ensure that all potential [intellectual property](#) be protected at the outset.

One might ask why formal intellectual property protection is in any event necessary when a brand is one's name (also referred to as an eponymous brand). Names, afterall, give a personal touch, connecting the consumer with that individual's style and personality.

The risk, however, lies when the control of that business changes and the result commercialises this intellectual property. Founders of personal name labels, predominantly in the fashion and luxury goods industry, have lost the right to trade under their own names. These include Jo Malone who, consequent to business buy-outs, could no longer use her name for perfumes and so switched to "Jo Loves". The late Kate Spade, who sold her handbag business in 2007 and renounced her right to use her personal name commercially, and Paulo Gucci, former chief designer of Gucci, who under court order was only able to use his name placed after a different brand name, provided too that it was smaller than that brand name. There is much written about Karen Millen, UK fashion designer, who lost all title to her name and battled her rights for future expansion when she sold her majority share in Karen Millen Holdings Ltd.

All terms of an agreement will always require careful consideration, and perhaps all too often the long-term consequences and commercial realities associated with intellectual property rights are not thoroughly considered. Trade mark registrations for logos, names (including nick names) and new brands provide statutory protection against unauthorised use and can be licensed for royalties. Copyright subsists in a work provided that work is original and in a material form. In South Africa, although there is no registration process for copyright, the nuances, intricacies and exceptions thereof should not be overlooked.

It goes without saying that as with Mandela's legacy, intellectual property and the rights that vest therein can be forever, provided they are safe guarded.

[1] <https://www.mandeladay.com/pages/terms-and-conditions>.



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