

Important notes on the Guidelines about the Sale of Trade Marks vested in the Crown as bona vacantia

1. The attached Guidelines give you information you need about the sale by the Treasury Solicitor of trade marks. Please read the Guidelines carefully.
2. Separate Guidelines apply to intellectual property rights, copyright and domain names.
3. Please complete and return the attached questionnaire, with **FULL REPLIES**. We cannot deal with the matter until we have **ALL** the required information.
4. If you intend to instruct solicitors to act on your behalf, please let us know their name, address, and reference as soon as possible, and let them see a copy of these Guidelines. As the Treasury Solicitor cannot give you legal advice, you should consider instructing your own solicitor if you have not already done so.
5. Depending upon the date when the company was dissolved, it is possible that it can be restored to the Companies Register, and then the trade mark would automatically revert to the company. If restoration is possible, before deciding to sell or disclaim (i.e. give up the Crown's interest) the trade mark, we may need to ask the former members or liquidator of the company if they intend to restore the company.
6. As well the purchase price, the purchasers will also have to pay a minimum contribution of £250 plus VAT and disbursements towards the Treasury Solicitor's legal costs. For a very complicated sale, the costs may be higher. If we offer to sell the trade mark to you we would need an undertaking from your solicitor to pay the Treasury Solicitor's legal costs, plus VAT and disbursements, whether or not the matter proceeds to completion. **However, at this stage there is no certainty that any offer will be made to you or to anyone else to purchase the rights.**
7. As explained in the attached Guidelines, the Treasury Solicitor has the statutory power to disclaim the Crown's title (i.e. to give up the Crown's right to deal with the property or rights). We will give you four weeks to complete and return to us the attached questionnaire, before we decide as to how to deal with the trade mark.
8. **These Guidelines contain general advice and cannot cover every circumstance that may arise. It is not intended to be a complete guide. Each case will be dealt with on its own merits, and the right to vary or depart from these Guidelines at any time without notice is expressly reserved.**

THE TREASURY SOLICITOR

BONA VACANTIA DIVISION

Guidelines about the Sale of Trade Marks vested in the Crown as Bona Vacantia

Background

1. When a company that was registered under the Companies Acts is dissolved, all its property and rights in England and Wales (but not its liabilities) pass to the Crown as bona vacantia (meaning “*ownerless property*”) because of Section 654 of the Companies Act 1985.
2. If the company’s last registered office was in England or Wales (other than in the Duchies of Cornwall or Lancaster) we are nominated by the Crown to deal with its property and rights.

What we can do for you

3. Bona vacantia property and rights belong to the Crown, and the Crown is not obliged to deal with them in any particular way. Normally they will be disclaimed or sold, and the proceeds of sale transferred to the Exchequer to be dealt with in the same way as money raised by general taxation.
4. It is only the assets of a company that pass to the Crown when it is dissolved. Its liabilities are extinguished, and the Crown accepts no liability for the company’s property.
5. When dealing with any property or rights that have vested in the Crown as bona vacantia, we have to obtain the full open market value if we decide to sell it. The sale price (subject to valuation) of UK trade marks will be £1,000 or the market value of the trade mark, whichever is the higher. The sale price (subject to valuation) of European Community trade marks will be £2,000 or the market value of the trade mark, whichever is the higher. We may have to take professional advice on both the price and the most appropriate method of sale. **There is therefore at this stage no certainty that we will offer to sell the trade mark to you.**

What we cannot do for you

6. We cannot transfer the trade mark with any title guarantee. This means that when we sell a trade mark we do not give any guarantee or assurance that we have the legal right to sell it.
7. If an offer is made to sell the trade mark it will not include any goodwill that may be associated with it.

How it Works

8. Before we can deal with a trade mark, we must be sure that the company was the owner at the time it was dissolved, and that the trade mark was not held upon trust by the company for the benefit of any other person.
9. If the title to the trade mark is registered, this can be proved by providing a copy of the appropriate registration document as evidence that the company owned it at the date of dissolution. You will be responsible for providing this evidence to the Treasury Solicitor.

10. If we offer to sell the trade mark to you it will be subject to the minimum prices set out above, plus VAT, and on such terms and conditions that we prescribe in our standard form of Deed of Assignment, and the matter shall remain strictly subject to contract until completion.

What to do next

11. **Please note that at this time there is no certainty that we will offer to sell the trade mark to you.** If you wish to purchase the trade mark, please complete and return the attached questionnaire with full replies.

Money Laundering

12. In accordance with good practice, and with the aim of preventing money laundering, the Treasury Solicitor operates in accordance with the principles laid down in Part VII of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003.
13. For that reason, the Treasury Solicitor makes such enquiries as are deemed necessary to comply with the Act and the Regulations, including obtaining evidence of identity from those with whom we do business and retaining such evidence in accordance with our record-keeping procedure.

Please Note

14. You may want to take professional advice on the important information in this document. It is not our role to give you legal advice – we provide information as guidance only. We accept no liability for its accuracy and we reserve the right to change or depart from the guidance at any stage. If you wish to pursue the matter you may wish to instruct your own solicitors, and show them a copy of these Guidelines. They will then be able to give you further assistance.
15. This guidance is not a binding offer or any professional undertaking to sell the trade mark. We reserve the right to disclaim the Crown's claim to the trade mark without notice at any time under Section 656 of the Companies Act 1985. If the trade mark is disclaimed, we will send a copy of the formal Notice of Disclaimer to all interested parties of whom we are aware.
16. If we do offer to sell the trade mark, completion of the sale must take place within the time period that we prescribe. It is our practice to require that completion of the sale takes place before the disclaimer period expires, and to disclaim the trade mark if completion will not be possible before the end of the disclaimer period.
17. Any assignment of the trade mark will be upon the basis of the registration details that you have provided. We will not conduct any further investigations into the ownership of the trade mark, and no title guarantee will be given.
18. The subsequent registration of the assignment of the trade mark will be a matter for you. We will not be able to help with the registration of the assignment, or with any enquiries or requisitions raised by the registration authority. You will also be responsible for paying any fees due for registering the assignment.
19. We give no express or implied representations or warranties regarding the trade mark or the assignment, and you will have to deal with any subsequent disputes that may arise regarding the assignment or the use of the trade mark.

Further information

20. You can find copies of all the documents referred to in these Guidelines, and more information about bona vacantia from our website at www.bonavacantia.gov.uk. Information is also available in large print, audio tape and Braille formats.

Please note

The purpose of these guidelines is to set out our approach to the property and rights that pass to the Crown as bona vacantia. This document is not an Act of Parliament and it should not be read or interpreted like one. It is intended to provide general guidance only, and it is not a statement of policy.

We will consider each matter on its facts and decide each case on its merits. Our decisions will be based on all the information available to us and we will tell applicants about our decisions as soon as possible. When dealing with any property and rights that pass to the Crown, we act fairly and impartially but in such a way as to not prejudice the interests of the Crown. We aim to be fair in all our dealings and not to take an unfair advantage or to favour one party over another.

All rights reserved.

These Guidelines are subject to Crown Copyright and must not be altered, amended, deleted or added to.

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QUESTIONNAIRE

<u>Questions</u>	<u>Answers</u>
1. Please provide copies of the registration details in respect of the trade mark that you wish to acquire.	
2. Please supply details of any past or current disputes or other matters relating to the trade mark or its use. Who (if anyone) is currently using the trade mark?	
3. Please give the name, address and reference of the solicitors who will be dealing with the legal formalities on your behalf.	
4. Please let me know why you are interested in acquiring this trade mark from the Crown, and what are your future intentions regarding its use.	

The above answers are true to the best of our belief and knowledge.

Signed: Date:

Name: [in BLOCK CAPITALS]

Address: