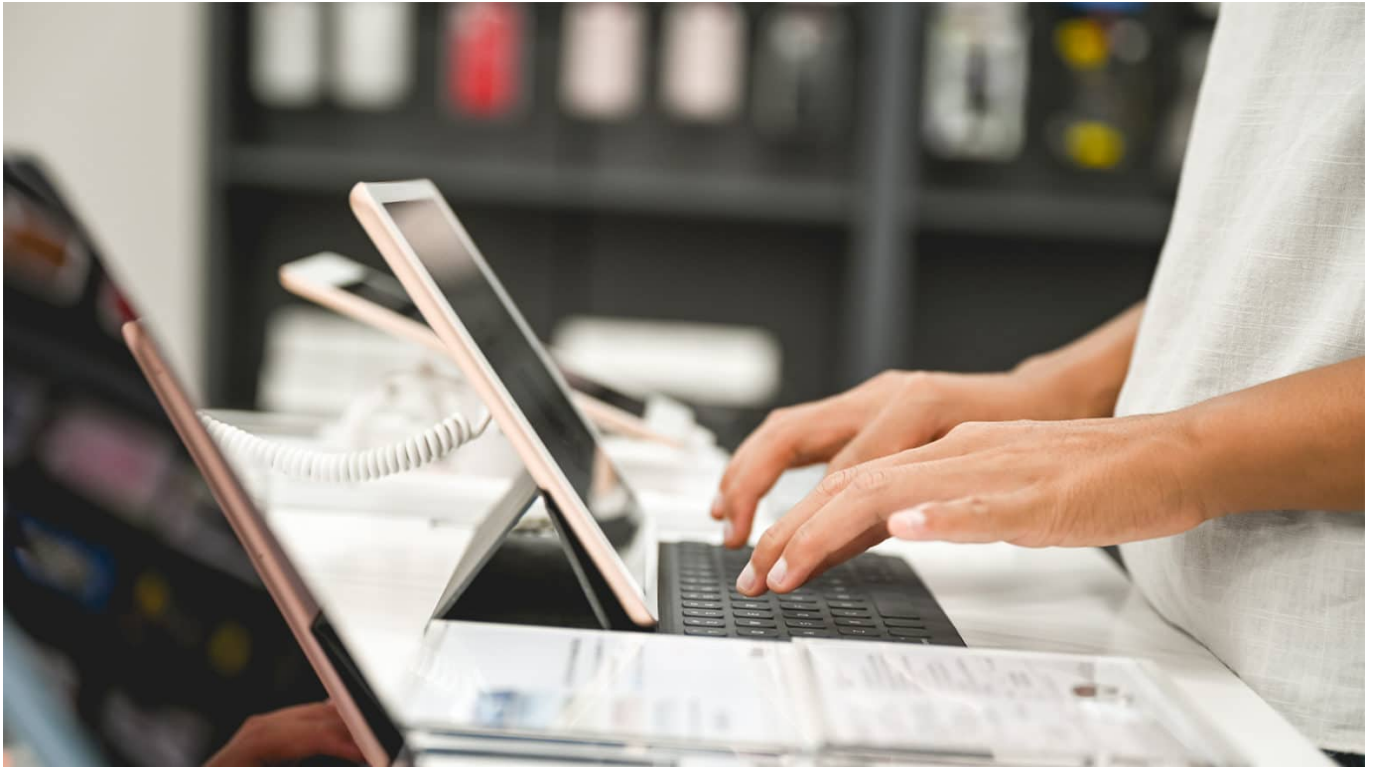


## Anne Boleyn in a spot of Barney Rubble. Vera Lynn gin trademark application rejected following successful opposition



**Anne Boleyn**<sup>1</sup> in a spot of **Barney Rubble**<sup>2</sup>: Vera Lynn gin trademark application rejected following successful opposition

The recent stratospheric popularity of gin means that we are seeing brands using innovative marketing seeking to tempt shoppers into purchasing their **Edna**<sup>3</sup>. One company turned to cockney rhyming slang...

In June 2018 makers of Whitley Neill gin (this author can personally recommend their rhubarb & gin variety), Halewood International, applied to register a new trademark 'VERA LYNN' in class 33 for alcoholic beverages and spirits. The Forces' Sweetheart, Dame Vera Lynn promptly filed an opposition claiming that (i) she was the owner of an earlier right and (ii) the applicant had no permission to use her name and was trying to exploit her "good name and reputation to sell its goods".

In the following proceedings, Halewood International argued that Vera Lynn was well-known cockney rhyming slang for gin and that the younger generation of alcohol-drinkers, to which its goods were aimed, would not necessarily make the connection with a singer whose main activities were associated "with the war effort in the 1940s".

The Intellectual Property Office hearing officer held:

- Dame Vera Lynn had used VERA LYNN as an unregistered trademark since 1939;
- the applicant had failed to mention the cockney rhyming slang in its original defence;

- the applicant's evidence had failed to show that relevant gin-drinkers (of all ages) were more likely to associate VERA LYNN with gin rather than the Dame who had been in the entertainment business for 84 years; and
- it was likely the public would think there was an endorsement connection between Dame Vera Lynn and a gin bearing her name, and there was therefore a risk of damage in her ability to continue to use her name for the financial benefit of a number of charities.

It was also held that the trademark application was filed in bad faith as the applicant failed to establish that they had not intended the public to make an association with the famous singer by using her name on their gin.

Although there is the general rule that a famous person cannot use unregistered rights prevent the use of their name for all goods and services in all circumstances, it was held that in this instance VERA LYNN is very deliberately used in limited situations by Dame Vera Lynn and there was a potential risk to the goodwill long established in VERA LYNN if the mark was used by an unconnected entity.

The trademark application was subsequently rejected and the applicant ordered to pay Dame Vera Lynn £1800 in costs. It was a **Naomi**<sup>4</sup> that didn't pay off.

We encourage our clients to conduct trademark searches prior to trademark application in order to ascertain potential risks. The moral of this **Jackanory**<sup>5</sup> is to avoid using well-known marks or you may end up owing a bit of **Bugs Bunny**<sup>6</sup> to the unhappy rights' owner.

For advice on how to use intellectual property rights to best protect your brand, please contact our [corporate team](#).



[Ian Lindley](#)

Partner