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Harry and Meghan leave the Royal family ... and seek to legally protect their brands – a move towards a successful business career?

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The media bombshell was dropped by the Duke and Duchess of Sussex last week. In a widely reported announcement Harry and Meghan have unveiled their intention to step back from Royal life, embrace a new working model and have financial independence.

What has also been reported, yet less widely, is the move by the Sussexes to attempt to legally protect their brands. In December 2019 the UK Intellectual Property Office revealed that Harry and Meghan's organisation had filed applications to protect the trademarks "Sussex Royal" and "Sussex Royal the Foundation of the Duke and Duchess of Sussex".

It is likely that this move was decided on after the couple had learned about a failed attempt by a Malta-based individual named John Burnett to trademark the sign "Sussex Royal" in connection with as diverse goods as bras and energy drinks (see The Guardian of 9 January 2020). The attempt seemed to be in bad faith as the application had been filed around the time that Harry and Meghan opened the official Sussex Royal account on Instagram in the spring of 2019. And indeed the application was later rejected because of the special protection that Royal names have under UK trademark law (Sec. 4 UK Trade Marks Act).

As known, trademarks are registered by corporations and entrepreneurs to secure monopoly rights over their brands to prevent use by third parties in relation to business areas where they intend to exploit the marks. This is exactly what Harry and Meghan may soon start doing according to many media outlets. Not only charitable fundraising and community related services are covered by their trademark applications (which mention more than 100 goods) – but also less 'royal' and more commercial products including footwear, t-shirts, jackets, trousers, hats, socks, scarves, and gloves.

Given that brands must be actually used to avoid revocation, the couple may start using their trademarks to boost their future businesses. After all, this is what companies and people who seek trademark registration do. And Harry and Meghan would be in a more solid position than ordinary entrepreneurs are in light of their worldwide fame – with pundits believing that the Sussex brand could rival that of the House of Windsor.

The huge potential of their trademarks has already attracted imitators. Straight after their announcing the split from the Family, an EU trademark application was filed by an Italian based

designer for the name “Sussex Royal” in connection with various products including alcohol, beer, jewelry, sporting articles and bags. Identical trademark applications were also filed last week, at the USPTO (No 88751874) and EUIPO (No 018178521). Yet, Harry and Meghan might be able to oppose successfully such identical trademarks, claiming that these applicants were in bad faith as they knew that the Sussexes started using their brand last year, especially through Instagram: their account was unveiled in April 2019 and has today more than 10,5 million followers. The couple also recently launched “The official website of the Duke and Duchess of Sussex”.

Having said that, the very applications filed by the Royal couple could be challenged, for example by entrepreneurs that have registered earlier similar brands and want that their consumers not to be misled into buying the wrong product or service? This may be the case of a Portuguese wine company which has been owning and using since 2011 the EU trademark “Blandy’s Duke of Sussex” (No 010146132).

Despite the fact that risks of challenges can’t be ruled out, there’s little doubt that Harry and Meghan’s brands have the potential of carrying a high “selling power” and building a money-making global empire. Because of their notoriety and media exposure (as well as Meghan’s strong connections with Hollywood and international jet set), they have the chance to successfully enter into profitable businesses as different as book and tv deals, public speaking, fashion and luxury goods.

The couple has already an estimated £34 million private wealth to support their new ventures after stepping down as senior royals, but could earn even more by also relying on a well planned trademark protection strategy. It is believed that the Sussex Royal product empire could generate revenues of roughly £400m, according to several media outlets (see Daily Mail of 9 January 2020).

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