



# **AS EVER, TRADE MARKS CAN BE COMPLEX**

**The Duchess of Sussex and the  
Journey to a Registrable Brand**

Meghan, the Duchess of Sussex has been the subject of enormous scrutiny since her marriage to Prince Harry, fifth in the line of succession to the British throne. This attention has only intensified since the couple stepped down as working members of the royal family, relocated to the United States, and established independent charitable and for-profit ventures. But as any business owner will know, it's always not easy to establish a new brand and obtain the necessary protection even when the whole world isn't watching.

### THE "ARCHE" FAMILY

The Duke and Duchess's first foray into post-royal life was Sussex Royal, a modified version of the charitable foundation they had established as working royals. A trade mark application for SUSSEX ROYAL was filed in the United Kingdom in June 2019 but subsequently withdrawn in February 2020 following the couple's arrangement with the Palace to cease royal duties on behalf of Queen Elizabeth. Harry and Meghan pivoted to ARCHEWELL as an umbrella brand, successfully registering the trade marks ARCHEWELL FOUNDATION, ARCHEWELL AUDIO, and ARCHEWELL in the United States in the name of Cobblestone Lane LLC. These registrations confer the exclusive right to use the ARCHEWELL trade marks in the US for a range of goods and services including documentary videos and television series; podcasts; charitable, educational, and entertainment services; and the provision of health and mental health information.

The ARCHEWELL trade marks have also been registered internationally, including in the United Kingdom, the European Union, China, India, Japan, Mexico, New Zealand, and Australia, even obtaining a broader scope of protection in many of these jurisdictions than in the US. For example, in Australia, the ARCHEWELL trade mark registrations also cover goods such as books, printed materials, and clothing, whilst in the United Kingdom and EU the registrations include further additional services relating to counselling and support groups.

This broader scope of protection outside of the US would come as no surprise to trade mark owners familiar with US trade mark practice, which generally requires much more specific wording for the purposes of classification, and where amendment of the goods and services is almost routinely required during examination. Each jurisdiction also has its own Trade Marks Register against which the relevant applications must be examined, and it can often be the case that there is a conflicting prior mark necessitating narrower protection in one jurisdiction that may not be required in another.

Overall, the Sussexes appear to have shored up their rights to ARCHEWELL to protect their charitable and business efforts under the brand in many major jurisdictions. However, the Duchess has experienced greater difficulties in branding her solo endeavours.

In May 2022, a US trade mark application for ARCHETYPES was filed in the name of Archewell Audio LLC prior to the launch of the Spotify-exclusive podcast Archetypes with Meghan in August. This application was used as the basis for an International Registration filed through the Madrid Protocol, designating the European Union, the United Kingdom, Canada, New Zealand, and Australia.

However, during consideration of the US application, the examiner raised an objection due to a prior mark for ARCHETYPES in the name of Archetypes LLC, registered for "providing a website featuring blogs and non-downloadable publications" on various topics. Although Archewell Audio's ARCHETYPES mark was filed in relation to audio recordings and podcasts, it was considered that the goods and services were commercially related to those of the prior mark given that it is common for bloggers to also produce podcasts. Such objections are not uncommon when the marks are similar (or in this case, identical) and the respective goods and services are likely to be produced by the same entities, marketed to the same kind of consumers for the same purpose, and accordingly there is a likelihood of confusion arising.

It was announced in June 2023 that despite its initial success, the podcast would not continue on Spotify, and ultimately Archewell Audio's US

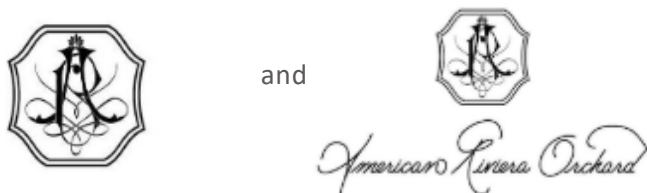


application for ARCHETYPES was abandoned and the International Registration expressly withdrawn, despite the mark having been successfully registered in Canada and New Zealand.

It is important for trade mark owners to remember that while the Madrid Protocol can be a useful mechanism for international trade mark filings, it is ultimately dependent on the base application proceeding to registration and failure in the home jurisdiction can leave the overseas filings vulnerable to cancellation unless they are transformed to national filings at additional expense.

### STAKING A CLAIM IN THE AMERICAN RIVIERA

After a fallow period on social media, the Duchess soft-launched a new lifestyle brand in March 2024 under the name American Riviera Orchard, or ARO. This accompanied several new trade mark applications with the USPTO including the plain word marks AMERICAN RIVIERA ORCHARD and logos incorporating ARO in a crest device and stylised font:



These applications were filed for a variety of consumer goods, homewares, food products, and retail services in the name of Mama Knows Best LLC. However, it has not been smooth sailing for this brand either, with all four applications receiving objections from the USPTO examiner. Whilst this time there were no prior marks cited as similar, the examiner raised a number of formality issues including the need to further specify some of the goods, clarify image descriptions, and disclaim descriptive wording - all of which are common issues raised during examination of US trade marks and usually overcome quite easily.

However, the substantive issue for the plain word marks was that of descriptiveness, being that the term 'American Riviera' is associated with Santa Barbara, California and therefore primarily geographically descriptive of goods produced from that location. The addition of the word 'Orchard' was considered insufficient to distinguish the mark being itself descriptive of a place where fruit trees are grown.

Harry and Meghan famously reside in Montecito, a town in the county of Santa Barbara, and no doubt the inspiration behind the brand. It is well established in trade marks law that the names of geographic locations should not be monopolised by individual traders but left open for general use to indicate the origin of goods and services. Put simply, the Duchess may use the term 'American Riviera Orchard' to denote that her products originate from that region, but she cannot obtain exclusivity in the name through trade mark registration, at least for classes 29 (food products) class 35 (retail services). It may be possible for the word marks to achieve registration in other classes, albeit with a disclaimer that there is no exclusive right to use the term 'American Riviera' which would limit the scope of the overall protection.

The two logo marks did not receive objections regarding distinctiveness, however disclaimers would still have been required for the term 'American Riviera'. This is the difficulty in choosing marks that primarily refer to a geographic location or describe the nature of the goods and services in some way, in that whilst registration may be obtained for a stylised version of the mark incorporating the descriptive element, it limits the scope of protection to that stylised form. This may leave the brand vulnerable to dilution, in that other traders residing in Santa Barbara could very well use such wording to refer to their own goods produced in that area.

Therefore, while it appears there is a viable path to registration for the logo marks, and even the word marks for certain goods and services, it must be considered whether limited protection for a brand is sufficient, and if it is worth sacrificing exclusivity over a vital aspect of the mark in order to achieve registration as a whole.

## AS EVER, MEGHAN

When the Meghan made her eponymous return to Instagram on 1 January 2025, eagle-eyed fans (and foes) may have noticed her signing off social media postings with “As Ever, M” seemingly in concert with the name of her soon to be released Netflix series *With Love, Meghan*. It therefore came as no surprise when she announced that ‘American Riviera Orchard’ was being relaunched under the name ‘As Ever’. This time, however, the Duchess was already well along the process towards trade mark registration, having filed an application with the USPTO all the way back in October 2022 for AS EVER in the name of 2022 Trademarks LLC for a broad range of consumer goods and retail, entertainment, and hospitality services.

This was followed by subsequent applications in September 2024 and February 2025 including expanded goods for the word mark, a stylised form of AS EVER, and a device comprising a palm tree with birds on either side:



Although objections were initially raised to the first AS EVER word mark application, they were overcome (including the deletion of the class 25 claim for clothing, and amendment of the goods classification in other classes) and the application was accepted in February 2024. While no third-party oppositions were filed, the trade mark is unable to proceed to registration until the filing of a declaration confirming use in commerce in the US. This is a requirement for trade mark applications filed with the USPTO on an “intent-to-use” basis, enabling an applicant to establish a priority date and obtain provisional acceptance even if they have not commenced use of the mark. Now that Meghan has officially launched the brand, we can expect registration of the mark to be finalised once products have been sold to demonstrate use of the mark on the applied for goods and services.

The remaining applications are yet to be examined, noting that it can take seven months or more between filing and examination by the USPTO, so these applications are unlikely to be finalised anytime soon.

Following the same patterns of previous applications, International Registrations were sought through the Madrid Protocol for the AS EVER collection of marks, where they are awaiting examination in Brazil, Canada, China, Japan, Mexico, South Korea, and New Zealand.

An objection has issued in the European Union on the basis that AS EVER is descriptive of the goods, and a partial refusal in the UK requiring amendment of the goods in certain classes but indicating acceptance in others. The word mark applications have also been accepted in Australia and are open to opposition until the end of March - barring any third-party objections, they should proceed to registration. As for the logo marks, they have been examined in the European Union and provisionally accepted, while in the United Kingdom and Australia the only requirement for acceptance are minor amendments to the goods and services classification.

It remains to be seen whether the Duchess of Sussex can obtain the robust international protection she seeks for her lifestyle brand, but it seems that - as ever - success relies on a comprehensive and flexible trade mark strategy.

## TAKEAWAYS

Choosing a global brand to represent your business can be an arduous task, but registering that brand can be even more complex, particularly when needing to contend with the differing examination standards and existing trade marks registers in various jurisdictions.

Be mindful of particular requirements and formalities, including the tailoring of goods and services classification to align with various country practices, and additional requirements in the United States such as the use of disclaimers, image descriptions, and use provisions.

It is important in choosing a brand to be mindful of whether the mark may connote a particular geographical region for the claimed goods and services, and to perform appropriate due diligence searching before launch of the brand to identify any possibly conflicting trade marks in the relevant jurisdictions.



**Kate Maynard**  
Associate