SCHEDULE 5: TRADE MARK USAGE GUIDE

1. Using X/Open Company Trade Marks

1.1 Introduction

X/Open Company Ltd. owns a number of trade marks and these are amongst the most valuable assets of the Company.

Trade Marks are important because they:

- identify and distinguish a product or service
- serve as an assurance of consistency of the quality of a product
- assist in advertising and promoting a service or product.

Unlike rights derived from patents and copyrights, which provide protection for only a limited number of years, trade mark rights can last forever. Trade mark rights can also be lost forever. The exclusive right granted in a trade mark is usually lost as a result of careless or improper use, usually by allowing the mark to be used as generic or descriptive words for products. All of the following were once valuable trade marks in the U.S.A.: aspirin, escalator, cellophane, zipper, shredded wheat, corn flakes and kerosene. All became common or generic words because their owners did not use them carefully and correctly and did not prevent the improper use of them by others.

This Guide describes the rules for the use of X/Open Company Trade Marks. It is designed to be a practical guide to practitioners.

1.2 Legal Status

This Guide forms Schedule 5 of X/Open Trade Mark Licence Agreement (May 1996). It forms an integral part of the Agreement and should be read in conjunction with it.

The Agreement defines the conditions and technical criteria that must be fulfilled before the Licensee may make use of the Trade Marks. This Guide defines the permitted visual presentation, form and manner in which the Trade Marks can be used by a Licensee who complies with those conditions and technical criteria. Failure to comply with the mandatory provisions of the Guide constitutes a breach of the Agreement, but the Licensee shall use its most reasonable efforts to comply with all the provisions herein.

There are three distinct circumstances in which the Trade Marks may be used. These are:

- use of the X/Open Name and X Device as a Branding Logo on or in relation to Registered Products
- use of the UNIX Trade Mark on or in relation to Registered Products
- use of the Trade Marks only in the course of a reference to X/Open Company Limited, its objectives, products or activities.

These uses must never be confused; it is a breach of the Agreement to do so.

Of itself, this Guide does not grant permission to use any Trade Mark.

1.3 Use of X/Open Company Trade Marks by Third Parties

There are circumstances where, for example, in referring to a Trade Mark in editorial or articles, the use of a Trade Mark is either desirable or unavoidable. Such use of Trade Marks is permitted, without the requirement for the user to be licensed, provided that the rules in this Guide are followed.

There are instances where a third party may wish to promote the sale of its products in relation to a Trade Mark or to promote a Registered Product that they distribute. Such uses are permitted under the same principles as are required of licensed users, provided the third party maintains the distinctiveness of the Trade Mark and that there is no likelihood of confusion between Registered Products and non-Registered Products or compromise of any Trade Mark.

Examples of proper (✔) and improper (✘) use are:

✘ MyProduct UNIX word processor

✘ MyProduct UNIX® word processor

✘ The x/open specification for ......

✔ MyProduct word processor for UNIX® operating systems

✔ MyProduct word processor for the BrandName UNIX® operating system

✔ The X/Open® specification for ......

✔ The X/Open Company specification for ......

2. Trade Mark Rules for Proper Usage

2.1 Use in Text and Descriptive Materials

A Trade Mark whenever and wherever it appears in print must be distinguished from the surrounding text. This applies to all forms of printed media, including advertising copy, product packaging, brochures, manuals, internal memoranda, editorial, articles, correspondence, overhead projector slides and presentation materials, and to computer video screens.

Methods of distinguishing the Trade Mark include printing it in CAPITALS, *italicised text*, **bold faced text**, Initial Capital Letters or placing the Trade Mark in ''quotation marks''.

- Always try to follow the Trade Mark with the common generic (the dictionary name) of the product:

  ✘ UNIX is a ......

  ✔ A UNIX system is a ......

- Trade Marks should be used as adjectives, not as nouns:

  ✘ ABC Company's UNIX

  ✔ ABC Company's UNIX system

- Never use a Trade Mark as a verb.

- Never use a Trade Mark in the plural form:

  ✘ ABC company and EFG company use the same UNIXs

  ✔ ABC company and EFG company use the same UNIX systems

- Never use a Trade Mark in the possessive form:

  ✘ UNIX's programming interfaces

  ✔ The UNIX system's programming interface specifications

- Refrain from hyphenating a Trade Mark:

  ✘ UNIX-based

  ✘ PC-to-UNIX

  ✘ UNIX-like

  ✔ UNIX system-based

  ✔ ABCs UNIX implementation-based

  ✔ connecting PCs to UNIX systems

- The Trade Marks should never be combined to form a new word, combined with other words, be hyphenated or abbreviated:

  ✘ UN-IX

  ✘ UN*X

  ✘ Xopn

- The graphical design of the Trade Marks must be strictly adhered to. The Trade Marks must always be used with white space (see Paragraph 4.3) around them and must never be superimposed on or used in association with other graphics or Trade Marks.

- You should always mark the first or most significant occurrence of the Trade Mark as appropriate and must place the required attribution as a footnote. The attribution should use the ® symbol for a registered Trade Mark and the ™ symbol for an unregistered Trade Mark. It is acceptable to use an asterisk in place of the trade mark symbol where the medium used (for example, electronic mail) cannot reproduce the ™ or ® symbols. However, this is not intended to authorise use of the asterisk as the norm.

  You may translate the trade mark attribution to national language(s).

  The trade mark attribution is important as it reminds competitors, licensees, customers and others that X/Open Company claims exclusive rights in the marks.

  This does not apply to individual uses of the word ''X/Open'' as part of the corporate name. X/Open Company strongly prefers the use of ''X/Open Company'' when referring to X/Open Company.

  Blanket or generic attributions are not acceptable, such as:

  ✘ ''All trade marks are the property of their respective owners.''

  The correct attributions are:

  ✔ ''X/Open is a registered trade mark, and the X device is a trade mark, of X/Open Company Ltd.''

  ✔ ''UNIX is a registered trade mark in the United States and other countries, licensed exclusively through X/Open Company Limited.''

In order to clearly identify to purchasers the exact specification to which a branded product is compliant, the following *additional* attribution (see below) is required when reference is made to the X/Open brand, branded products or a Trade Mark is used on and in relation to Registered Products.

✔ ''ProductName Version X.X is an X/Open <Attribution> branded product.''

The first occurrence of the product name linked with a Trade Mark should be asterisked and the attribution above used *after* the Trade Mark attribution.

For Licensees with multiple branding environments (for example, hardware platforms), the attribution must identify any differences in specification on different platforms.

✔ ''ProductName Version X.X on Intel is an X/Open <Attribution> branded product, ProductName Version X.X on ZZRisc is an X/Open <Attribution> branded product.''

An Attribution is required so that a reader may always easily identify the specification(s) to which a Product is guaranteed to comply. Where no attribution is specified below, use the full name of the Component or Profile Definition:

Profile Name	Attribution
UNIX 93	UNIX 93
XPG4 UNIX	UNIX 95
XPG4 Base	Base
XPG4 Base 95	Base 95

3. Graphical Representation of the Trade Marks

3.1 The X/Open Name

The X/Open name is the word ''X/Open'' and is a registered trade mark of X/Open Company Limited. ''X/Open Company'' is the trade name of X/Open Company Limited.

The word X/Open must always be in the form of a capital (upper-case) letter ''X'' followed by a forward oblique line, followed by capital (upper-case) letter ''O'' followed by the small (lower-case) letters ''pen''.

3.2 The X/Open Corporate Logo

The X/Open Company Corporate Logo (''X/Open Corporate Logo'') is the X/Open name and the ''X'' device reproduced in size and position relative to each other exactly as shown below:

Many companies have expressed an interest in using the X/Open Corporate Logo in advertising (for example, in corporate, product and recruitment advertising), in trade shows, company presentations, house magazines, video materials as well as print and promotional materials.

X/Open Company encourages member companies to make use of the logo to demonstrate their commitment to X/Open Company and to the cause of open systems. **Non-member companies may only use the X/Open Corporate Logo with the express permission of X/Open Company Ltd.**

The corporate logo is to be used with the word X/Open and the ''X'' device together, in the position indicated in Paragraph 5. The ''X'' device is *not* to be used independently, except as prescribed in Paragraph 3.3.

The X/Open Corporate Logo may never be used on and in connection with any products or services.

The X/Open Corporate Logo may only be used in the course of a reference to the X/Open Company Limited, its objectives or activities.

To indicate membership of X/Open Company, use the Member Logo detailed below.

3.3 The X/Open X Device

The ''X Device'' is the letter ''X'' written in the stylised script and enclosed in a circle of a different colour as shown below:

The X Device may be used in the combined formats specified below, **but not in any other way**.

In abbreviated format: in circumstances where the Licensee is licensed to use the X/Open Branding Logo and wishes to use an abbreviated format. For example, where the Licensee wishes to reduce the amount of lettering displayed, the Licensee may use the X Device on its own, but only:

- in circumstances, and in locations, where the Licensee is already authorised to use an X/Open Branding Logo, and
- in conjunction with, and in close physical proximity to, an attribution (the Brand Attribution) that identifies the component or profile definition to which the Registered Product in question is branded.

The Brand Attribution must be reasonably visible.

If the X Device is applied on its own:

- on software media, the relevant Brand Attribution must be applied somewhere on the same media (for example, application of the Brand Attribution to the packaging of the software would not be sufficient for this purpose)
- in a written document, the relevant Brand Attribution must be used in the same part of the document, and it must be clear to the reader to which Registered Product the Brand Attribution relates
- in an advertisement or display board, it must be clear to the reader to which Registered Product the Brand Attribution relates.

3.4 The X/Open Member Logo

X/Open Company members are authorised to use the X/Open Member logo in accordance with the rules in this Guide.

The logo **must not** be used in any way that might be construed as an endorsement of a product or service or an indication that it is branded. The logo must not be used in any way that may cause confusion or be misinterpreted by a reader.

X/Open®
MEMBER

3.5 The UNIX Trade Mark

There is no logo for the UNIX trade mark and, other than the need for the mark to always be reproduced in capitals, no specific form is prescribed.

3.6 The X/Open Branding Logo

The X/Open Company Branding Logo (''X/Open Branding Logo'') is the X Device and associated lines and text (the <Label>) reproduced in size and position relative to each other exactly as shown.

When the X/Open Branding Logo is used in relation to a profile definition the following requirements must be met:

- The <Label> must be in Palatino® Bold type face or its equivalent.
- A solid horizontal bar shall be above and below the <Label> with a thickness equivalent to 1/50th of the diameter of the circle. The bars are to be in solid colour..
- The bars shall be the same width as the circle.

- The gap between the circle and the first bar shall be 1/7th of the diameter of the circle.
- The gap between the bars shall be 1/4th of the diameter of the circle.
- The height of the letters shall be im proportion (as shown).
- The ''TM'' mark shall be positioned as shown.

When the X/Open Branding Logo is used in relation to a component the following requirements must be met:

- The <Label> must be in Helvetica Bold type face or its equivalent.
- The width of the <Label> shall equal the diameter of the circle. The letters shall be adjusted to fit the width.
- The ''TM'' mark shall be positioned as shown.
- Other proportions shall be as shown.

Note: The X/Open Branding Logo for a component must not be shown with bars.

Branding Logo for Profiles

TM

<LABEL>

Branding Logo for a Component

TM

<LABEL>

The <Label> and bars may be repeated for each profile definition to which the Product is branded in order to produce a composite. The labels should be used in the following order (from the top down): UNIX, BASE, CDE, SECURITY. See Paragraph 5 for examples.

TM

UNIX

SECURITY

It is acceptable to present the whole logo in black print. Coloured printing (which is the preferred form) is covered in Paragraph 4.2.

Only a Licensee (or an authorised distributor of a Licensee) may use the X/Open Branding Logo and then only on or in relation to Registered Product.

The X/Open Branding Logo must always be accompanied by the trade mark attribution.

Set out below is a description of where and how the X/Open Branding Logo may appear on such items in accordance with the Agreement and this Guide.

3.7 Transition from a Previous Branding Logo

Where a Licensee is already using a previous version of the Branding Logo in respect of any Registered Product, the Licensee may continue such use in the short term. However, the Licensee should transition to use of the Branding Logo set out in Paragraph 3.6 above (in lieu of the previous Branding Logo) within a reasonable period of time.

3.8 Use of the Branding Logo on Hardware

The Licensee is permitted to use the Branding Logo displayed on the processor of a computer system when loaded with and executing a Registered Product solely for the purpose of display at trade shows and demonstrations. The Branding Logo must be removed from the processor if and when it passes out of the custody and control of the Licensee.

However, the Trade Marks need not be removed from the processor when a Registered Product is embedded in a medium which cannot be removed from the processor, such as in the case of a computer in which the Registered Product is embedded in ROM which is part of the computer memory system.

3.9 Use of the Branding Logo with Combined Product

Use of the Trade Marks on and in connection with Registered Products is encouraged.

Where a supplier bundles a Registered Product as part of a package, such as shipping of hardware with the Registered Product pre-loaded or when shipping a Registered Product bundled within or alongside another (software) product which is not branded the Licensee must:

- use the Branding Logo only in direct association with the Registered Product
- ensure that the use of the Branding Logo could not mislead a customer to believe that the mark applied to any non-Registered Products.

3.10 Use of the Branding Logo in Advertisements

All use of the Branding Logo in advertisements, display boards, promotional material and product catalogues must be in relation to Registered Products. If an advertisement, document or other material refers both to Registered Products and to non-Registered Products, the Branding Logo must not be used in such a way as to suggest that all the products being advertised are Registered Products.

3.11 Use of the Branding Logo on Software Products

The Licensee is permitted (and encouraged) to use the Branding Logo with Registered Product:

- on the packaging of the software and its media
- in manuals for the software
- on the log-in screen of a terminal with a graphics screen provided that if the system can display colour on a graphics screen they must be rendered accurately in colour. In the case of an alphanumeric screen, the Licensee is permitted to use the alternative forms of display on the log-in screen as follows: ‘‘The <product/range identifier> is X/Open branded and complies with <the name of the Component or Profile Definition>’’.

The Licensee may use a translation of this statement where to do so would be compatible with the language used for the Registered Product.

4. Other Conditions for Use of Trade Marks

4.1 Combination of Trade Marks in Product Names

Despite the need to protect and preserve the rights associated with its Trade Marks, X/Open Company recognises the value to Licensees of associating the UNIX Trade Mark with their own marks in product names.

Licensees may combine the UNIX Trade Mark with their own trade marks as a product name, provided they seek prior approval by submitting the proposed combination including a sketch of the proposed use, if appropriate, to X/Open Company. X/Open Company may ask to review a proof of the final artwork.

Licensees may use the UNIX Trade Mark as part of the proper name of a product.

In making its decision, X/Open Company will take into account the following factors:

- The relative positioning of each trade mark or name; having particular regard to their being no real or implied adverse connotations for either X/Open Company or UNIX and what X/Open Company and UNIX stand for in the marketplace.
- The graphic including typographic design should ensure that the UNIX Trade Mark has at least equal prominence in any name combination and that there is no likelihood of confusion or compromise for the UNIX Trade Mark.
- ✔ ProductMark UNIX is ABC Company's UNIX system product.

The Trade Mark ''X/Open'' may not be used in a product name.

The Licence specifically prohibits Licensees of any Trade Marks from registering with the relevant trade mark authorities specific forms of the Trade Marks including trade marks used in combination.

4.2 Colours for X/Open Company Trade Marks

The colour references refer to the International Pantone Matching System for printing purposes. Whenever the colours red or blue are used in the Trade Marks, they must be accurately matched to the standard. Colours must never be applied to the Trade Marks as a screen or a tint.

The X/Open Company standard colours are:

X/Open Blue	PMS 287
X/Open Red	PMS 1788

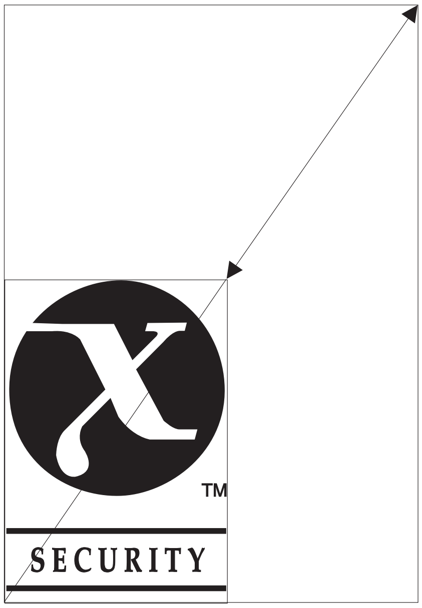
Two-colour reproduction is preferred and should be applied where practicable. The X/Open Stylised Name and any words beneath it must appear in X/Open Blue. The ''X'' within the X Device must appear in white. The X Device and, where applicable, the lines above and below the <Label>, together with the ™ must appear in X/Open Red. No other colour combinations are permissible.

The specified PMS colours must be used in logo reproductions as far as the printing or rendering process allows.

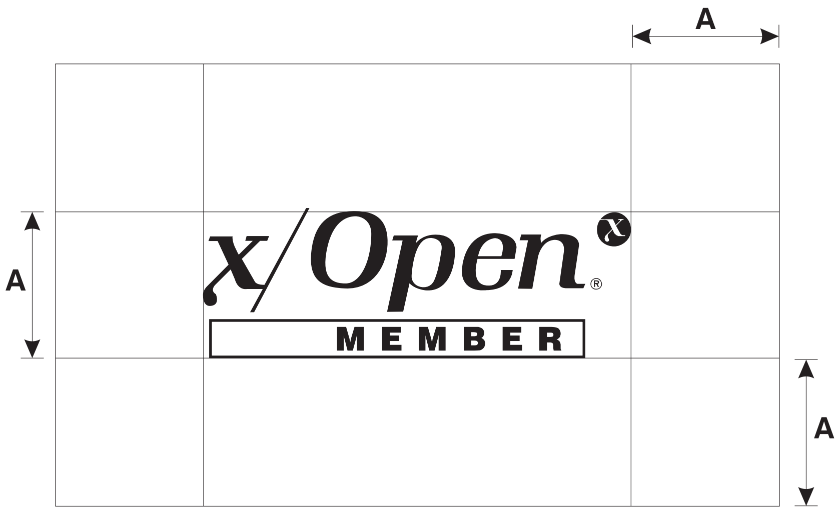
No specific colours are prescribed for the UNIX Trade Mark.

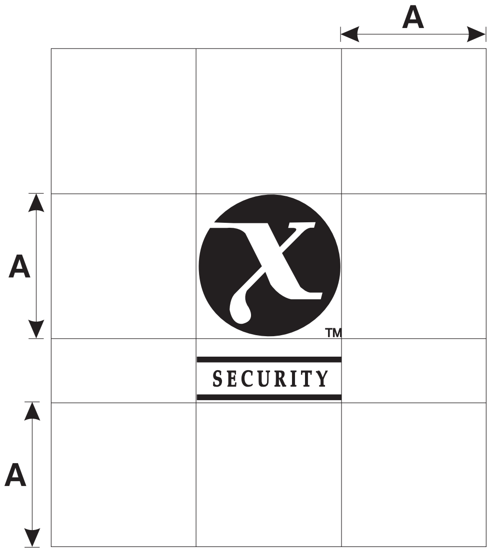
4.3 General Conditions

The X/Open Company Logos can be enlarged or reduced to any size you require, but the relative size and position of the elements must remain the same.



The Trade Marks reproduced from the Artwork Reference Sheet (Paragraph 5) should stand alone and must always be surrounded by a generous amount of space. They must not be enclosed within a contrived shape or used as part of another symbol or name (except as prescribed in Paragraph 4.1 above). The diagrams below define the minimum amount of clear space to be left around the X/Open Company Logos. A margin on all four sides of the logotype equal to dimension A on the diagrams must remain clear without interference from other written or graphic material.





The logos must not be juxtaposed to other symbols or text in such a way as to show a connection with them. Where the labels and bars are repeated, extra room should be allowed and the space below the logo shall always be equivalent to ''A'' in the diagram above.

For purposes of protecting the Trade Marks and their registration, X/Open Company would like to receive from the Licensee a copy of the final published form of materials on which the Trade Marks are used.

To change a logo beyond the provided dimensions, or for additional information contact X/Open Company by phone or electronic mail at trademarks@xopen.org.

4.4 Positioning of Trade Mark Symbols

X/Open® **UNIX®** TM

(Called ''The X Device''.)

5. Artwork Reference Sheet

Below is the artwork for X/Open Branding Logos, the X/Open Corporate Logo and the X/Open Company Member Logo. These can be used as camera-ready artwork. Alternatively, you may obtain the logos on disks for either Apple Macintosh computers, or PCs in various graphic formats.

There is no logo for the UNIX Trade Mark and, other than the need for the mark to always be reproduced in capitals, no specific form is prescribed.

Note: **The use of the X/Open Branding Logo is strictly controlled and they may only be used on and in connection with Registered Products branded under the terms and conditions of the Trade Mark Licence Agreement.**

Corporate and Member Logos

X/Open®

X/Open® MEMBER

Component Logo

™

X/OPEN

Profile Logos (Examples)

™

UNIX

™

BASE

TM

CDE

TM

SECURITY

TM

UNIX

SECURITY

TM

BASE

SECURITY

TM

UNIX

CDE

SECURITY

TM

BASE

CDE

SECURITY