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THE PROCESS OF DEVELOPING AND REGISTERING A TRADEMARK FOR A
PROPOSED FLORIST FRANCHISE IN THE UNITED KINGDOM.

Bachelor's Thesis 2013

ABSTRACT

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The process of developing and registering a trademark for a proposed florist franchise in the United Kingdom

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This work describes the process of developing and registering a trademark for a new business in the United Kingdom. It explains how trademarks are defined under UK law, their importance as items of intellectual property and the benefits of registration to a business owner.

The work investigated the registration process, the structure of the NICE classification system and the actions required to ensure a problem free application examination in the context of a graphic designer's work.

The research method is that of a normative case study investigating the procedural process of registration. The information embedded in regard to the appropriateness of graphic imagery is, however, by its nature subjective. This is a practice lead study, based on the research and development of a series of graphic devices executed in close collaboration with the client. The deliverable being a pair of registered trademarks.

The study underlines the importance of understanding intellectual property rights and the need for adequate background research before starting the design process involved in developing a visual identity.

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1 INTRODUCTION

This work aims to report the process of developing and registering a trademark¹ for a florist store operating in the United Kingdom that may be franchised² in the future. It will explain in basic terms what a trademark is and the underlying structure of the registered trade marking process in the UK, covering such aspects as what are acceptable and unacceptable trademarks, what are the benefits of registration for a business, and what is required of a company to deliver a successful application. In order to carry out this process in the most effective manner, it is necessary to understand the nature of the registration classes' structure. A section dedicated to explaining this system, along with details on how to conduct appropriate trademark searches, and guidelines on what are the best working practices to employ so as to reduce the chances of objections and appeals being made, are also included.

On 29 September 2011 the client, Michael Pooley Flowers, approached requesting a logo be designed for a new business that had a proposed launch date in spring 2012. As the project progressed over the next two months, the client's concept for the venture became progressively more ambitious, with the result that the brief changed and the scale of the assignment increased significantly. The client's alteration of their business strategy meant that instead of a stand-alone logo being the desired outcome of the project, there was now the need to develop a complete brand³ identity that would enable the business concept to be franchised in the future. Another consequence of this change was that the logo had to go through the trademark registration process at a point when the design had already been completed and accepted by the

¹ Trademark: a symbol, word, or words legally registered or established by use as representing a company or product.

² Franchise: an authorization granted by a government or company to an individual or group enabling them to carry out specified commercial activities, e.g., providing a broadcasting service or acting as an agent for a company's products.

³ Brand: "A brand represents the full personality of the company and is the interface between a company and its audience" (Davis 2009, 12).

client, but without background investigation having been done of pre-existing registered designs through the UK Intellectual Property Office (UKIPO)⁴ online trademarks journal prior to execution. This resulted in a catalogue of problems that will be discussed within this document.

To the present date this project has produced a pair of registered trademarks as well as corporate stationary, product care cards, shop front signage, typographic guidelines, packaging, posters, advertising, promotional products and an Internet site for the flagship store in Ipswich, Suffolk. This paper will concentrate only on the aspect of developing the logo and the registration process of the two trademarks.

2 CLIENT AND PROJECT BACKGROUND

All information contained within this chapter is based upon first hand experience, the result of working with the company Michael Pooley Flowers over the last 17 years. The client has checked and confirmed all details and dates are accurate.

2.1 Michael Pooley Flowers

Michael Pooley Flowers was established in 1991 catering solely to the wedding floristry market. The company's reputation grew very quickly owing to the proprietor Michael Pooley's skill at creating unique and highly individualistic designs. Pooley's work rapidly gained popularity and received high levels of coverage in the wedding industry press; through this relationship Pooley soon developed an elite clientele within the fashion, theatre and design world.

In 1996 Pooley opened his first retail outlet in London's then up and coming creative quarter, Clerkenwell (Figure 1). The store, in Arlington Way, was situated behind the Sadler's Wells and Lillian Ballis theatres; internationally famous centres of the performing arts, particularly known for their staging of ballet and contemporary dance. In 1998, having provided floral arrangements for corporate events and bouquets for the

⁴ The Intellectual Property Office (UKIPO) is the official government body responsible for granting Intellectual Property (IP) rights in the United Kingdom.

principle dancers at both venues over a number of years, the company further strengthened its brand's association with the creative arts by becoming a sponsor of Sadler's Wells and Lillian Ballis theatres.



Figure 1. The Michael Pooley Flowers shop front in Arlington Way, London 1996. (Pooley 1996)

In 1998 Pooley launched his first website. He used this new technology to promote his business, showcasing his work in different market sectors, reporting press coverage he had received and offering training courses. Michael Pooley Flowers also developed an extensive corporate clientele during its time in Clerkenwell, including well-known publishing houses, advertising agencies, legal offices and international banks in the West End, the City and Canary Wharf.

In 2007, Pooley came to the opinion that the British floral retail industry would soon be in decline and shut his Arlington Way shop. This action caused some surprise in the London florist industry at the time, as it was going against the current trend; many of his competitors were actually opening more retail units. The basis of this decision

was built partly on seeing how many of the large supermarket chains were continuing to encroach on the retail flower business with their increasingly developing stock and sales of inexpensive floral arrangements, houseplants and bunches of blooms, and partly on finding that there was a noticeable trend starting to appear towards cut backs in expenditure in the corporate sector.

“The budget for flowers is always the first thing to be cut when times are hard in the corporate sector. Flowers are considered a luxury item. When times are good, the budget is high and they want big displays to show their success. They want to impress. When times are bad they continue to expect amazing displays, just for less money or to last at least twice as long as before.” (Pooley 2007)

By the end of 2007 it had become apparent that in the retail sector companies such as the John Lewis Partnership through their Waitrose supermarkets and internet store, and Marks & Spencer plc through their food halls and internet site, had developed a reputation for selling good quality blooms at reasonable prices, and that in the economic recession people were picking up their flowers with their meal deals in the evening rather than visiting the local florists. The British floristry industry was not in good shape. Pooley had gotten out of the retail sector at the right time. He continued working successfully in the corporate and wedding sectors, and during the next six years, following a reallocation from London to the market town of Ipswich in Suffolk, Pooley went on to set up a training school, The Suffolk School of Flowers. Through the school Pooley offered bespoke career training courses in wedding, commercial and corporate floristry to individuals from as far afield as Japan, Canada and Australia.

2.2 The John Lewis pitch

In 2010 Pooley, along with several other well-established and respected florists, was approached by the John Lewis Partnership⁵ with a view to creating a franchise within

⁵ The John Lewis Partnership is a retail business operating 39 John Lewis stores and 290 Waitrose supermarkets in the United Kingdom. Founded in 1864 by John Spedan Lewis, the John Lewis Partnership is an employee-owned group; at present they have 84,700 staff. (John Lewis Partnership plc. 2013)

their flagship store in Oxford Street, London. If the initial in-store franchise concept proved to be successful, there was the possibility of it being rolled out to other key John Lewis stores throughout the United Kingdom.

Pooley had on numerous occasions in the past provided professional advice to the group concerning their floral product line for Waitrose Food Halls, so he felt extremely positive about his chances of winning the tender. His pitch was well received at presentation and he was given positive feedback, however the winning proposal was from Jane Packer, previously Pooley's teacher, mentor and now chief competition. John Lewis felt her approach was more suited to their target demographic⁶.

Undeterred by the failure of his pitch to John Lewis, Pooley, on reviewing the state of the retail flower industry felt that there was definitely room for a new concept in affordable floristry in the marketplace. Inspired by the plan he had developed for the John Lewis bid, he decided to try and evolve the concept further. The key question at this point was which approach should be taken when launching such a new endeavour. His current business had grown and diversified over the years, and there were now problems concerning the lack of a unified corporate identity amongst these different operating sectors. Each segment had developed their own visual identity and the link between them and the parent company had become lost, so adding another concept to the mix could result in confusing things even further.

One possible option was to reposition Michael Pooley Flowers from a luxury brand to one with a wider appeal in line with the new concept. The danger of this kind of approach is that the value of the parent brand can be seriously degraded in the current customers perception, leading to possible losses in markets where the company's reputation had already been well established. Another option was to rebrand Michael Pooley Flowers so as to incorporate both The Suffolk School of Flowers and the website thebridalflorist.org under one visual system, so unifying these businesses, and then to create a diffusion or sub brand for the new concept operating under the Michael Pooley Flowers brand.

⁶ Demographic: a term often used in marketing referring to a particular sector of a population.

According to Phau and Cheong's (2009) definition in the *Journal of International Consumer Marketing*, diffusion brands are "step-down line extensions of existing luxury brands, normally less expensive than the main merchandise". An excellent example of a market where diffusion lines have been effective is the world of designer fashion. Companies such as Dolce & Gabbana, Prada, Moschino and Calvin Klein established successful diffusion lines in the form of D&G, Mui Mui, Cheap & Chic and CK during the late 1980's and early 1990's. These 'second lines' are ready-to-wear garments manufactured to similarly high standards as the catwalk originals but at significantly lower cost to the consumer (Robson 2006). The practice of introducing diffusion lines has now spread beyond the luxury brand markets due to the global financial crisis of the last few years. Jopson (2011) of the *Financial Times* reported that, "Many European and American shoppers began to spend at the ends of the retail spectrum, scavenging for the lowest-price basics so they could save enough to continue splashing out on the odd luxury". What is special about the diffusion brand is that it manages to bridge the gap between budget and luxury markets and has therefore gained greater popularity in recent years. As Olga Slavkina (2012), a managing partner of Schmoozy Fox, a branding agency based in Brussels, commented on her blog, "By launching a diffusion brand, a parent luxury brand de facto enters a whole new world of new luxury (also referred to as mass luxury and affordable luxury)".

After consideration, Pooley decided that creating a diffusion brand would be the best option in this instance. He wanted to preserve the brand identity of Michael Pooley Flowers as it had taken over 20 years to establish and had acquired a reputation he wished to protect. It seemed better to look at this new endeavour in terms of it being a diffusion brand and to start from scratch with a new business and brand strategy for it.

2.3 The Twig Proposition

In his pitch to the John Lewis Group, Pooley had proposed Twig as a potential name for the franchise. Due to the fact that the proposal had not been accepted, he decided to continue using this name as a working title for the project. He felt that the name Twig connected the concept of nature and floristry well and that its sound had an intrinsic friendliness to it that would engage people.

The Michael Pooley Flowers brand has a long established reputation for delivering high quality, unique style, craftsmanship and luxury; these are the brand's core values⁷ and also the brand promise⁸. If customers order a floral arrangement or bouquet from Michael Pooley Flowers, they can expect it will be of a high quality and the standard of work is guaranteed, if they are not satisfied the work will be replaced. Twig's brand values were to be rather different. On discussing with the client what this new sub brand was to represent, Pooley stated that he wished to bring the brand value of good quality over from the parent company, however as Twig was to be more universal in its appeal, it should also stand for affordability, simplicity, 'what you see is what you get', and promote the concept of 'you can do it yourself' floristry.

Twig needs to appeal to a different demographic market from its parent company; it needs to feel approachable, not elitist. The previous Michael Pooley Flowers store in Arlington Way gave off an atmosphere of 'if you have to ask the price, you can not afford to shop here'. There were no price labels shown amongst the blooms at the Arlington Way store and all bouquets were bespoke made at the customer's request. The Twig store, Pooley proposed, should feel more like an indoor marketplace, with clearly labelled bunches of flowers and houseplants. The price had to be up front and affordable to all. Flowers would be dispatched in simple, brown paper wrappings and tied with string, not in luxury packaging as was the case at Michael Pooley Flowers, where arrangements would be wrapped in cellophane, tissue paper, bespoke printed wrapping paper in British racing green and gold, and tied with gold foiled silk ribbon at a cost of approximately £7.50 per bouquet.

⁷ Brand core values: "Brand values are a set of attributes that customers experience as the basis of the 'brand promise'. They give the brand personality and an emotional connection which drives trust and loyalty with the audience." (Davis 2009, 52)

⁸ Brand promise: "A brand is a 'promise of an experience' and conveys to consumers a certain assurance as to the nature of the product or service they will receive." (Intellectual Property Office, 2011a)

3 THE REGISTRATION OF TRADEMARKS IN THE UK

3.1 The History of Trademark Registration in the UK

The history of marking goods to prove ownership, as in the case of livestock or slaves, or to identify the manufacturer of a particular piece of work, is a global phenomenon that can be traced back to antiquity and is well documented within the ancient cultures of China, Rome and Greece (Paster 1969, 553). In Europe regulations concerning the right to use certain accreditation marks can be traced back to medieval times with the establishment of trading and craft guilds (ibid. 555-560). However it was not until the mid-19th century in Britain, with the passing of the Merchandise Marks Act (Poland 1862), that laws were set concerning the use of trademarks and it became possible to prosecute against those who tried to defraud by infringing upon a business or individual's claim to a mark. This act helped trademarks to establish their status as a type of property or reputational asset.

The success of court actions based on the statutes defined in the Merchandise Marks Act was limited since there were no registries of marks at the time. The lack of these official registers meant that the responsibility of proving an inextricable link between a trademark and an individual or businesses services or goods was solely the task of the plaintiff, and this link could be hard to substantiate in court. The situation did not improve until the Trade Marks Registration Act 1875 was passed, which led to the establishment of the UK's first trademark registry. The first trademark registered at the UK Patent Office on the day of its opening, 1 January 1876, belonged to the Bass Brewery and it is still currently registered (Intellectual Property Office 2013a). The registration of trademarks meant that registrants now had what was considered under law conclusive evidence of ownership. Trademark law was further strengthened in 1883, and in 1905 the Trade Marks Act was passed that gave 'the first statutory definition of a trademark' (Intellectual Property Office 2009a).

Beyond the development and revision of legislation defining what constituted as a trademark and its subsequent use during the early 20th century, the registration process itself underwent several changes. It was ultimately defined in the Trade Marks Act of 1938 (1938 c.22), not being amended until 1984 when the registration of service

marks⁹ was included. This Act remained in force until it was superseded by The Trade Marks Act 1994 (1994 c.26), which brought United Kingdom jurisprudence into line with European Union and international trademark law. In 2007, after 130 years of administration, the UK Patent Office changed its operating name to the UK Intellectual Property Office. This change was made on the recommendation of the Gowers Review of Intellectual Property (HM Treasury 2006), which had been commissioned by the Government to do an independent assessment of current UK intellectual property and copyright law. Recommendation 53 of the executive summary stated "Change the name of the UK Patent Office to the UK Intellectual Property Office (UKIPO) to reflect the breadth of functions the office has, and to dispel confusion" (ibid. 9).

Also at this time the way applications were examined was altered to come into line with the Community Trade Mark¹⁰ system as per Section 8 of the Trade Marks Act 1994 (1994 c.26). This changed the emphasis of responsibility for raising opposition to an application that has been advertised in the Trademarks Journal to the proprietor of a previously registered mark, rather than to the UKIPO. Today, for an optional fee, the UKIPO will write and inform an existing registrant of any applications that may conflict with their interests, otherwise it is the registrant's responsibility to follow new applications in the journal and to apprehend any conflicts. The UKIPO provides all new applicants with an examination report outlining national, Community and International trademarks that are considered to be similar, or that cover the same or similar goods or services and may raise opposition. They also provide advice to the owners of existing marks who find there is a conflict with their interests.

It should be noted that a trademark does not have to be registered to have rights under UK law. Unregistered trademarks are protected by the UK common law known as 'passing off'. This prevents individuals from misrepresenting their goods or services

⁹ Service Mark: a legally registered name or designation used in the manner of a trademark to distinguish an organization's services from those of its competitors.

¹⁰ Community Trade Mark: A Community Trade Mark (CTM) is any trademark, which is pending registration or has been registered in the European Union as a whole (rather than on a national level within the EU).

as being those of another and therefore benefiting from the goodwill and reputation of that business. Those who wish to display that they regard their mark as exclusively associated with their business can utilise the TM symbol, which although it has no specific legal force, does imply that either the mark may have passing off rights or is in the process of being registered. (IP-Active.com 2013)

3.2 The Class System

‘The Nice Classification (NCL) is an international classification of goods and services applied for the registration of trademarks and service marks. It was established by an international, multilateral agreement concluded at a Diplomatic Conference held in Nice in 1957: the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.’

(World Intellectual Property Organization 2013)

When applying to register a trademark it is necessary to specify all goods and/or services that there is an intention to use with the mark. In order to do this, an understanding of how goods and services are divided into the 45 classes defined in the Nice Classification is essential. Class numbers 1–34 relate to the classification of goods and numbers 35–45 relate to services. To ensure an application contains the desired classes a search can be made online via the TMclass classification tool (Intellectual Property Office 2011a). A description of goods or a service is entered into the search tool for which it returns a table showing all possible classes and terms of usage for that item (TMclass 2013). The applicant selects all the terms that apply to said item or service in relation to their mark and then repeats the process for all additional goods or services. As an example, if the trademark intends to be used on goods such as candles a search would be carried out of the word ‘candles’ to discover what classes and terms covered that product. Once the candle related search was completed, another could be carried out for matches, a product associated with the use of candles.

Beyond the application fee of £200 if delivered on paper or £170 via the online filing service (Intellectual Property Office 2013b), the cost incurred is dependent on the number of classes for which a trademark is seeking registration. In the United Kingdom, a trademark application includes within its fee one class of goods or services. Each additional class request carries a charge of £50 per instance. This means the costs involved in protecting a mark in a large number of classes can be extremely

high, so careful consideration should be taken of immediate intended uses rather than attempting to blanket cover all future needs. There is a high likelihood that the Intellectual Property Office would challenge such broad applications (Mewburn Ellis LLP 2013). The IPO would require strong evidence of intent to put the mark into use in all requested classes within the near future for the application to pass. An application to add additional classes can always be filed at a later date. If a mark is not used on the full range of goods and services for which it is registered within five years of its application date, it is possible for a third party to challenge its registration rights and file a form TM26 (N) 'Application to revoke a registration or a protected international trade mark (UK) for reasons of non-use'. This can culminate in the trademark's removal in part or wholly from the register (Intellectual Property Office 2009b).

3.3 The Registration Process

Before proceeding applicants should read through the PDF documents 'Intellectual Property Explained' (Intellectual Property Office 2007), 'Trade Marks: Quick Facts' (Intellectual Property Office 2013c) and 'Earlier Rights Fact Sheet' (Intellectual Property Office 2008), which are all available to download from the IPO website. These documents assist the applicant to understand their rights and the process involved in registration, providing many practical tips and useful information for those seeking advice. The Intellectual Property Office also participates in many events throughout the UK and abroad, which focus on intellectual property in relation to business. A calendar of these events can be found on their website (Intellectual Property Office 2013d).

A company or individual should review their future business plans or needs and consider soliciting the professional advice of a trademark attorney before registering a mark. It is advisable to determine if the brand would be sufficiently covered through the UK common law of passing off before ruling out the option of registration. The benefits of registration are that the owner has stronger rights to manage and secure a registered trademark, and in the incident of a court case arising due to infringement it is usually easier, faster and less expensive to conduct than in cases brought against instances of passing off. A registered trademark demonstrates a clear indication of ownership, which acts as a deterrent to others. Registration also means that it is far safer to license or franchise a trademark's use since this confirms primary ownership

and status as a form of intellectual property. Once a trademark is registered for use within the UK market it has a far stronger probability of attaining CTM or International trademark approval upon application. (Mewburn Ellis LLP 2013)

The Intellectual Property Office website states that, before application, checks should be made to ensure the trademark does not already exist and that it complies with the description of an acceptable mark (Intellectual Property Office, 2011b). They describe an acceptable mark as one that consists of a distinctive word, logo or picture that clearly differentiates its applicant's goods and services from that of their competitors (Intellectual Property Office, 2011c). Applicants should ensure that their trademark does not fall into the category of mark listed as unacceptable, such as those that could be deemed as offensive, are against the law or are under the auspices of protected emblems such as coats of arms, flags or state emblems, and hallmarks (Intellectual Property Office, 2011d). Applicants can search the IPO's online trademark database to see if there are other registered marks that look or sound alike or similar to their own, and who offer the same or similar goods or services. Such checks should not be assumed to prove conclusively that no conflicting trademarks exist. The IPO examiners will determine this when they conduct their examination of the application.

A company having selected a mark files a Form TM3 'Application to register a trademark' with the UK Intellectual Property Office (Intellectual Property Office, 2013e). On this form the applicant states the name and owner type of the business and defines whether the application is for a trademark, certification mark¹¹ or collective mark¹². They also specify if the mark is one of a series. A clear representation of the trademark and a list of the classes and goods and/or services on which they intend the mark to be used have to be included. (Appendix 1. Form TM3 Application to Register a Trademark) A Fee sheet (Form FS2) covering payment for registration must be completed and sent at the same time as the application.

¹¹ Certification mark: indicates that goods or services meet a defined quality standard. (Intellectual Property Office, 2013e)

¹² Collective mark: indicates that goods or services of a member of a trade association. (Intellectual Property Office, 2013e)

The Intellectual Property Office having received the Form TM3 and payment, check that all the information they require is present and enter this onto their database. If there are any problems, they will contact the applicant (Intellectual Property Office, 2011e). Once the data is present in the system it is in the public domain. The registrant is then sent a filing receipt and application number. Subsequently the IPO examine the application to ensure that all associated goods and services are correctly categorised under the Nice Classification System (NCL) and that the trademark is acceptable in appearance and name, being distinct from others already registered in the United Kingdom (Intellectual Property Office, 2011f). The examiner's trademark searches are not restricted to those companies registered as operating from within the UK. They extend to review any European Community trademarks (CTMs) and International trademarks that are protected within the UK or EU, which could potentially find the new application to be in conflict with their rights.

Within a month of receipt, the review process is completed, and an examination report is sent to the applicant. In the report, the IPO outline any queries or objections they have in regard to the application and its class specifications. They also give an appraisal of all pre-existing marks that could claim a conflict and, therefore, oppose the registration. The applicant has a period of two months in which to discuss the case with the examiner and make proposals in writing to sort out any objections or queries. If there are many problems the applicant can request a time extension or the application can be split so that, in the case of a 'class objection', the classes that are acceptable go forward to be published, but those that carry objections are dealt with separately (Intellectual Property Office 2011g).

In order to avoid potential opposition, an applicant may approach the owner of an earlier trademark and try to negotiate a letter of consent¹³. The IPO requires that such a letter should be produced on the company stationary of the owner of the earlier mark and that it should contain the application number of the registrant's mark for which the consent is being given. The letter must agree to the registration of the trademark, not just to its use, and a responsible person in the company must sign it, clearly stating

¹³ A letter of consent is a written agreement, from the owner of an earlier mark, allowing a new applicant's mark to be registered. (Intellectual Property Office 2012)

their name and giving their position within the business. It should be noted that there is no obligation on owners of earlier marks to give their consent to a petitioner. In fact, by contacting them it is possible that they could choose to oppose the trademark's application during the advertising period. (Intellectual Property Office 2012)

If there are no objections from the IPO, beyond their need to notify the owners of apparently conflicting marks, then the onus of deciding whether to proceed with the trademark's publication is on the applicant (Intellectual Property Office 2013f). Once the trademark is published in the weekly Trade Marks Journal, a two-month advertising period commences from its publication date. During this time anyone who wishes can make observations or oppose the application. If an application is opposed during this time and the opponent is successful in their claim, the mark will not be registered, and the registrant will be liable for any costs (Intellectual Property Office 2011h). The advertising period can be extended by an additional month by anyone who considers raising opposition. Registrants will be notified by the IPO in writing in these cases, and will be advised on the procedure for dealing with the opposition process. If there are no objections by the end of the advertising period, the mark will be registered, and the IPO will issue a registration certificate. (Intellectual Property Office, 2013g)

When a third party does oppose a trademark application, they can appeal on either absolute and/or relative grounds. If the trademark is thought to be descriptive of the goods or services for which it is being registered or classified as generic or non-distinctive, it can be opposed on absolute grounds. If the trademark is thought to infringe¹⁴ upon an existing trademark or earlier right, even if that right has not been registered, then it can be opposed on relative grounds. Anyone can oppose an application on absolute grounds, but only the owner of a previously registered trademark or earlier right can oppose on relative grounds. Opponents can dispute the entire application or a part related to a class of goods and/or services. To extend the opposition time an opponent must file a TM7a 'Notice of threatened opposition', for which there is no charge, via the Internet with the IPO. Actual opposition proceedings require the filing

¹⁴ Infringement in trademark law is defined as when a company or individual use an identical or similar trademark for identical goods or services to one that is already registered. (Intellectual Property Office 2010a)

of a Form TM7 ‘Notice of opposition and statement of grounds’ for which there is a £200 fee. The final date for filing opposition is the day before the two-month advertising period finishes; if a trademark is advertised on the 9 April 2012, the latest date to oppose is June 8 2012. (Intellectual Property Office 2013h)

Once opposition has been raised the parties concerned have one month to negotiate a solution, if they can not reach agreement during this time an extension can be applied for by filing a Form TM9 ‘Request for an extension of time before the period has expired’ at a fee of £100. If agreement has still not been met during this period there is the possibility of the case going into mediation rather than going to court (Intellectual Property Office 2011i). Legal action is seen as a last resort, and if it is found that there was a lack of any genuine attempts at communication, the Registrar presiding may well penalize the parties involved when determining costs (Intellectual Property Office 2010b).

4 TWIG TRADEMARK DESIGN AND REGISTRATION PROCESS

4.1 The Design of the First Twig Logo

Pooley approached in September 2011 wanting a visual identity to be designed for the concept he had pitched to John Lewis, but as a diffusion brand of Michael Pooley Flowers. The business name he proposed was ‘Twig by Michael Pooley Flowers’ and having done a preliminary check with Companies House¹⁵, the name was confirmed as being available. The group DE09, studying a Bachelor of Arts Degree in Design at Kymenlaakson Ammattikorkeakoulu, had needed a project for their Visual Branding module and this appeared to be an ideal task for them to undertake (Pooley 2011a).

On 29 September 2011, Pooley sent an email in which he outlined his vision and brand values for the new company, along with the current and previous versions of the

¹⁵ “The main functions of Companies House are to: incorporate and dissolve limited companies; examine and store company information delivered under the Companies Act and related legislation; and to make this information available to the public.” (Companies House 2013)

Michael Pooley Flowers logo (Figures 2a & 2b). The logos were intended to illustrate the parent company's visual style and demonstrate the aesthetic he personally favoured. He also attached a copy of the presentation he had given to the John Lewis Partnership in order to introduce the group to the Twig concept.



Figure 2a. Left: Michael Pooley Flowers logo 1996. (Pooley 1996)

Figure 2b. Right: Michael Pooley Flowers redesigned pictorial logo. The word mark remained the same as the original logo set in Times New Roman. (Pooley 2011)

The client and the group DE09 had their first videoconference on 5 October 2011. During this meeting, Pooley discussed his ideas and the inspiration behind the Twig brand. He mentioned the names of Orla Kiely, Paul Smith and Marimekko as brands whose identities he felt reflected the mood he wished to capture for Twig. These fashion brands are distinguished by their strong and simplified use of graphic elements and colour. Pooley stated that the Twig visual identity should represent the keywords: functional, simple and sustainable. The client also stated that he wanted the logo to feel contemporary but classic. He strongly emphasised that 'keeping it simple' was an essential aspect of what he expected to see in the student's designs. The group was instructed that any logo created had to include the tagline 'by Michael Pooley Flowers'.

The client stipulated certain restrictions during the meeting. The colour red was not to be used in the logo design. Specialist colours were to be avoided, as the client wanted print costs to be affordable and the colour palette to be consistently repeatable in different media. A strong emphasis was placed on the logo being Internet and mobile phone icon friendly and that the element of a flower or plant must be included within the design. When questioned about his preferences in flower motifs, the client said he favoured forms like the tulip, magnolia or cherry blossom. (Pooley 2011b)

Over the course of five weeks, all the students created their own interpretation of the Twig logo according to the client's brief. All the logos integrated a word mark and a symbol representing a simplified version of an organic form, such as a flower, bud or twig. Initially the students worked only in black and white, focusing on the shape and arrangement of the logo's elements rather than on its colour. While giving feedback in the early stages of a project clients often focus more on the designer's colour choices than concentrating, more importantly, on the logo's shape when deciding whether it is memorable and projects the ideas it should communicate (Airey, D. 2010).

Having each completed their logos; the group selected what they felt were the three strongest designs for presentation to the client on the 10 November 2011. Pooley on seeing the selected works decided that he wanted to review all the groups' submissions. After viewing the logos, he requested that every student work on coloured variations of their designs and presented them back to him on 29 November 2011. Pooley then set the date to announce his final choice as 1 December 2011. The winning design was by Malin Beckman (Figure 3). It incorporated a stylised representation of a tulip, which was also the key graphic element of the parent company Michael Pooley Flowers logo. Enthused by the experience of the logo design process and the result of the outcome, Pooley decided that he would like to register the logo. This would protect the trademark and guarantee that it could be used as an asset in the future, especially if he decided to pursue the idea of franchising the brand.



Figure 3. Twig by Michael Pooley Flowers logo (Beckman 2011)

4.2 Big Fish® and The Wood Innovation Group Trademark

After the selection of Beckman's design, Pooley contacted the Intellectual Property Office to begin the process of registration. Companies House had confirmed that the name 'Twig by Michael Pooley Flowers' was available for trading purposes, and the crucial issue of an Internet domain name had been quickly resolved as www.twigflowers.co.uk was found to be available and subsequently acquired. It was understood that neither of these factors assured a problem free journey through the registration process; however, it was considered a positive sign that these primary considerations had been settled so easily. (Pooley 2011c)

The next task was to discuss how the client intended to use the trademark, and then draw up a list of goods and services on which to base the class searches so as to correctly fill in the application (Pooley 2011c). In addition, searches of the IPO's online trademark journal determined if companies had registered, or where in the process of registering, businesses trading under the name of 'twig' or had visually similar trademarks. The searches checked for instances of the name's variants and all trademarks containing floral or plant elements within their design. It was at this point that the client realised the large number of companies trading under the 'twig' or 'twigs' name, although none was in direct competition with his proposed floristry business.

There was one trademark UK00002465483 that could potentially be a problem due to its visual similarity to Beckman's design (Intellectual Property Office 2013i). The logo in question, also of the word twig, used what could be considered by an untrained eye as a similar typeface, and had replaced the dot of the letter 'i' with a graphic element depicting leaves (Big Fish® 2007). This trademark was owned and produced by UK branding, design, marketing and advertising company, Big Fish®. Big Fish® were established in 1994 and have won awards on projects for clients such as Gü (luxury frozen dessert manufacturers), Dorset Cereals and Clipper Tea¹⁶ (Big Fish® 2011).

¹⁶ In 2009 Big Fish® received the Silver Pentaward for their packaging rebrand for Clipper Tea in the Food category. The Pentawards are a worldwide packaging awards competition, which are held annually. (Pentawards, 2009)

On 2 December 2011, after a telephone discussion with the client about the Big Fish® logo, Pooley contacted the IPO for their opinion. He wanted to know if, at the registration review, the two twig logos would be considered significantly similar to each other and that this would give grounds for rejecting the ‘Twig by Michael Pooley Flowers’ logo. The IPO employee was unable to confirm that this would be the case; however they did advise that, in their opinion, there might be a problem having seen Beckman’s design. Further into the conversation, the IPO employee mentioned that the Big Fish® twig mark had a deadline for commercial implementation, which was due within the next six to seven months, so it may be worth contacting Big Fish® to ascertain their plans. cursory searches of the Internet appeared to confirm that there were no apparent uses of the trademark at the time. (Pooley 2011d)

This information opened up two possible routes of approach. Either contact Big Fish® and attempt to negotiate a letter of consent or, if the client were prepared to delay registration until after the business had been launched, file a TM26 (N) ‘Application to revoke a registration or a protected international trade mark (UK) for reasons of non-use’ with the IPO in seven months time. The second option did not appeal to the client for several reasons. Firstly, his prime objective was to have the brand trademarked before the store’s planned launch in April because, he had previously experienced instances of rival florists copying his work and aspects of his visual identity. Pooley wanted to ensure that after all the effort involved in creating this new brand that it was properly protected before starting the endeavour.

Secondly, the Big Fish® twig logo was solely registered in Class 35, and this was a critical class in Pooley’s registration. Class 35 covers the provision of advertising, business management and administration, and is needed by anyone intending to market or sell goods to the public. Many of the items on the Big Fish® twig trademark’s list of services overlapped with Pooley’s plans for future product development. This meant Big Fish® could have grounds to object not only on the alleged visual similarity of the Twig by Michael Pooley Flowers logo, but also because they shared a common class of goods and services. Another consideration was that there were no assurance that Big Fish® would not put the twig trademark into use before the commercial implementation deadline. (Pooley 2011e)

It seemed the most sensible course of action was to approach Big Fish® and try to negotiate a letter of consent. Although, again there were risks involved since they could refuse and would have been forewarned of the client's intent to register a potentially conflicting mark. Pooley agreed to contact Big Fish® to find out about the current situation, so an email was sent 6 December 2011. Big Fish® informed the client that the twig logo had been designed for The Wood Innovation Group, 'twig' being an acronym of the group's name. Apparently their client had not taken up the design for use, but Big Fish® had completed the registration process of the trademark after filing it 27 August 2007. Their spokesperson stated, in an email reply 16 December 2011, that Big Fish® had spent considerable time and money working on and registering the mark and as such respectfully suggested that the proposed design for Twig by Michael Pooley Flowers be changed, as the typeface used was indeed too visually similar. (Pooley 2011f)

This left the client in an extremely difficult situation. The application for registration could continue, but there were no assurances that the logo would be approved. It was clear, having garnered IPO advice on the subject that Beckman's version of the logo would not be found visually distinctive enough from the Big Fish® logo, which already had registered status, so the likelihood of rejection and loss of invested funds were high. There was also the risk of objections being raised by Big Fish® during the registration process, which would further complicate and delay matters, and the possibility of litigation by them if Pooley decided to use the logo, with or without the benefit of being registered, in the future. Non-registration would also mean the end of any possibility of franchising the brand.

Pooley needed to take time to consider his next course of action and did not get in contact with the author until 23 December 2011 when he announced he had come to a decision. He would abandon the registration of Beckman's version of the logo. He now wanted a new logo designed as quickly as possible since he had no intention of delaying his planned opening date and knew that the registration process would need approximately three to four months to complete. (Pooley 2011g)

4.3 The Redesign of the Twig Logo

In the absence of the DE09 students due to the Christmas holiday, it was necessary for the author to make a start on the new logo without them. In reviewing the elements of

Beckman’s design that the client had favoured, it was apparent that the word mark should be set in all lowercase characters and that connecting the letters was an important stylistic device in projecting the feeling of friendliness and approachability integral to the mark’s meaning. In order to avoid the possibility of further issues concerning the typeface, a search was carried out of fonts published after the 2007 registration of the Big Fish® twig trademark. This led to the discovery and selection of font foundry You Work For Them’s Agostina Alternate published in 2011, with its distinctive letter ‘g’ (Figure 4). This font is an updated and extended version of the 2008 Agostina typeface published by the same company.

Agostina Alternate

Figure 4. You Work For Them (YWFT) ‘Agostina Alternate’ typeface published in 2011.

Next the words to be used within the mark were explored. Beckman had used ‘Twig’ as the main form and ‘by Michael Pooley Flowers’ as a secondary element; new versions were created following this arrangement (Figure 5a). Then, designs were made using ‘Twig Flowers’ as the main form and ‘by Michael Pooley’ as a secondary element. This would bring the word mark into line with the website address and would assist in clearly differentiating it from the other trademarks found on the IPO’s database. This alternative also allowed for the use of a ligature¹⁷ in the word ‘flowers’ as Beckman had done in the original logo. For clarity of visual hierarchy within the mark, a strong level of contrast between the words ‘Twig flowers’ and ‘by Michael Pooley’ was required. The secondary typographic element was set in different typefaces in an attempt to create the right feeling and dynamic between itself and the Agostina Alternate text. Amongst the typefaces tried were Linotype’s Clarendon and

¹⁷ Ligature: “The joining of two or three separate characters to form a single unit in order to avoid interference between certain letter combinations.” (Ambrose & Harris 2005, 166)

Didot, Monotype's Gill Sans and Microsoft Corporation's Georgia (Figure 5b). (Appendix 3. Typographic Experiments Investigating Font Usage in the 'twig Michael Pooley Flowers' Logo)

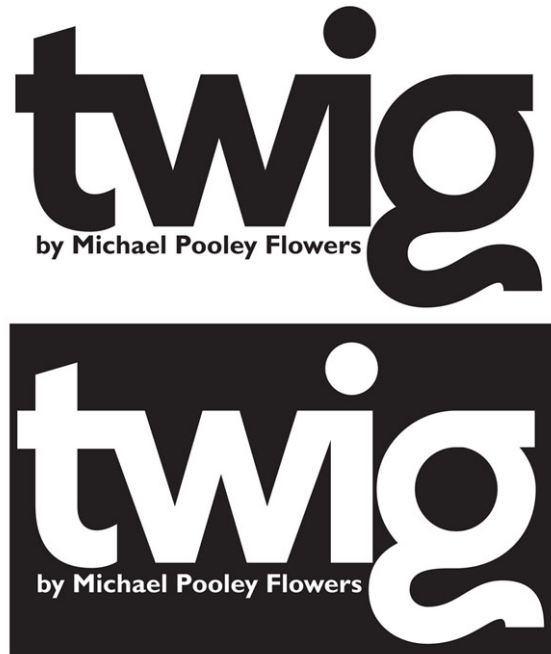


Figure 5a. Logotype typography experiment: 'Twig' set in YWFT Agostina Alternate and 'by Michael Pooley Flowers' set in Monotype Gill Sans bold.



Figure 5b. Logotype typography experiment: 'Twig flowers' set in YWFT Agostina Alternate with variations in typeface setting of 'by Michael Pooley'. From top to bottom: Clarendon LT std bold, Georgia bold and Didot bold.

The client was presented with these prototype versions by the author on 4 January 2012. Pooley understood the rationale behind the change in primary element but stated he much preferred the wording to remain as in the first logo. He liked the form of the word 'Twig' and the concept of contrasting typography in the secondary element; however, he did not feel that the chosen typefaces had reflected the right kind of mood. Further investigation would be necessary, and the form of the logo would have to be kept more closely resembling the originally selected work. Pooley also stated that he would like to see some graphic element returned to the logo, and it was proposed that now the students were back from the holiday that they could look at possible solutions for integrating such an element into the mark. (Pooley 2012a)

After a group discussion, the consensus was that the letter 'g' showed the greatest potential for adaptation. The students were given an Adobe Illustrator file, in which the *Agostina Alternate* text had been turned to outlines, and set about creating variations. The final works were presented to Pooley 12 January 2012, and he chose a design developed from a concept by Alexander Chernyh and executed by Vasily Zayarskiy. All that remained was to find a suitable typeface for the secondary element 'by Michael Pooley Flowers'. The author set the text in capital letters, as this would aid its legibility at smaller sizes, and tested it in the typefaces *Twentieth Century* and *Gill Sans* by Monotype along with *Lintotype's Avenir* (Appendix 2. *Twig Michael Pooley Flowers Logo: Typographic Experiments*). Aesthetically *Avenir* was the best overall match; however, there were issues about finding a good fit for the copy under the primary element. After some experimentation, it was requested that the client dropped the word 'by' from the logo as this enabled better alignment and the justification of the word *Flowers* under the name *Michael Pooley*. The client approved the change and the logo. (Pooley 2012b)

4.4 The 'g' mark

Pooley felt that the 'g' element from within the *Twig* logo was so strong that he would like to register it as a mark in its own right. The client could see great potential in its use as a graphical element on fabrics, packaging and wrappings, either in the form of a repeating pattern in the style of the *Louis Vuitton* luggage or the interlocking letter c's of *Chanel* (Pooley 2012b). On 15 February 2012 an application was made to register a series of 'g' marks in positive and negative form, in classes 16, 24, and 35. It passed

through the registration process and was published in the Trade Marks Journal on 23 March 2012. No opposition was raised and it formally gained certification on 1 June 2012 (Intellectual Property Office 2013j). The uniqueness and simplicity of this mark combined with the fact it did not require any company to be notified meant it had an easy journey through the registration process (Figure 6).



Figure 6. The g® mark. (Michael Pooley Flowers 2012)

4.5 Twig World Limited

The redesign of the logo having gone some way to allay Pooley's fear of litigation from Big Fish®, he proceeded to file a TM3 with the Intellectual Property Office 17 February 2012. The Twig trademark entered for registration in NIC classes 03, 04, 16, 24, 31, 35, 39 and 41 (Intellectual Property Office 2013k). The IPO sent an examination report (Davis 2012a) on 2 March 2012 in which there were classification queries and a list of earlier registered marks that looked or sounded similar, or offered the same or similar goods and services. The IPO informed Pooley that he had to resolve the classification queries before the request would be accepted. Following this they informed him that if he planned to proceed there was currently an opposition rate of about 5% to published applications. Pooley, based on the questions and observations made in the report, requested classes 3 and 4 from his application were removed and that Class 24 be amended. The examiner amended Classes 16 and 35 as a result of a

telephone conversation held with the client and in her follow up report gave a deadline of 19 April 2012 to confirm that these amendments were acceptable. (Davis 2012b)

Furthermore, Davis informed the client that all earlier registered marks that had been listed in her first letter would still need to be informed, even after the deletions and amendment that had been made (Davis 2012b). In full knowledge of this fact, Pooley accepted the alterations, and the trademark was published in the Trade Marks Journal of 18 May 2012. Twig World Limited¹⁸ was amongst the eight companies including Big Fish®, who had opted to receive notification of trademark applications that contained what may be considered confusingly similar marks. During the two-month notice period in which objections could be raised no other companies contacted Pooley except Twig World. On 17 July 2012, the last possible day for filing opposition, David Moore at Jensen's Paper and Trademark Attorneys representing Twig World, contacted Pooley stating his client was filing a TM7A 'Notice of threatened opposition' with the IPO (Pooley 2012c). This would mean the opposition period would be extended by an additional month.

The IPO informed Pooley that Twig World had filed a notice of threatened opposition, but were unable to tell him the grounds for the objection, just that they were concerned about streaming education. This meant that the use of the twig name and the inclusion of class 41, which pertains to the provision or publication of educational material via the Internet, were seen as the cause of a conflict of interest. However, neither Twig World nor their attorney had not got in touch to explain exactly how the trademark's original class 41 filing which stated, Education and training of floristry, horticulture, candle making, arts and crafts via workshops relating to flowers, gardening, lifestyle and horticultural, was a problem. Pooley could not see how teaching floristry over the Internet would be encroaching on to Twig Worlds business, as it was aimed

¹⁸ Twig World Limited is an online digital content provider based in Glasgow and London in the United Kingdom. Through a subscription to their web based service schools can access an educational resource that includes a catalogue of short films, photographic stills, diagrams and supporting course materials. The service content is targeted at students aged between 10 to 16 years old and focuses on national curriculum subjects such as biology, chemistry, maths and physics (Twig World 2013).

at adults not children, and was focused on lifestyle or hobby education not national curriculum subjects. The only possible, if tenuous, argument Pooley could imagine would be that flower arranging could be seen as relating to botany. (Pooley 2012d)

By the 17 August 2012, again the last possible day of filing, Pooley had still not heard from Twig World or their representative, so he contacted Moore asking if they still intended to file a TM7 ‘Notice of opposition and statement of grounds’. The onus of responsibility for filing the complaint was with Twig World, and if they wanted to proceed they would have to pay the IPO a £200 fee. They were obliged to give Pooley reasonable notice of their intention to oppose and to state on what grounds, which they had not done, with the result that he would be unable to organise a defence for his case. Moore agreed, over the phone, that if Pooley filed a TM21 ‘Change of proprietor’s name or address or other change to an application’ and amended his class 41 application to ‘education and training of floristry via workshops relating to flowers’ and agreed not to video stream content, then the TM7 application would be dropped. This meant that both parties avoided immediate costs or the likelihood of litigation. Pooley filed the TM21 and forwarded a copy to Moore. This amendment to the application resulted in another four weeks passing before the mark was finally entered into the trademarks register on 14 September 2012 (Figure 7). In total the process of getting the twig trademark designed and registered had taken almost a year. (Pooley 2012e)



Figure 7. The Twig Michael Pooley Flowers® trademark.

(Michael Pooley Flowers 2012)

4.6 Outcome

As the project continued beyond the group DE09's course, which ended in February 2012, the job of creating the majority of Twig's collateral has been that of the author. It should be noted that the decision to register both the Twig and 'g' logotypes as positive and negative black and white marks, rather than specify any given colour, was intentional. Instead of restricting the trademarks to a fixed colour interpretation, it was considered more valuable to protect the shape and form. This decision allowed for greater flexibility in the use of colour as floristry is closely affiliated with the interior decoration and wedding services industries, both of which are highly influenced by their own colour fashion trends. During the development of the Twig's visual identity, a colour palette was conceived based upon the English Heritage exterior paint colour palette; however, this palette is restricted in use to the company's stationary, website and signage rather than being a requirement in the context of advertising and marketing where it needs to reflect trends.

Before either trademark passed the client had taken up occupancy of the retail premises in Queen Street Ipswich, and needed many items designed and produced. The shop signage was designed and executed prior to registration but with the exclusion of the ® symbol, which was added later. The client has in the last year commissioned posters for the shop's official launch and for Valentine and Mother's Day, postcards, letterhead and invoice templates, a pricing legend to explain flower costs to the public, had a year long advertising campaign in a local quarterly magazine and a digital advertisement in a national bridal publication. Presently in development are flower care instruction cards, along with plans for a bespoke 'g' wrapping paper and series of different customer loyalty cards. (Appendices 3–7, Appendix 9)

Also during 2012, a publisher contacted Pooley with a view to creating a series of books on floristry, he has now signed a ten-book deal, and he wishes to have design collaboration on this series of projects following the success of Twig. Finally, the client now feels that the parent company's visual identity is looking decidedly tired and has approached about the possibility of doing a rebrand project in the near future. This will be a complex assignment since it will involve unifying a currently quite scattered set of business identities into one integrated identity, an exciting challenge. (Pooley 2013a)

5 CONCLUSION

Twig had its official store launch on 28 July 2012, two months later than scheduled. In the previous month, the store operated under the 'g' mark in order to gauge stock requirements, potential sales revenues and responses to the concept and branding of the store. The client reported excellent sales over the opening weekend and an overwhelmingly positive response to the in-store environment and visual branding. (Pooley 2012f)

To evaluate the degree of success of this project so far, in terms of the client's objectives, there are three main areas on which to report. The first area to review is that of the level of achievement of the clients desired goals in regard to reaching the target demographic groups. Secondly, to report on the impact that has been observed in the local area amongst the business's competitors, and thirdly on the response to the store and its concept in the press.

Demographic targets: After nine months of trading, the client reports that the desired objective of gaining a higher percentage of male customers than his previous retail outlet has been achieved. In fact, Pooley claims that currently approximately 80-90% of all Twig customers are men, a much higher percentage than the originally projected target of 45%. It should be noted that these percentages are not based on any empirical data, but are the client's observations. Pooley states, when questioned by Twig staff about their thoughts on the store, men apparently find the branding relatable and pleasing. According to the client one man commented that in his view, the visual identity and store interior appeared to be more like a boutique or bar, in comparison to more traditional flower store, which they felt, was a female domain and often appear rather dated and disorganised. (Pooley 2013a)

It is also apparent that the target female audience intended to become Twig customers has also been achieved. Whereas the parent company Michael Pooley Flowers is a

luxury brand catering for the corporate market and demographic classes social grade¹⁹ A and B¹; high-income professionals, entrepreneurs, company directors, and individuals working in the upper levels of the arts, law and media, Twig's target demographic groups are decidedly different. Twig is marketed to attract individuals of the B¹, B², B³ and C demographic classes; that is individuals working in education, healthcare, management and junior management within the retail and service sectors, and to shop and industrial workers. This meant that the aim of Twig's business concept and communication strategy had to be more universal in appeal than in the case of Michael Pooley Flowers. Similarly, the visual branding had to reflect the aspirations of a larger potential audience than the Arlington Way store. Pooley reports that he has seen a rapid growth in the numbers of B² and B³ bridal clientele and finds they are spending enthusiastically on flowers. When questioned about what they do for a living, the client has found that the majority of his brides are working as teachers, nurses or in lower management jobs within the service and retail industries. Pooley reports he now has wedding parties booked for 2015, this is the first time in his career that people have been booking over two years in advance. (Pooley 2013a)

Pooley has continued to attract A and B¹ clients although surprisingly they are not necessarily there to buy flowers but to look for ideas. Representatives from the highly respected company The Designers Guild group came to see the store, pre-launch. They were extremely interested in the concept behind the store, in its commercial interior and branding strategy. Pooley wrote recently that the John Lewis Partnership had contracted him as an independent consultant to train several groups of John Lewis and Waitrose staff in setting up retail floristry displays (Pooley 2013b). This is a sure sign that things were going in an excellent direction if such strong brands were scoping Twig for possible retail ideas. This leads to the next observation, in regard to the effects seen in local competing businesses since the opening of Twig in July.

¹⁹ Social grade: This is a form of demographic classification tool used in the United Kingdom in market research. The system defines individuals by their profession, job position and income using a lettering system; A, being the highest level to E, being the lowest. (Collis 2009)

Local impact: The response to Twig's visual identity has been extremely positive from the general public and in the floral industry press, and it seems to have caused a reaction within local competing businesses. There has been evidence of these businesses reviewing their visual identities as a result of this strong new brand entering the local market. The client reports that recently there have been several instances of competitors changing their corporate colour palette to something remarkably similar to that of Twig, or employing new packaging solutions that appear to have been influenced by Twig's approach. As a result, the client is now planning a project to develop new packaging and wrapping solutions which hopefully will continue to reinforce Twig's visual identity and help in its continuing development of a reputation for stylish, graphically strong and visually arresting designs that complement the business' core product, beautiful flowers.

Press Response: On September 11 2012 an article entitled 'Flower Power' was published on the Condé Nast Brides Magazine website as part of the 'Bride To Be' blog by Sara McCorquodale. Sara is a journalist of some considerable reputation who previously held the post of UK editor of the Tatler online; she is currently editor of My Daily and Huffington Post Style UK. McCorquodale reported on her experiences while working with Pooley at Twig arranging her wedding flowers and gave a glowing review: "And so I went to Twig, which is (and you can quote me on this) the coolest florist shop in the whole world (McCorquodale 2012)." This kind of reportage is worth its weight in gold in marketing and advertising terms. In the age of social media 'Word of mouse' communicates better than 'word of mouth' (Wheeler 2009), so a piece written by a popular blogger can be a very persuasive motivator for potential customers and to gain coverage like this without paying for it is a huge bonus.

After opening the store Michael was approached by Vanilla Magazine, a lifestyle title published bi-monthly, that promotes local business in the Ipswich area. They asked if he would be interested in producing an advertorial page, which would provide a tutorial each issue demonstrating a floral arrangement suitable for the season. Previous contributors had been local restaurants and bars that offered recipes for meals and cocktails. Michael decided to take up the opportunity for one year and the first page, designed following the Twig visual identity guidelines, was published in September 2012. Two issues have since been published one demonstrating how to create a festive

wreath for the front door, the other giving info-graphic of how to arrange flowers for Valentine's and Mother's Day. (Appendix 8. Twig Vanilla Magazine Advertisements)

Final Analysis: there are three key areas the author would emphasize when dealing with registering a trademark for a client. Firstly, it is of vital importance that the designer helps the client clarify the full scope of the project from the outset. If a client starting a new venture approaches a designer before they have fully developed their own business strategy, or set clear objectives in regard to their expectations, it can lead to many problems. To avoid this situation a designer should ensure they question their client in depth, about their desires, their expectations and their plans for the future of their business. Help them clarify what they are aiming to achieve before creating the project brief. Issues such as project management, agreeing time schedules and budgetary issues become very difficult to manage if the client's objectives keep changing, especially if they become aware of greater possibilities while working with the designer and decide to change their objectives. It is essential that all goals are clearly defined and agreed in writing at the outset of the programme. Therefore if changes occur it is clear that the project will need to be renegotiated and a new brief or work contract drawn up.

Secondly, the exclusive consideration of budgetary factors is not a good determiner of how a project should be planned or executed. This was demonstrated by the fact that by cutting corners during the research period of this project, in order to create a logo in the originally agreed time frame, insufficient background checks were made. This had the end result of the client's selected logo being too similar to a mark currently registered in the United Kingdom and in danger of being litigated if registration was pursued. The client's desire to register their initial choice, when the understanding had been that this would not be required, resulted in a much longer time schedule for registering, and in normal circumstances would have accrued considerably higher costs than budgeted for the client. The complications that arose from this situation required the gaining of professional advice, along with extensive changes in the wording of the classification filing, and the total redesign of the logo itself. All these additional hours, plus the delays caused later by objections raised by other trademark holders during the registration process, caused a project that should have run for approximately 4-5 months to end up taking almost a year to complete. This would have, in a commercial

situation, led to a huge inflation of costs, even beyond those additional ones automatically incurred through undertaking the registration process itself.

Thirdly, develop a consistent dialogue with the client so that both the designer and the client are well informed of any developments and changes as the job is progressing. Regular meetings and feedback should be scheduled into the working time so that the project remains on track and changes are quickly acted upon. Good communication skills are key, and it is recommended that designers prepare well before meetings. Write a list of questions for the client and document their answers in writing, it is then much easier to track what solutions, comments or changes are made. Clients often want guidance and ideas as they have employed the designer as a specialist in their field, however it is important to remember the fact that this is their business and they are the ones setting the objectives.

This project aimed solely on delivering a logo design at its inception, however it developed rapidly into a full-scale visual branding case. This created great learning opportunities but also meant that, on occasion, the client left the author reeling from the number of new ideas they wanted to see added to the project's brief. There was also a great deal of pressure during this project due to the short schedules and over optimistic delivery dates that the client expected from the author. Communicating with a client to clearly set the projects boundaries is vital at the offset. It pays to be clear about what they require, when they require it by and what they are prepared to spend to achieve these goals. This information is essential to the smooth running of a project.

If the client appears reticent about what they are willing to commit to in the budget or any proposals made for a project, make sure to outline clearly to them what the design and registration process actually involves. Explain the importance of each part of the process and informing them of the associated time scales generally required for completion. Make sure that a sufficient period of time for research is included into the project and then be sure to set a realistic time schedule in which to deliver the job. Cover for contingencies in your plans.

Make sure when undertaking any visual identity project that the client has done their part too. Ask if all relevant checks have been made with the appropriate government bodies concerned with the registration of business names. The client needs to ensure that the name they wish to use is available to them. Once the availability of a name

has been confirmed, it is a matter of good working practice to investigate the use of the name on the trademark registration databases of the country the clients intends to operate their business. It is strongly recommend this research be done whether or not it is the company's intention to register their trademark. This prevents the likelihood of problems arising in the future, as in the case of them deciding to register their mark, or in preventing the possibility of litigation by another company on the grounds of copyright infringement.

The client was enthusiastic and incredibly helpful at the beginning of the project and ultimately seems very happy with the end result. The unfortunate fact that the application was challenged at every point during this project caused considerable stress and irritation but the outcome means that the author's depth of knowledge and understanding of trademark law and the process involved in registration has been deeply enriched. Finally a word of thanks for all those who have helped supported and contributed to this work over the last 18 months.

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Form TM3
Application to register a trade mark

Fee £200 [Includes one class of goods or services]
£50 [for each additional class]

Use this form to file your application to register a trade mark.
 Do not use this form if you wish to pay a reduced fee, you can **save £30** by filing your application online.
 ††NOTE: The details indicated with †† are displayed on the IPO website shortly after receipt. If the application is accepted, details are published on the internet in the Trade Marks Journal which is fully searchable by the public.

<p>1. †† Full name Proposed owner</p>	
<p>Owner type Specify whether Person, Company/LLP, Partnership, Trust or Other</p>	
<p>†† Address If the address is not within the United Kingdom, European Economic Area (EEA) or the Channel Islands you must also complete section 2 below</p>	
	Postcode
<p>Email address Complete if you have no representative and would like us to correspond with you by email.</p>	
<p>Company registration number Complete if the applicant is a company or LLP incorporated in the UK</p>	
<p>Country of incorporation If registered in USA also enter the 'State' e.g. 'Delaware'.</p>	
<p>2. †† Representative name If you have no representative, go to section 3.</p>	
<p>†† Address The address provided in this section must be in United Kingdom, European Economic Area (EEA) or the Channel Islands.</p>	
<div style="border: 1px solid black; padding: 2px; width: fit-content;"> <p>NOTE: We will communicate with the representative, if this section has been completed.</p> </div>	
	Postcode

Email address

Complete if you would like us to correspond with you by email.

Representative type

Please tick appropriate box

<input type="checkbox"/>	IP Professional
<input type="checkbox"/>	In-House IP department
<input type="checkbox"/>	Lawyer/Solicitor
<input type="checkbox"/>	Other

3. Trade mark type

99% of applications are Trade Marks.
 Certification Marks – indicate that goods or services meet a defined quality standard.
 Collective – indicate the goods or services of a member of a trade association.

<input type="checkbox"/>	Trade Mark
<input type="checkbox"/>	Certification Mark
<input type="checkbox"/>	Collective Mark

4. Number of trade marks in series

Enter number only if applying for a series of trade marks (Max. 6 trade marks).

NOTE: 'Series' is a number of marks with very small differences e.g. 'danryvol', 'DANRYVOL', 'Danryvol'.

££ More than 2 marks are subject to an additional fee of £50 per mark.

5. Representation of your trade mark or trade marks

Enter your trade mark in the space provided or attach on a separate sheet. Tick if attached

Reset

If your trade mark is a 3D shape and you are showing different views of the same mark please indicate the number of views in the box provided. The max number of images per trade mark is 6.

TM3

6. Trade mark classification

You need to tell us which goods and services you are going to use your trade mark for. Goods and Services are classified in an internationally agreed list of classes.

For information on how we classify: visit www.ipo.gov.uk/types/tm/t-applying/t-class.htm

You must tell us which class your goods and services belong in e.g. Class 25, Clothes. You can search and classify goods and services using the classification search tool 'Euroclass'. Visit <http://oami.europa.eu/ec2/>

££ Applications with more than one class of goods or services are subject to an additional fee of **£50** for each additional class – use continuation sheet if necessary

Class Number	List of goods and services

TM3

Note: Items 7 to 10 below are **not** required for 99% of trademark applications.

7. Trade mark description (Optional)
 If your trade mark is not a traditional trade mark such as a word, logo, picture, letters etc. You can tell us here. e.g. if it is a 3 dimensional shape or hologram.

8. Limitation (Optional)
 Enter any limitations to your rights that you wish to volunteer. e.g. If you want to limit your rights to the trade mark to particular geographical areas of the UK.

9. Disclaimer (Optional)
 If you want to volunteer to disclaim any rights to a part of your mark, you can do so here.

10. Priority claim (Optional)
 If you have applied for this trade mark outside the UK in the last six months, you can claim priority by entering the details here.

Priority Claim Country

Application / Registration Number

Priority Claim Date

Priority claim type
 You must tick only one of the priority claim type options

For All Goods and Services **Reset**

For Some of the Goods and Services

11. Declaration
 Warning! You cannot make changes to your application once it has been submitted and your application fee is non-refundable.

The trade mark is being used by the applicant, or with his or her consent, in relation to the goods or services shown, or there is a bona fide intention that it will be used in this way.

Signature

Name
 (BLOCK CAPITALS)

Date

Number of sheets attached to this form

12. Your reference
 Complete if you would like us to quote this in communications with you, otherwise leave blank.

Contact details
 Name, daytime telephone number of the person to contact in case of query.

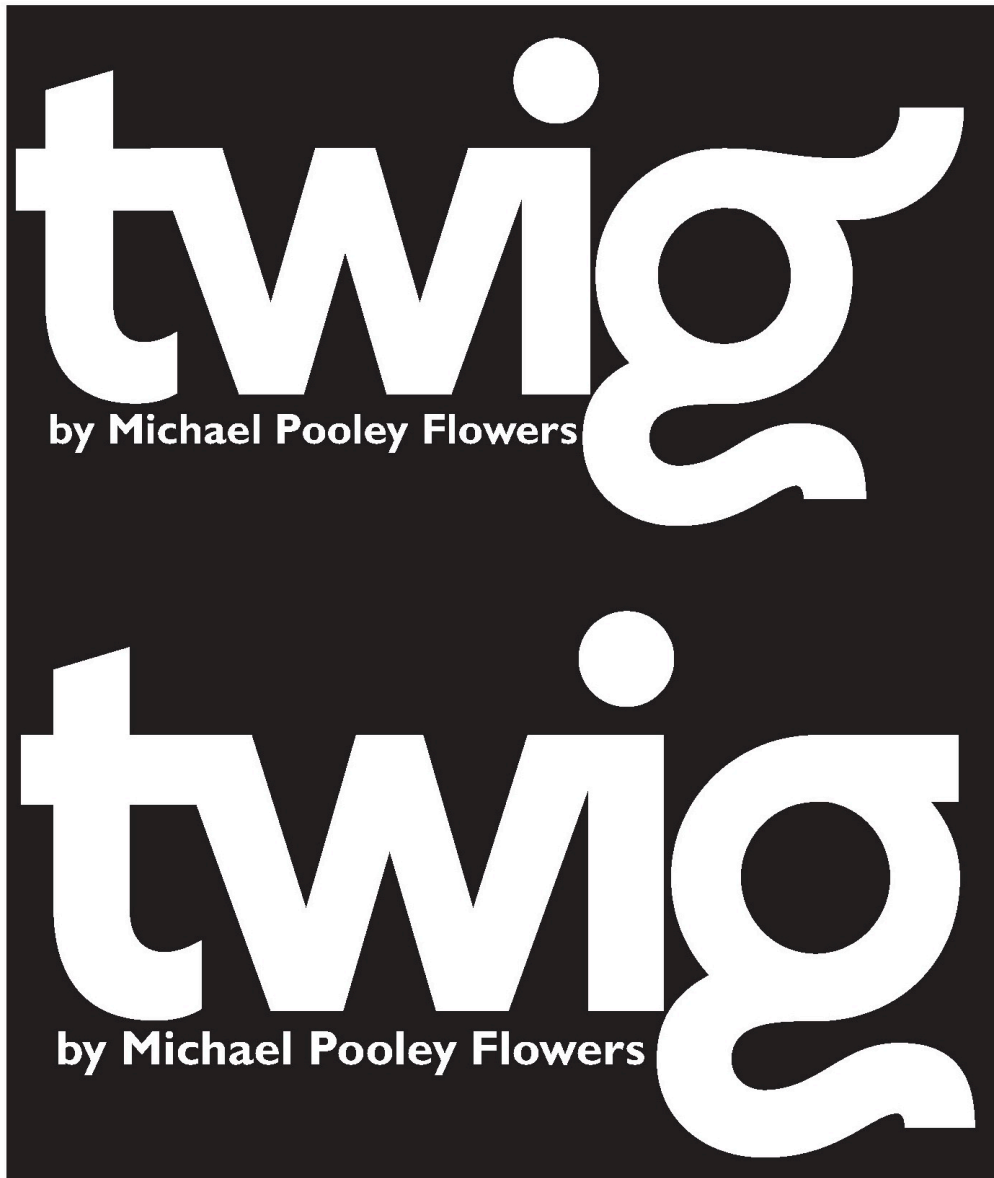
Checklist

Please make sure you have remembered to:

- Sign and date the form
- Complete [fee sheet](#) (Form FS2)
- Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office

Where to send

Intellectual Property Office
 Trade Marks Registry
 Concept House
 Cardiff Road
 Newport
 South Wales
 NP10 8QQ



Above: Reviewing different forms of the character g.

twig
by Michael Pooley Flowers

twig
by MICHAEL POOLEY FLOWERS

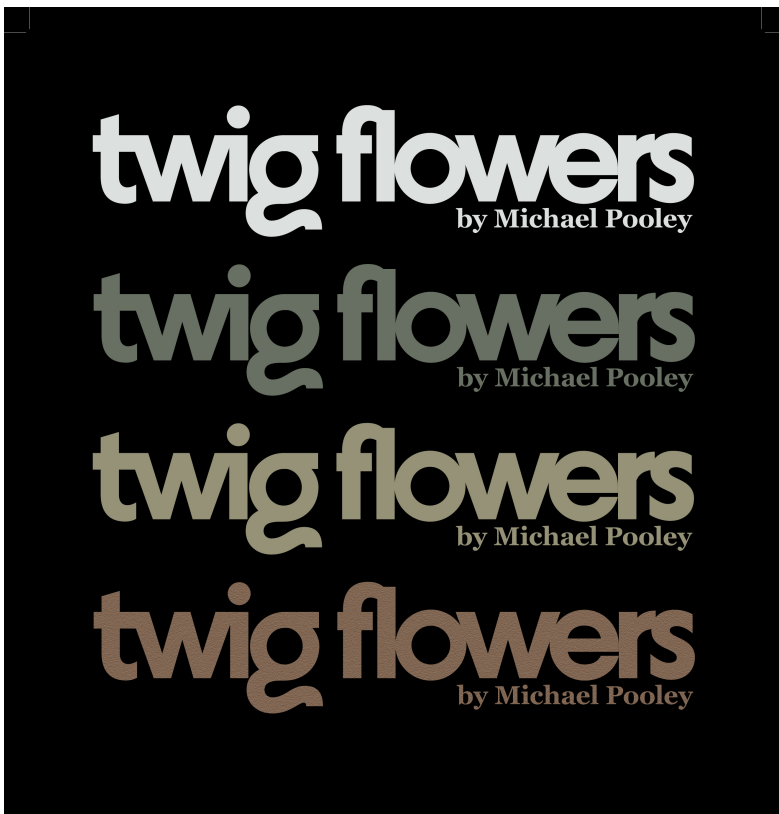
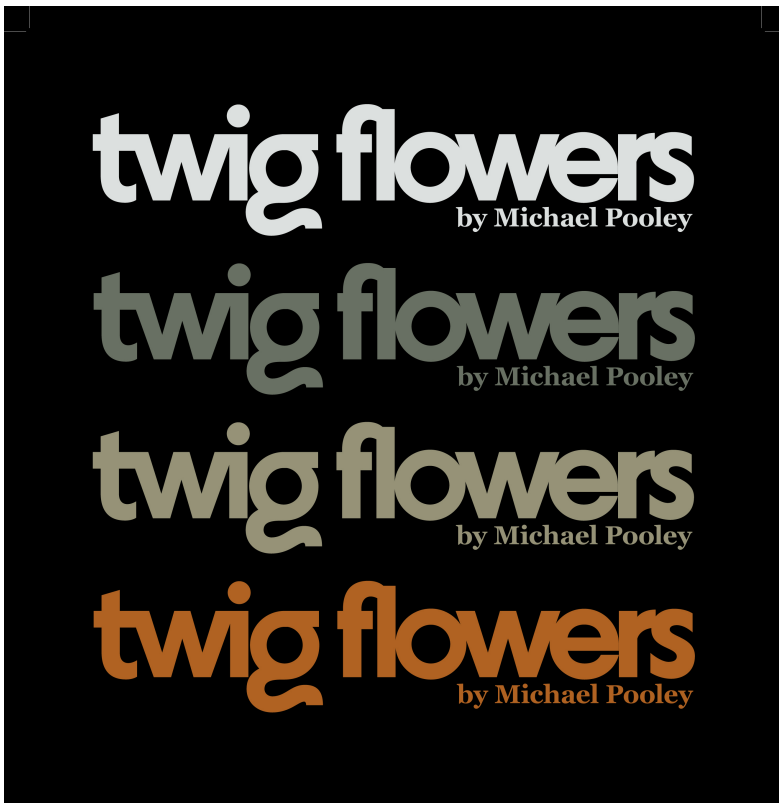
twig
by Michael Pooley Flowers

twig
by MICHAEL POOLEY FLOWERS

Above: Reviewing the use of Lintotype's Clarendon and Didot typefaces.



Above: Reviewing the use of Microsoft Corporation's Georgia and Linotype's Avenir typefaces.



Above: Colour trials reviewing readability of twig flowers variant of logo.

**MICHAEL POOLEY
FLOWERS**

Tw Cen MT

**MICHAEL POOLEY
FLOWERS**

Gil sans

**MICHAEL POOLEY
FLOWERS**

Avenir

Above: Reviewing secondary element design after removal of the word 'by' in Linotype's Avenir typeface and Monotype's Gill Sans and Twentieth Century typefaces.



Above: Colour experiments reviewing logo legibility.

Store Launch

28th JULY 2012



twig
MICHAEL POOLEY
FLOWERS

**19 Queen Street,
Ipswich, IP1 1SW.**

www.facebook.com/twigflowers

Email: store@twigflowers.co.uk

TEL: 01473 359 111



Shop front hanging sign. (2012)

twig shop front signage

Hanging sign

Dimensions:
 Width 52cm
 Depth 50cm

Background Blue/black
 G logo Telephone number Sage Green

50cm

Pantone Black 6
 Pantone 416

0.35 x X-height
 X-height
 0.35 x X-height

52cm

Shop Facia

Dimensions:
 Width 500cm
 Depth 54cm

Background Blue/black
 G logo Sage Green

54cm

Pantone Black 6
 Pantone 416

twi
 Michael Pooley Flowers
 Bone White
 Pantone Warm Grey 1

Isolation zone:
 The area above and below the logo is 0.35 x the X-height of the logo.
 The Logo should have 1 x X-height space between it and the starting edge of the fascia board whether it is aligned to the left or the right of the fascia board.

0.35 x X-height 7cm
 X-height 20cm
 0.35 x X-height 7cm

500cm

X-height 20cm

Instructions for the sign writer on positioning the Twig trademarks on the shop facia. (2012)



Twig Michael Pooley Flowers shop front. (Pooley 2012)



Pre-registration versions of the Twig postcard. (2012)



The logo features the word "twig" in a bold, lowercase, sans-serif font. The letter "i" has a solid black circle above it. Below the "twig" text, the words "MICHAEL POOLEY" and "FLOWERS" are stacked in a smaller, uppercase, sans-serif font.

STORE

19 Queen Street, Ipswich
Suffolk IP1 1SW

PHONE

+44 (0)1473 359 111

EMAIL

store@twigflowers.co.uk

WEB

www.twigflowers.co.uk



Post registration version of the Twig postcard (2012)

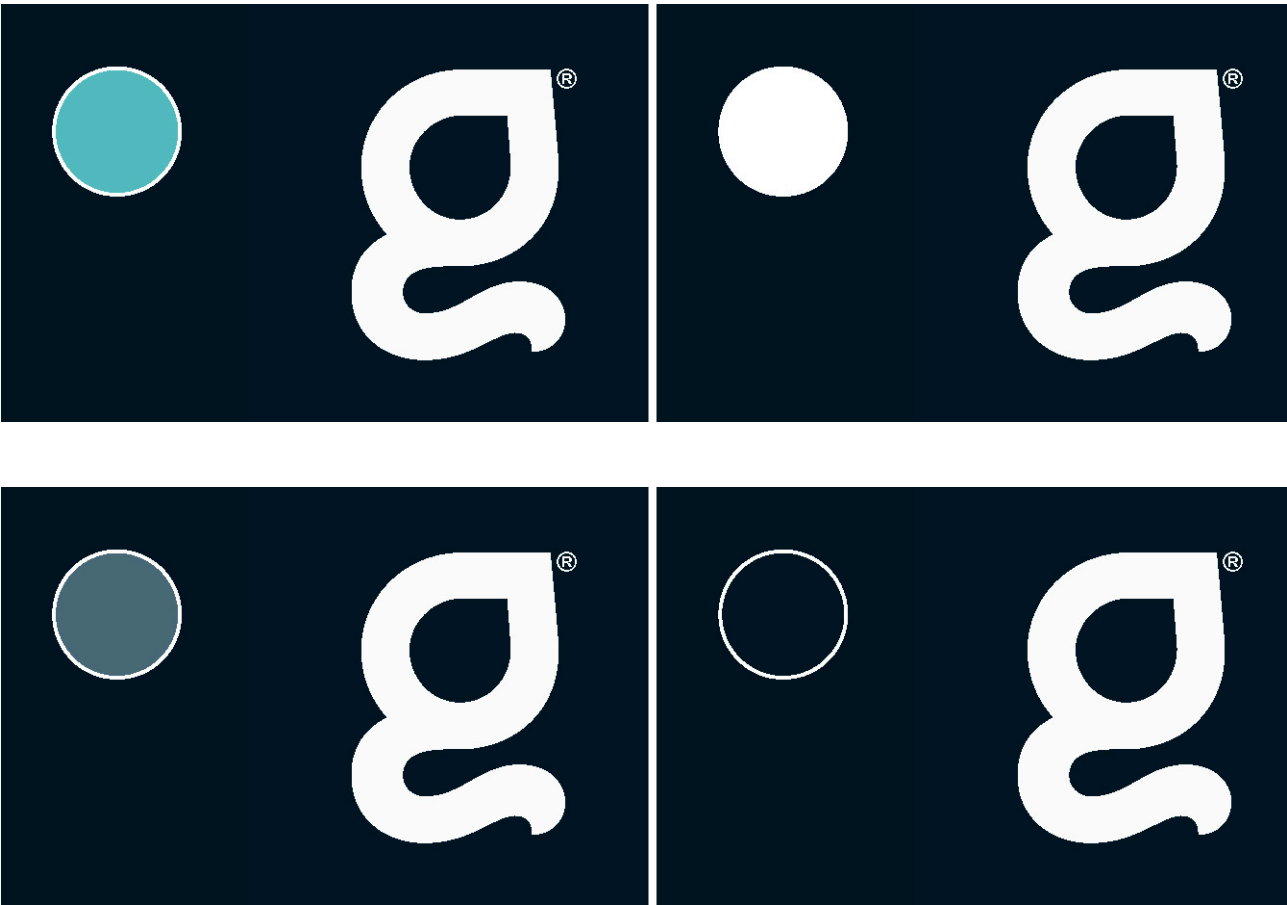
Flower codes at

	£0.50		£3.50
	£1.00		£4.00
	£1.50		£4.50
	£2.50		£5.00
	£3.00		Please ask for details

twig[®]
MICHAEL POOLEY
FLOWERS



Twig Pricing Labels (2012)



Twig Pricing Labels (2012)



twig
MICHAEL POOLEY
FLOWERS

"He was creative, forward thinking, worked with my budget and really understood my vision."

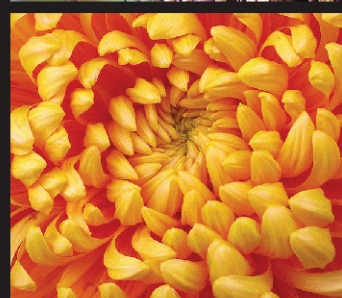
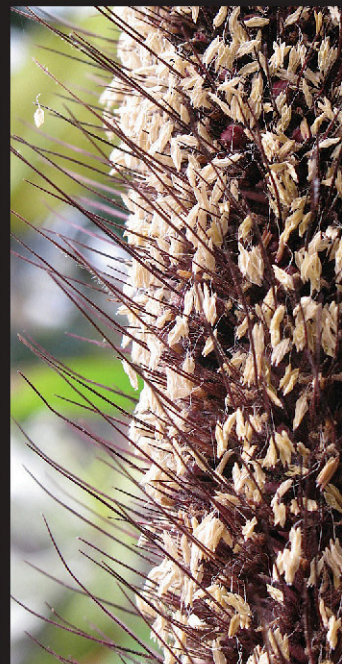
Sara McCorquodale,
Editor of Huffington Post Style UK & MyDaily

**Book your Bridal Consultation today.
Call 01473 359 111**

twig: Michael Pooley Flowers
19 Queen Street, Ipswich,
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Recipe for Success

Top florist **Michael Pooley** would like to warmly welcome you to **twig**'s new feature page in Vanilla Magazine. Every issue we will bring you a great floral 'recipe' you can create at home. Come down to the store and get everything you need to make a stunning display. We look forward to meeting you.



NEXT ISSUE

**How to make a
seasonal wreath**

twig: Michael Pooley Flowers
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twig[®]
MICHAEL POOLEY
FLOWERS

Seasonal Wreath



In this issue **twig** shows you how to create a fabulous wreath for your front door.



Take your foam ring and chamfer smooth the edges to create a doughnut shape.

Tie a bow at the top and place small sprigs of pine around the edge and centre of the ring.

WHAT YOU WILL NEED

- Foam ring*
- Velvet bow*
- Sprigs of blue spruce*
- Wood & felt ornaments*
- Reindeer moss*
- 6 ornamental apples*
- Cinnamon stick bundles*
- Bleached pine cones*
- Orange and apple slices*
- Dried chillies*
- Hemp rope*
- Mossing pins*

Don't have time to make your own? Come to the **twig** store and find a gorgeous selection of ready-made options or call on 01473 359 111 to have a unique one made just for you.



Now arrange your ornaments in a pleasing way, pinning reindeer moss amongst the spruce.



Add three pairs of apples in a triangular shape.



Add cinnamon sticks and bleached pine cones in the spaces between the apples.



Finish with orange and apple slices along with dried chillies and wrap the rope around.

NEXT ISSUE

Be my Valentine

photographs:
www.rossdeanphotography.com
 design: 24hundred Design

twig: Michael Pooley Flowers
 19 Queen Street, Ipswich,
 Suffolk IP1 1SW
 01473 359 111
www.twigflowers.co.uk
facebook.com/twigflowers



Say "I ♥ you" twig style

Follow our easy seven step guide and leave it to the professionals this Valentine's and Mother's Day.



1: Pick up the phone



2: Call Twig



3: Place your order



4: Set the Date



5: Sit back and relax



6: We deliver



7: They enjoy ♥

twig: Michael Pooley Flowers
19 Queen Street, Ipswich,
Suffolk IP1 1SW

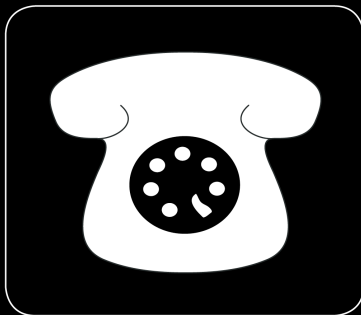
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illustrations: Sarah-Jane Leavey (2, 4 & 7), Pasi Pietari Hornamo (1, 3, 5 & 6)

Say "I ♥ YOU" style

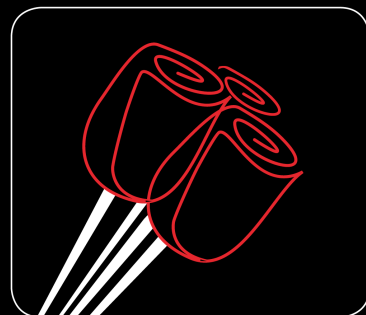
Follow our easy seven step guide and leave it to the professionals this Valentine's and Mother's Day.



1: Pick up the phone



2: Call Twig



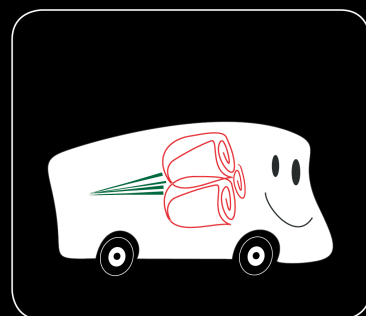
3: Place your order



4: Set the Date



5: Sit back and relax



6: We deliver



7: Enjoy ♥

twig: Michael Pooley Flowers 01473 359 111
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Suffolk IP1 1SW facebook.com/twigflowers

