

What's in a Name, and Why Trademark It?

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Love her or hate her, Sarah Palin knows how to use her name. She draws between \$75,000 and \$100,000 for a speaking engagement. Her memoir, 'Going Rogue,' sold more than 490,000 in the first week. Palin and her daughter, Bristol of *Dancing with the Stars* fame, recently took steps to register their names as federal trademarks, as reported by the *Wall Street Journal* yesterday: [Sarah Palin, Daughter Bristol Trademark Their Names](#). Why? To protect the value in those names.

The Palins aren't the only well-known people to take such steps to protect the value of their names. Rock stars, like U2 front man Paul Hewson has trademarked his stage name, [Bono](#), as have actors, such as [Morgan Freeman](#), and athletes, like [Ndamukong Suh](#).

The value of a name can be destroyed, if others use it for their own commercial advantage. They might use it to hawk their merchandise or promote their services. These miscreants do so by confusing the public into thinking they're buying services or products affiliated with a reputable name, when the source of those goods or services is someone altogether different. With the proliferation of the Internet, cybersquatters have taken this exploitation to another level.

Morgan Freeman filed his federal trademark application so he could pursue someone who was cybersquatting on the domain name www.morganfreeman.com. Cybersquatters sometimes route unsuspecting web surfers to web pages offering their own goods and services. Sometimes they redirect them to the websites of competitors of the true trademark owner. Sometimes they hold the domain name hostage and seek ransoms (event tickets, autographed memorabilia, money, etc.) from the rightful owner. Mr. Freeman was successful in shutting down the cybersquatter who had taken his name.

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State trademark registrations and common law trademarks (i.e., those deriving rights solely from use) can be used to pursue cybersquatters, but they have their limitations. Both may require a significant showing of how, where and when the trademarks have been used. Both may be restricted to the geographic regions where they are registered or actually used.

The best way to protect a trademark against infringement is to federally register the mark, as Mr. Freeman did. This is most effectively done when the federal application precedes actual use of the mark. In other words, when possible, a federal application should be filed before rolling out a business or product and prior to any marketing.

A federal registration means the mark has been vigorously reviewed by a U.S. Patent and Trademark Office attorney, who has determined that the mark is not descriptive and is not substantially similar to another federally registered trademark. A federal trademark registration gives rise to a legal presumption that you are the owner of the trademark and have an exclusive right to use it in association with specified goods and services throughout the United States.

In cases where a cybersquatter is infringing on a trademark, proof of a federal trademark registration is the most certain means of convincing the infringer to cease use of the domain name. Sophisticated cybersquatters often demand such proof.

If you need help protecting your name, whether it's your personal name, business name or brand name, please contact us.

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