

A Brief Introduction to Trademarks

By David P. Badanes, Esq.

Trademarks identify either a product or a service so that the consumer knows that they originate from the same source. In general terms, consumers identify products or services by either their trademarks or trade names.

For example, you may prefer drinking Poland Spring water sneakers and when you go to the supermarket for bottled water, you identify and select this brand of bottled water based on its trademarked name. Trademarks can also be used for services. H&R Block provides tax filing and accountant services and in general doesn't sell an actual product. The name H&R Block is a trademark name.

Trademarks can consist of a variety of words and symbols, for example:

- A design can be a trademark, one of the most famous designs is the Nike swoosh design
- A number can be a trademark, the number "4711" is a trademark identifying a cologne
- A slogan can be a trademark, some examples are: "Just Do It" (Nike), "The King of Beers" (Budweiser), and "Don't leave home without it" (American Express)
- A sound can be a trademark, the NBC chimes identify the NBC radio station
- Colors can be a trademark, John Deere's Green and UPS Brown are both trademarked by their respective companies

If you sell something or offer a service, you operate under a trade name. Your trade name may be the same as the name of your corporation, but, it doesn't have to be. If you operate as a "dba" (doing business as) or as a sole proprietor, that may be your trade name.

However, it is important to note that simply having a trade name, corporation name, or a "dba" **does not** necessarily give you any trademark rights. In a similar manner, having a website or domain name **does not** necessarily give you any trademark rights.

The only way to guarantee that you have trademark rights (in the United States) is to obtain a trademark through the United States Patent and Trademark Office (the "PTO").

When selecting a trademark, you do not have to select the name of your corporation. For example, General Mills sells several cereals (for example, Cheerios, Wheaties. Chex), each of these cereal names has their own trademark.

If you need more information about trademarks or need an attorney to help you obtain a trademark, the Badanes Law Office can help you. Contact the Badanes Law Office, which specializes in obtaining trademarks and trademark law for a free consultation. The phone number is 631-239-1702 and the website is www.dbnyiplaw.com.