

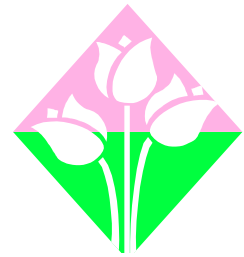


Happy Spring!

Mesmer & Deleault, PLLC

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“Tip of the Month”

Police Your Trademark

Trademarks are valuable intellectual property because they identify your goods or services as coming from a particular provider, you, your company or your organization. Customers will be drawn to you just because of the strength of your trademark. However, anyone could adopt a trademark that is very similar to yours for similar goods and services. Someone might adopt the similar trademark innocently, or they might do it intentionally like a pirate riding on the coattails of your valuable trade identity.

Because of this possibility, you should regularly search for these potential infringers so that you can take appropriate actions to protect your trademark. You must be diligent and monitor your mark. Otherwise, it could get diluted and fall into the public domain, like “aspirin” and “escalator” did. Your trademark may be held to be unenforceable if you decide to sue for infringement later. “If you snooze, you lose.”

Your trademark is infringed if there is a likelihood of confusion caused by another’s trademark for similar goods or services. Therefore, you should scan for trademarks that are identical to yours, sound or look like yours, or are foreign language translations of your trademarks. Look for any other mark that is confusingly similar to yours. Toys-R-Us® does. They will not allow anyone to be Anything-R-Us.

Perform searches on the Web using Google® and other search engines. Search for recent trademark applications and trademark registrations at the www.USPTO.gov Web site. Review trade publications. Commercial trademark monitoring services will also watch for potential infringements for a fee.

What should you do if you find a potentially infringing trademark? Bring the information to Mesmer & Deleault, PLLC for an evaluation. We can better assess whether there is infringement once we have the facts. We must first determine whether you have superior rights in the trademark.

If so, there are many options available to protect your trademark rights. We may be able to file an opposition proceeding against a pending trademark application, or file a cancellation proceeding against the trademark registration. We can also send a “cease and desist” letter to anyone who is infringing. Litigation is the last option. We will work with you.

If you have any questions about trademarks or other intellectual property, please give us a call at 668-1971, or contact us by email at meslaw@aol.com.

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