

Selecting a Strong Trademark

Just the FAQs

From the Intellectual Property Group

In selecting a trademark, you want to select a strong mark which conveys to the consuming public that particular goods and services come from your company and not from one of your competitors.

Businesses too often select names which describe their goods or services and sometimes incorporate generic or merely descriptive terms. This practice can result in consumer confusion, lost business, and also can cause your company to lose one of its most valuable monetary assets, its trademark.

A trademark can be “strong” or “weak” depending on the mark selected and how it is used. To understand which marks are strong, consider the line below. Every trademark falls somewhere on this line:



Fanciful marks are made-up words that only function as a trademark. Some well-known fanciful marks include GOOGLE, REEBOK, and POLAROID. Fanciful marks are the strongest marks and are afforded the strongest protection.

Arbitrary marks are real words which have no relationship to the good or service. The pairing of the word with a particular good or service is random. For example, APPLE for computers and JAGUAR for cars. These types of marks are afforded strong protection.

Suggestive marks ‘suggest’ rather than describe a feature or characteristic of the good or service. These marks require thought, imagination and perception to reach a conclusion about the goods or services to which they apply. For example, the mark COPPERTONE for suntan products is considered suggestive because it suggests to the consumer that a user of the product would get a “copper tone” to their skin. Most suggestive marks, depending upon their uniqueness, are considered to be strong to very strong and are generally protectable.

Descriptive marks describe a characteristic, ingredient, quality, feature or purpose of the good or service, such as HEARING CENTER or COMPUTERLAND. These marks are not afforded a great deal of protection unless they acquire distinctiveness through secondary meaning. Secondary meaning may be acquired through long-term use and a showing of a considerable amount of money or marketing of the good or service in conjunction with the descriptive mark.

Generic “marks” are devices which actually name a product and are incapable of functioning as a trademark. A valid trademark can become generic if the consuming public misuses the mark sufficient for the mark to become the generic name of the product. For example, ASPIRIN was a former trademark that became the generic name of the product.

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The following chart demonstrates the relative strength of different types of marks

Mark Category	Name of Bakery	Protection
Fanciful	Tookales	Strong
Arbitrary	Pearl	Strong
Suggestive	Salty Tart	Strong-Medium
Surname	Smith's Bakery	Medium
Geographical Descriptor	Seattle Bakery	Weak
Generic	The Bakery	Not Protectable

Choosing a “strong” mark can help avoid many problems in the future. What business owners and entrepreneurs ought to strive for is a name that will imprint itself in the minds of your customers and grow to become synonymous with your business.

**To learn more, contact our
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