

NAMING YOUR COMPANY THE RIGHT WAY

By Joseph M. Recka

Spend some time on the choice of your company name. Come up with some suggestive names. Descriptive names for your company that identify the products, or services, cannot be registered, or protected. Also, consider having an advertising agency develop your company name. Advertising agencies develop company names every day.

Develop a dozen proposed suggestive, or arbitrary business names. An example of an arbitrary name is, "CAMEL" for cigarettes, or "EXXON" for gasoline. Those dozen names can be inexpensively screened.

SCREENING

Screening is done to determine whether the names are available. A preliminary screening is done by reviewing Federal Trademark Registrations, in the Trademark Register. Screening should also be done in "Brands and Their Companies."

You must determine if your proposed company name will infringe any existing trademarks. Clearing your proposed company name must go beyond determining from the Secretary of State whether that proposed company name will be accepted for filing.

Read *Electronic Communications, Inc. v. Electronic Components for Industry Co.*, 308 F. Supp 267 (E.M. Mo. 1969), *Aff'd* 443 F. 2d 487 (8th Cir. 1971).

Clearing the proposed company name may save you the cost of changing your company name. Clearing the proposed company name may save a trademark infringement suit and a malpractice suit.

STARTING A WISCONSIN BUSINESS

If you start a business as a Wisconsin corporation you will call the Corporation Division of the Wisconsin Secretary of State's office at (608) 266-3590 to clear the corporate name.

The Corporation Division will decide whether there is another corporation with a similar name. Prior to clearing the name with the Secretary of State, remember to clear the name through the *Trademark Register* and through *Brands and Their Companies*.

At a minimum, clear the company name through the Trademark Register of the United States to see if the company name that you are going to use is similar to a registered trademark. The Trademark Register is a listing of all currently registered and renewed trademarks in the United States Patent and Trademark Office.

To order a copy write the Trademark Register, National Press Building, Suite 1297, Washington, DC 20045 or call 1-800-888-8062.

Consider clearing the company name through *Brands and Their Companies* available through Gale Research Company at 1-313-961-2242.

REGISTER YOUR COMPANY NAME

Whether you file a corporate application or you start a business as a partnership or a sole proprietorship, you should file a Wisconsin Application for Registration of Trademark for the name of your business after checking through the Trademark Register.

The office location for the Secretary of State for filing the State Trademark Application is 30 West Mifflin Street, in Madison. The mailing address for the Secretary of State is P.O. Box 7848, Madison, WI 53707-7848.

A State registration of your company name will help when complaints of improper use or prior use by another company of the same or similar name appear.

If you are going to do business in Michigan or you are going to advertise in Michigan you should file a State of Michigan application for Registration of Trademark. The address to obtain the Michigan Trademark Application is Michigan Department of Commerce, Corporation and Securities Bureau, P.O. Box 30222, 6546 Mercantile Way, Lansing, MI 48909.

CLEARANCE SEARCHES

Consider having a computer trademark clearance on your proposed company name. The computer trademark search, while still a screening search, is more exhaustive than the search through the Trademark Register. A bargain priced computer trademark search can be obtained through the UW Engineering Library, 1-608-262-5913.

The UW Engineering Library does its searches on the "Dialog" database, using the "One Search" base. Federal trademarks are searched in the database "Trademark Scan". State trademarks are searched under "State Trademark Scan". (See page 10.)

A trademark lawyer would go beyond the preliminary screening searches described in this article. A specialized clearance search can be ordered. Clearance searches examine United States, Federal, State and common law trademarks.

If you need a specialized clearance search, that search can be obtained through Thomson & Thomson, 500 Victory Rd, North Quincy, MA 02171-3145. 1-800-692-8833.