



Trademark Rights in Book Titles

By James A. Wahl

I'm often asked by authors whether they can trademark the title of a book or other literary work they've created. There can often be significant value in the name recognition and associated publicity generated by the publication of a book, and protecting these rights can be very important.

Limitations on trademark protection

The short answer is that the title of a single literary work is not entitled to trademark protection. The title of a creative work such as a book, article, video, film, or theatrical performance will not be accepted for trademark registration because the title identifies the work and is therefore considered inherently descriptive by the US Trademark Office. While the content of the work is protected under copyright laws, the title of the work, on its own, does not create a protectable brand.

What can be protected?

Trademark law protects literary work titles in two main situations. The first is where a series of works is developed from the title. The very popular "For Dummies" book series is a familiar illustration of this principle. The title "For Dummies" has become associated with publications on a variety of topics and is entitled to trademark protection as the brand name for "non-fiction books, guides, manuals, catalogs and brochures on a wide variety of topics" as stated in trademark registration records.

The second instance where protection is available arises when the title is applied to related products or services. We are all familiar with toys developed around movie titles. The title of the work becomes a protectable trademark when it applied to toys or other products associated with the movie. Other, less recognized situations when protectable brands are created arise when the title of the work is used in providing services - such as business consulting services, newsletters, educational services and blogs - that relate to the published work. In these situations, the title of the work becomes associated with both the original work and the related or ancillary service, and becomes entitled to trademark protection.

How does this apply to my business?

Publishing a work has become easier and less expensive with the advent of self-publishing, e-publishing and other technological innovations. If you've invested the time and energy required to create a literary work, consider ways that the title of the work is or could be used in relation to your business, as this may present valuable branding opportunities.

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