

# THE ABC'S AND 123'S OF NAMING YOUR COMPANY

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Standing apart from the crowd is more critical than ever in today's global marketplace. Choosing the right name can help you attract attention to your company in a positive and engaging manner.

Naming your company could be one of the most important decisions you will make. The name you choose will become the focal point for every other investment you make in defining your company's identity, mission and culture. More importantly, your company name is often the first point of contact potential customers have with your business. The right name can mean the difference between conveying a promise of ingenuity and high standards, as opposed to "Brand X" mediocrity.

In selecting a name for your company, you should consider the following guidelines:

## HOW TO CHOOSE A SUCCESSFUL NAME

To become well known and highly regarded, your company name should:

- Evoke the company's unique character and personality.
- Engage the target audience.
- Be pleasing to the eye and ear.
- Be easy to spell and pronounce.
- Serve as the cornerstone for other brand-building efforts.
- Be available for use and registration in all key markets.

## SELECT A NAME THAT DOES NOT MERELY DESCRIBE YOUR PRODUCTS OR SERVICES

There are a finite number of letters, numbers, and words to describe the thousands of companies, products and services in the United States. For this reason, it is difficult to establish exclusive rights in names that are generic or merely descriptive when used with your company's product or service. The strongest names are "coined" marks such as "Kodak," "Verizon," "Cisco," or "Accenture." These names are easily protectable because they have no inherent meaning, and are not found in the dictionary.

The second strongest category of trademarks is arbitrary marks, such as the trademark "Apple" for computers. Although "Apple" is a word, it does not describe or suggest a computer.

The third strongest category is suggestive marks, such as "Coppertone" for suntan oil.

## AVOID GEOGRAPHIC TERMS AND SURNAMES

You should also avoid names that feature geographic terms or family surnames because they tend to be weaker trademarks. Courts often will allow others to use the same geographic terms in their names because of the limited number of appropriate substitutes for such terms. Similarly, surnames are difficult to protect because many courts believe that everyone is entitled to use his or her own name to identify their businesses.

### **ALWAYS CHECK AVAILABILITY OF A NAME**

Because there are hundreds of thousands of trademarks in the United States, it is a good idea to obtain a thorough name availability search before committing substantial dollars toward the adoption and use of a new trademark. An experienced trademark attorney can identify potential problems early on, saving the cost of remarketing efforts and/or a lawsuit arising out of the use of a trademark that presents an obvious problem.

### **CONSIDER FEDERAL REGISTRATION OF YOUR COMPANY NAME**

In the United States, exclusive rights in a name are generally derived through the use of the name for specific goods or services. If a name is used in interstate commerce and no similar name has previously been registered for a similar product or service, the name may be registrable with the U.S. Patent and Trademark Office.

Federal trademark registration enables the trademark owner to bring an infringement action in federal court. Federal law also provides important remedies for infringement of a registered mark, including injunctive relief, damages, recovery of the infringer's profits, and destruction of any infringing label, packages, and advertisements. Finally, registration places others on constructive notice of your rights in the trademark, so that no subsequent user can adopt the name in good faith.

In addition to federal registration, trademarks and service marks may be registered in the various states in which they are used. It is sometimes desirable to secure registrations in key states where the trademark is used while the federal registration application is pending.

### **CONCLUSION**

The proper selection and protection of a trademark is the success and value of any business. Many of the world's leading companies rank their brand names as their single most valuable asset. The Coca-Cola trademark alone is valued at more than \$30 billion. Norio Ohga, chairman of one of the world's largest consumer electronics manufacturers, has said that his company's greatest asset consists of four letters: "S-O-N-Y."

This summary does not discuss the whole aspect of trademark law. Consulting with an experienced trademark attorney can save your business money, protect your investment, and limit your infringement liability.

For further information regarding Maslon's Intellectual Property Practice, please visit our web site at [www.maslon.com](http://www.maslon.com) or contact:

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