



Respectful Branding

Trademark Law and Practical IP Due Diligence

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Trademark Basics

What are Trademarks?

- Indicators of Origin/Source
- Identifying symbols

Functions of Trademarks

- Signify single source
- Distinguish goods of one manufacturer from others
- Signify quality
- Marketing

What can be a Trademark?

- Words and Stylization
- Images
- Trade dress (product label or product configuration)
- Other: sounds, smells, etc.



Logos



Trade Dress



Trade Dress

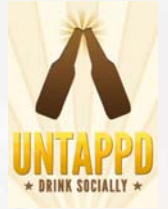


Trademark Due Diligence:

Searching & Clearing

Searching

- Google
- USPTO.gov site
- Beer sites (Untappd, BeerAdvocate, etc.) and alcohol beverage sites
- TTB COLAs public registry
- Outside counsel (trademark attorney)
 - Especially for flagship brands and for packaged beer brands sold through distributors



Considerations

- Descriptive v. Distinctive terms
- Other alcohol beverages: Wines, distilled spirits, ciders, seltzers
- Social media: can't hide
- Picking up the phone . . .



Registration and Enforcement

Registration

- Why register?
- Filing process is simple (<https://www.uspto.gov/trademarks/apply>)
- Intent-to-Use v. In-Use application



Enforcement Considerations

- Likelihood of confusion
- Costs v. Weakening of Brand
- Delay or inaction => Loss of rights



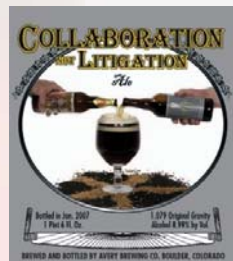
Respectful Enforcement

Traditional Methods

- Cease and Desist letter
- Litigation
- Bad Publicity/Social Media campaigns

Other Methods

- Phone call!
- Phase-out period or limited license
- Good publicity (donations, informal collaboration)
- Co-Existence
 - Draught only
 - Geographical carve-out
 - Different products
- Formal Collaborations?
- Mediation



THANKS!

Namaste



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