



Leyendecker & Lemire, LLC
An Intellectual Property and Business Law Firm



TRADEMARK INFRINGEMENT

When someone violates your trademark rights, they are said to be infringing. There are several factors in determining whether or not one trademark is infringing on another. We judge infringement on a "likelihood of confusion" standard. For ease of discussion, the analysis can be simplified to the following: Would a reasonable person upon encountering the trademarks believe that the goods or services came from the same place or were somehow affiliated with each other? This statement captures the major inquiries into trademark infringement. First, how close are the trademarks? By this we look at the appearance of the trademarks, the pronunciation of the trademarks and the syntax of the trademarks. The closer the trademarks are, the more likely they may be considered infringing. Note that the legal standard of what constitutes similar or identical trademarks and what the general population may think is similar or identical are generally not the same. In general small modifications to a trademark, such as leaving out a letter of a word, making a word plural as opposed to singular or vice versa, utilizing a hyphen, or dropping off suffixes such as "ing" is not sufficient to make one trademark sufficiently different from another to escape a claim of infringement.

Another aspect of the analysis is the similarity or dissimilarity of the products or services. One can think of it as a spectrum that runs from identical to polar opposite. The closer you get to identical, the more likely something may be considered infringing. Lastly, one would look at the characteristics of the purchasers buying the goods or services and the trade channels that the goods are offered in.

If you believe someone is infringing your trademarks or someone is accusing you of infringement, it is best to seek qualified legal counsel as soon as possible.

Leyendecker & Lemire, LLC is a Denver-based law firm offering a full spectrum of Intellectual Property, Business and Entertainment related legal services for entrepreneurs, individual inventors, and businesses of all sizes. We pride ourselves in providing large firm quality, but with personalized service and attention the large firms do not provide to their smaller clients. Our strength is working with a client from the beginning of his/her venture to maximize the venture's value and potential, as well as, help minimize the risk of legal disputes. Call (303) 768-0123 or e-mail us at info@coloradoiplaw.com today to see how we can help you!

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