

Trademark

THE ECONOMIC AND LEGAL VALUE OF TRADEMARK

Trademark

- An Intellectual Property Right
- Granted by the government to an individual or business that uses a distinctive name, symbol or device
- To distinguish its goods or service from those of another business.

Purposes of Trademarks

- Identify and distinguish the source of a good or service from those of others
- Prevent confusion and/or deception to the consumer who thinks they are purchasing the good of one entity, but are purchasing another
- Protect the producer of the goods and/or service by insuring that the producer can guard the reputation and quality of the product or service

Trademarks as Branding

- Trademarks serve to represent the source's quality of work and design.
- Example: Nike's swoosh logo is estimated to be worth as much as 20 billion and is a symbol of Nike's quality.

Trademarks v. Patents and Copyrights

- Constitution does not expressly grant Congress the right to make trademark law as with the patents and copyright. Source of trademark law for Congress lies in the Commerce Clause of the U.S. Constitution.
- Trademarks are not limited in duration like patents and copyrights. The term lasts as long as the trademark is in use.
- A trademark cannot exist separate from commercial activity. It is possible, however, for a person to obtain a copyright on a screenplay for example, but never produce it.