

Trademark

TRADEMARK SUBJECT MATTER

Trademark Eligibility

The following can qualify:

- Word, phrase, name, symbol, design or device
- Must be distinctive
- Must indicate the source of the product or service.

Symbols and Devices

- Includes such items as slogans, numbers, logos and colors
- Examples: Chanel No. 5. Note that a trademark cannot block the use of a number in math.

Scents

- A Trademark cannot be granted for a scent if it is for any purpose other than identifying the origin of the product.
- Scents for air fresheners and perfumes cannot be trademarked. Thus, the eligibility of scents remains nebulous.

Sounds

- Can be trademarked
- Must indicate the source with which they are associated
- 700 sounds registered with the USPTO
- Example: AOL's "You've Got Mail"

Designs

- Designs, such as logos, can be trademarked
- Must distinguish the origin of the product or service
- Must be unique
- Example: Nike's swoosh

Trade Dress

- General appearance of product or service which indicates the source
- May include such items as color, shape, size and texture
- Characteristics of the trade dress must be distinctive
- Example: Taco Cabana trademarked its uniquely decorated interior dining and patio area.