

# What if Someone Infringes Your Trademark?

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Let's say someone copies your business logo to trade on your good name and reputation. If you can show that the use of your logo is likely to cause confusion in the minds of consumers and weaken its value, then it is trademark infringement.

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## How do you prove someone is infringing your trademark?

The two most important factors courts look at to determine if your mark is likely to cause confusion are:

1.

The similarity in the overall impression created by the two marks

2.

The similarities of the goods and services involved.

The court also looks at three other factors:



The strength of your mark



Any evidence of actual confusion by consumers



The intent of the defendant

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# 3x

If your mark was infringed, you can receive monetary damages. You'll get triple damages if the infringement was intentional.

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## Trademark Infringement vs. Fair Use

Under Fair Use rules, someone may use another's trademark under two conditions – nominative fair use and traditional fair use.



Nominative fair use occurs when someone uses another's trademark to identify his own products or services.



Traditional fair use occurs when a trademark is used in good faith simply for descriptive purposes

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