



Trademark Issues for the Wine Industry, Part I



At NEAL & McDEVITT, we help those in the wine industry understand intellectual property law with our world-class expertise and an appreciation of our clients' concerns. We have prepared a series of short articles to help you understand how trademarks (as well as other intellectual property, such as copyrights, trade dress, and trade secrets) impact your business. We hope that you will find this information helpful.

WHAT IS A TRADEMARK?

In its purest form, a trademark is anything that tells a consumer where a particular product or service comes from. You don't have to look far to come face-to-face with some of the world's most famous trademarks – COCA-COLA, STARBUCKS, GOOGLE, or CHEVROLET, just to name a few. You also may not have to look beyond your own wine cellar to find some of the most famous trademarks in the wine industry. All of these marks have one thing in common—they identify and distinguish the source of their related goods or services.

When you see a label you think you recognize or open up a bottle of wine that bears a familiar label of your favorite producer, you expect to be sipping wine from precisely that producer. Wouldn't you be surprised, however, if the wine was from somewhere else? This type of consumer confusion is precisely what trademark law is intended to protect against.

Over the years, trademarks have taken on many forms. There are the traditional word marks (names), design marks (logos), and slogans or taglines that we are all familiar with. There are also non-traditional marks such as sound marks (think of the NBC three-tone chime), color marks (the color pink for fiberglass insulation), trade dress (the shape of the famous COCA-COLA bottle) and even scent marks (believe it or not, the smell of fresh cut grass for tennis balls is a registered trademark). In reality, anything that denotes the source of a product or service can function as a trademark.

In our next issue, we will discuss how selecting a mark is critical to its protectability and give you some pointers for picking out the best marks for your various projects.

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