



Protecting Your Brand Assets

By Andrea Neu, Dairy Business Innovation Center

The U.S. cheese market has changed dramatically in the past 10 years with the addition of hundreds of wonderful “American Original” cheeses in the artisan, farmstead, farmhouse and specialty cheese categories. Entries into the American Cheese Society and U.S. Cheese Championship contests have been at record numbers with new categories for the entrants expanding each year.

This is great news for small cheese plants in Wisconsin seeking to add value to their businesses and cheese lines, and also providing cheesemakers with new challenges and the creativity and pride that comes with creating exceptional proprietary cheeses. It’s what the “Art of Cheesemaking” is all about!

From a business and marketing perspective, it has also created a new segment of cheeses that require brand name development and protection, as well as hundreds of “fanciful” variety names that identify these unique cheeses that do not meet the Federal Standard of Identity for specific varieties. There is no longer a standard list of cheeses with definitions and guidelines. This creates a new opportunity for cheesemakers and marketers to select a unique name for their specific artisan cheese, as well as creating an exclusive brand name and logo that can be claimed as their own.

As that brand and new variety names are developed into a marketing plan, and they invest a great deal of time and monies for the development of this brand and product image, it should become increasingly clear that it is just a matter of good business practice to protect that investment by spending a little bit more time and dollars to utilize and register the names and marks/logos properly.

The DBIC strongly recommends our clients consistently place a ™ after their brand and/or business name, as well as the unique variety names, when using those names, marks/logo type, on labels, packages and all marketing materials. This is a practice that the business—meaning all of its employees—should apply from the onset of creating a new product and brand, so they can prove the first date when marked goods and services were provided to others in the marketplace.

The following are a few of the frequently asked questions that the law firm of DeWitt Ross & Stevens (specialists in trademark and patent law in Madison, Wis.) answered

during an excellent seminar recently conducted on this important business management topic:

- **What are trademarks, service marks?**

These are “marks”—words, symbols, packaging, or other matter which is publicly used to identify goods and services, and distinguish them from the goods and services of others. Trade names can serve as marks if they are used to identify and distinguish goods and services.

- **Do I need to register my mark?**

While registration isn’t mandatory, federal registration provides numerous benefits to the registrant that are not available for unregistered marks. It is generally far more difficult and expensive to protect a mark from infringement unless it’s federally registered.

- **Who can file a federal registration application for a mark?**

An application can only be filed by (or on behalf of) the owner of the mark—the party who controls the use of the mark. (Note: Because of the legalities involved, a trademark attorney is generally retained to prepare, at least some part, and file the application.) If you are interested in reading more answers and information from DeWitt, Ross & Stevens Law Firm, visit: <http://www.dewittross.com/>

- **Who provides registrations for marks?**

Federal registrations are granted by the U.S. Patent & Trademark Office (USPTO)—division of the U.S. Department of Commerce—when a proper registration application is filed. State registrations are granted by trademark offices within state governments. These offices only decide issues of whether marks are registrable...issues of whether a mark is infringing another mark are decided by courts.

There are many other questions that a company must address regarding this important business procedure, and there is also a great deal of information at the USPTO website to help you start the registration process. www.uspto.gov/main/trademarks.htm.