

Professional Service Firms: What Is a House Mark and Why Do You Need to Protect It?

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Q Why is a house mark important to a business?

Patrick Concannon: A house mark is a multi-faceted concept that extends beyond the name of your company. It includes a logo graphic, color scheme, and/or lettering style, if the lettering style is sufficiently distinctive. A house mark also encompasses a tagline that is used to consistently reinforce the firm's appeal and value proposition, to the extent that the tagline is not so obvious in relation to the underlying services that it is non-protectable. Professional service firms at times seem to focus on protecting the names of their service offerings or platforms at the expense of their house marks.



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Q What steps should a professional service firm take to protect its house marks?

PC: A firm might register its house marks in a variety of ways, including: (1) the firm name in plain text or so-called "standard character" form; (2) the firm name as depicted in a unique lettering style; (3) a logo graphic as a stand-alone element; (4) the firm name in combination with the logo graphic; (5) an accompanying tagline as a stand-alone element; and (6) the entire combined package, i.e., the stylized company name, logo graphic, and tagline as they appear together (often with the name and graphic appearing stacked above the tagline).

Registering house marks in all these ways in most cases would amount to overkill, but this checklist defines an overall brand identity that can be registered and used like arrows in a quiver to ward off would-be infringers. Moreover, ownership of a robust portfolio of house marks serves as a disincentive to those who search the federal register when investigating the availability of potentially similar marks.

Pat Concannon is a partner in Nutter's Intellectual Property and Business Departments, with over 20 years of experience devoted to helping businesses establish and protect their brands. He focuses his practice on U.S. and international trademark clearance, trademark portfolio management and protection, and trademark and copyright licensing.

Q Are house marks subject to copyright protection?

PC: In the case of logos, generally yes. Copyright protection is an intellectual property asset that can be useful for purposes of confronting logo infringers. A federal copyright registration might entitle the firm to statutory damages and provides immediate access to courts for enforcement purposes.

If your firm paid an independent contractor to develop a logo, however, it is important that the copyrights in the logo have been conveyed to the firm in writing. It is a common misperception that paying a third party to develop creative elements of a logo, website, or brochure equates with copyright ownership absent a specific written understanding.

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Q Is a company's name automatically considered a protectable house mark?

PC: No. Establishing protectable trademark rights in your firm name requires using the name in a prominent manner, such that it makes a strong commercial impression on others and thus clearly signifies the source of the services.

Professional service firms at times take their firm's name for granted somewhat and de-emphasize the name in favor of a featured brand or platform name. If the firm name is relegated to fine print at the bottom of a website, that approach can inhibit the ability to assert and enforce rights in the name.

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