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# Trademark Fights Take Shape During Tough Economy

**Hartman Law PLC**  
7114 E. Stetson Drive  
Suite 205  
Scottsdale, AZ 85251-3250

T: 480.659.0019  
F: 480.659.3304  
[www.hartmanlaw.com](http://www.hartmanlaw.com)

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**Bradley P. Hartman**

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As companies fight for new business and look to keep what they already have, protection of a company's core identity is more important than ever.

Words, slogans and designs that you use to identify and distinguish your goods and services from others are eligible for federal registration with the U.S. Patent and Trademark Office (the "PTO"). A federal trademark registration gives a company presumptive ownership and the exclusive right to use the trademark in connection with the goods and services identified in the federal registration. For this reason, it is important to not only protect your brands through federal registration, but to also monitor the trademark registration activities of others.

Three recent cases show the importance of protecting your brand, and monitoring the actions of others:

1. Recently, The Laptop Company, owner of the online shopping service "BongoBing," made a preliminary filing with the PTO in opposition to Microsoft's application for federal registration of the "Bing" trademark for its new search engine. The BongoBing website provides information on products primarily in the home and garden area. The website is designed to look like a search engine, where you can search or "Bongo" for products.

Although The Laptop Company claims trademark rights to BongoBing, it has never filed an application for federal trademark registration. The company has received an extension through December 16, 2009, to formally oppose the registration of "Bing."

2. Oprah Winfrey and her production company, Harpo Productions, Inc., are trying to stake Oprah's exclusive claim to the term "Aha! Moment." Last year, the insurance company Mutual of Omaha filed an application for registration of the slogan "Official Sponsor of the Aha Moment," which became part of a national advertising campaign in February. After the Mutual of Omaha mark was approved by the PTO, it was published for opposition by third parties. When no opposition papers were filed, the PTO issued a Notice of Allowance.

On the same day the Notice of Allowance was issued, Oprah's lawyers sent a "cease and desist" letter to Mutual of Omaha, claiming that the slogan violates Oprah's rights in the "Aha Moment" and demanding that the company cease use of the mark. Not to be outdone, Mutual of Omaha filed a lawsuit in federal court days later, asking a judge to allow the company to use its slogan without interference from Oprah. The litigation is ongoing.

In the meantime, Harpo has filed its own applications for federal registration of "Aha! Moment," one of which (for magazine columns) was published for opposition on September 1, 2009.

3. When consumer electronics retailer giant Best Buy learned that a division of United Technologies known as the "Geek Patrol" was providing the same computer repair services as the Best Buy "Geek Squad," the company went straight to federal court with allegations of trademark infringement, unfair competition, and deceptive trade practices. Best Buy identified an online directory listing for the Geek Squad that stated "GEEK PATROL we can send a Squad of geeks to you" and "WE ARE THE BEST BUY." The lawsuit, filed last month, has resulted in some changes to the Geek Patrol website. Time will tell who ultimately prevails in this real life "geek drama."

For more information regarding this issue, please contact [Brad Hartman](mailto:bhartman@hartmanlaw.com) ([bhartman@hartmanlaw.com](mailto:bhartman@hartmanlaw.com)) via email or by telephone at 480.659.1515.

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