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TRADEMARKS

Evaluating a brand, particularly one associated with a persona like presidential candidate Donald Trump, can be difficult. But Patent and Trademark Office records provide insights on the "Trump" trademark. It remains to be seen how the election will affect the "Trump" brand and the "Make America Great Again" mark. But Trump and his brand will continue to be a compelling story, and PTO filings will continue to tell part of that story.

Trump's Trademark Registrations Reveal Breadth of His Brand Strategy



By STEPHEN P. DEMM AND JOHN GARY MAYNARD III

Donald Trump's 2016 bid for the White House has been unique, in part because of his background as a reality TV star, author, and head of a wide-ranging business empire. Most of Trump's pursuits are identified with his persona and "brand," which he has

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assessed as exceeding \$3 billion in value. Some speculate that Trump has run in part to increase the value of his "Trump" brand. And certain commentators have opined that Trump's candidacy has hurt the brand, while others have said the data is inconclusive.

What, exactly, is the "Trump" brand? Evaluating a brand, particularly one associated with a persona like Trump's, can be difficult. But available records from the Patent and Trademark Office offer insights on "Trump" as a trademark. The PTO does not decide who can and cannot use trademarks in commerce, but it does decide who can and cannot *federally register* trademarks, and it also decides disputes about federal trademark registrations.

Trump, his family members, and others have all sought federal registrations of "Trump" trademarks. And the PTO filings tell a story about how Trump has built a personal brand, and kept that brand in the public consciousness, starting with his core real estate businesses and extending to pursuits as far-flung as golf, casinos, apparel, home furnishings, bottled water, steaks, vodka, business books, reality TV, and, now, campaign-related goods items. One can also see how others have attempted to build upon or comment upon the Trump persona in their own PTO filings, some presumably with Trump's approval, including Ivanka and Melania Trump, and others without, including comedian John Oliver and his effort to register a "Drumpf" mark. Many of these "Trump"-related PTO filings intersect with themes of Trump's campaign.

Trump's Core Real Estate Marks

Trump rose to prominence as a New York real-estate developer, and expanded to related fields like apart-

ments, condominiums, hotels, resorts, golf courses, and casinos. Not surprisingly, many of his longstanding registrations are for “Trump” marks in the fields of real estate development, construction, and the leasing and managing of commercial and residential properties. These include registrations of marks like “Trump,” “The Trump Organization,” “Trump Tower,” “Trump Plaza,” “Trump Park Avenue,” “Trump Hollywood,” and “Trump Ocean Club.”

Trump originally owned these trademark registrations individually, but, like most registrations for his business endeavors, they have been assigned to DTTM Operations, a Delaware LLC headquartered at Trump Tower.

DTTM also owns trademark registrations for hotel services, including “Trump Hotel Collection,” “Trump Plaza,” “Trump Soho,” and “Trump Grande Ocean Resort & Residences.”

DTTM’s portfolio of registrations extends to one of Trump’s passions—golf—including registrations of “Trump Golf Links,” “Trump National Golf Club,” and “Mar-a-Lago.” In golf-related technology, DTTM owns a registration of “Trump” for mobile apps for the digital scoring of golf matches, golf tournament and leaderboard standings, tee time reservations, and other golf related information and features.

A number of Trump’s properties offer spa services, and DTTM owns trademark registrations for those services, including “The Trump Spa,” “The Spa at Trump,” and “The Trump Spa at Mar a Lago.” For gambling and casino services, DTTM owns registrations of marks such as “Trump,” “Trump Entertainment Resorts,” “Trump Marina,” and “Trump Taj Mahal Casino Resort.”

DTTM’s travel-related trademark holdings extend to registrations of “Trump One” and “Trump Card” for incentive cards that customers use in hotels, casinos, and resorts; a registration of “Trump Attaché” for personal valet, concierge, and shopping services; and a registration of “Trump” for limousine services.

Clothing, Furnishings, Wine, and Steaks

Trump has expanded the “Trump” brand from real estate to a variety of other product lines. DTTM owns registrations of the “Trump” mark for a wide range of items, including apparel, jewelry, furniture, flooring, desk accessories, candles, room fragrances, bedding, towels, curtains, glassware, cologne, aftershave, and soaps. DTTM owns registrations of “The Donald J. Trump Signature Collection” for clothing, accessories, and eyewear, as well as registrations of “Trump Home” for furniture, shelving, lighting, home furnishings, bedding, glassware, candles, and room fragrances. DTTM even owns a registration of “Trump” for die-cast cars.

Expanding to foods and beverages, DTTM owns registrations of “Trump” for spring water, wine, vodka, breakfast cereals, and snacks; a registration of “Select by Trump” for coffee; a registration of “Trump New World Reserve” for wine; a registration of “Trump Ice” for bottled water; and a registration of “Trumptini” for a prepared alcoholic cocktail. Trump once owned a registration of “Trump Steaks,” but that registration was cancelled in 2014 for non-use.

Media and Entertainment

Trump has long been a famous author and TV personality. His best-selling book, “The Art of the Deal,” coauthored with Tony Schwartz, was published in 1987. There is no trademark registration of “The Art of the Deal” for books. The title of an individual book generally is not protectable as a trademark because it merely describes the book to which it is applied. In 2005, Trump did apply to register “The Art of the Travel Deal” for travel agency services, but that application did not proceed to registration. In 2006 and 2007, Trump obtained registrations of “Trump University” for educational goods and services, but those registrations were cancelled for non-use.

Beginning in 2004, Trump starred in “The Apprentice” and “The Celebrity Apprentice,” and his success there has been accompanied by trademark applications and registrations. Trump does not own registrations for the series titles, but JMBP, the production company of show creator Mark Burnett, owns federal registrations for “The Apprentice” and “The Celebrity Apprentice.” In 2004, Trump did apply to register several “You’re Fired!” trademarks for products including clothing and paper goods, and even for casinos, but these applications did not proceed to registration. The same year, an unrelated entity filed an application to register “You’re Fired! The Donald” for cologne, but the PTO rejected it on grounds that the mark would falsely suggest a connection with Trump. DTTM does own a number of other trademark registrations in this area, including a registration of “Trump” for unscripted television programs in the field of business and business disputes, a registration of “Trump” for books and audio books on business and “getting ahead in business,” and registrations of “Trump” and “Trump Tycoon” for computer games.

Trump’s forays into the worlds of modeling and pageants have also been reflected in registrations. DTTM owns a registration of “Trump Model Management” for model and talent management. Trump Pageants Inc. and other entities, once had interests in many trademark registrations related to pageants, including “Miss USA” and “Miss Universe,” but those marks and registrations have been assigned to IMG Universe, a Delaware LLC based in New York.

Melania, Ivanka, and Ivana Trump

Perhaps the best known of Trump’s family members, Melania and Ivanka Trump have been active at the PTO, and their trademark filings provide a picture of their business endeavors capitalizing on the “Trump” brand.

Melania Trump individually owns registrations of “Melania” and “Melania Trump” as trademarks for watches, jewelry, and a line of cosmetics, skin care, and body care products.

Ivanka Trump has been more prolific, and Ivanka Trump Marks LLC owns numerous registrations of “Ivanka” and “Ivanka Trump” marks. These include registrations for jewelry, clothing, headwear, eyewear, footwear, handbags, wallets, cosmetics, perfumes, lotions, creams, body wash, pillows, window treatments, towels, blankets, linens, infant bedding, toys, picture frames, and mobile phone cases and accessories. Ivanka Trump Marks also owns registrations of

“Ivanka” marks for retail and online stores, and for fitness, yoga, spa, massage therapy, and beauty salon services. And it owns a registration of “Ivana Trump” for blogs and social networking related to fashion, lifestyle, motivation, inspiration, and self-improvement.

Trump’s first wife also tried to get in on the act—unsuccessfully. In 2004, Ivana Trump filed an application to register “Ivana Trump” based on an intent to use that mark with real estate development and advertising services. But when the mark was published for opposition in 2006, Trump filed an opposition proceeding at the PTO, asserting that an “Ivana Trump” mark for real estate services would create a likelihood of confusion with, and dilute, his registered “Trump” marks:

Applicant [Ivana Trump] is Mr. Trump’s former wife; they divorced in 1992. Despite an intervening marriage, she has chosen to keep Mr. Trump’s surname. Applicant is now attempting to go into business—the identical line of business as Mr. Trump—using the TRUMP name and trademark.

Ivana Trump eventually abandoned her “Ivana Trump” application.

The Trump Presidential Campaign

Trump has now sought to register trademarks in a new area: his presidential campaign. In 2015, DTTM registered “Trump” for political action committee services and fundraising. DTTM also has a pending application to register “Trump” for bumper stickers, decals, placards, posters, pens, buttons, and other campaign-related goods, as well as website and social networking services in the field of politics.

“Make America Great Again” has been a theme of Trump’s campaign, and on July 14, 2015, Donald J. Trump for President Inc., a Virginia entity with an address at Trump Tower, obtained a federal registration of “Make America Great Again” for political action committee services and fundraising. On Aug. 16, the same entity secured a registration of “Make America Great Again” for campaign-related goods, websites, and social networking.

Third-Party Reactions to the Trump Campaign

Using the PTO’s registration process, many other parties are now trying to capitalize on the interest in Trump and his bid for the White House. Currently pending at the PTO are numerous third party applications to register marks such as “Dump Trump,” “Shut the Trump Up,” “I Bid No Trump,” and “Trump Mafia” for apparel and online services.

The PTO has initially refused to register some of these third-party “Trump” marks, asserting that they falsely suggest a connection with Trump:

Donald John Trump is an American real estate developer, television personality, business author, and political candi-

date. He is the chairman and president of the Trump Organization, and the founder of Trump Entertainment Resorts. On June 16, 2015, Trump formally announced his candidacy for president of the United States in the 2016 election, seeking the nomination of the Republican Party. The proposed mark would be construed by the public as a reference to Mr. Trump. . . . Additionally, Donald Trump has numerous nicknames and is referred to in a number of ways, including use of his first and last name. [The applied-for mark] is a reference to Mr. Trump. Therefore, the general public would readily associate the applied-for mark . . . with Donald Trump. Thus prospective purchasers would be likely to see the mark as a direct reference to Mr. Trump.

In addition to “Trump” marks, numerous third parties have filed applications in response to the “Make America Great Again” slogan, seeking to register marks like “Make America Proud Again,” “Make America Hard Again,” “Make America Hate Again,” “Make America Whole Again,” “Make America Christian Again,” “Make America Gay Again,” and “Make America Bet Again.”

None of these “Make America ____ Again” applications has proceeded to registration, and some have not yet been substantively examined at the PTO. But some have passed through their initial examinations without denial by the PTO and have passed through their opposition periods without objection by Trump. The PTO did suspend action on the “Make America Proud Again” application, however, on the basis that this mark could create a likelihood of confusion with Trump’s then pending “Make America Great Again” applications (which are now registered).

John Oliver’s “Drumpf” Application

Even John Oliver, the host of HBO’s “Last Week with John Oliver,” has joined the fray at the PTO. Following a segment on his show claiming that Trump’s ancestral family name is “Drumpf,” Oliver established Drumpf Industries LLC, which filed an intent-to-use application to register “Drumpf” for a website featuring multimedia content. The PTO has initially refused to register “Drumpf” on grounds that it falsely suggests a connection with Trump. (The PTO issued a similar refusal for an apparently unrelated application to register “Make Donald Drumpf Again.”) Oliver has until Nov. 7, the day before the election, to respond to the PTO’s refusal.

What’s Next?

It remains to be seen if Oliver will respond to the PTO and continue his efforts to register the “Drumpf” mark. It also remains to be seen how the election will affect the “Trump” brand, the “Make America Great Again” mark, and the many third party marks reacting to and commenting on the Trump campaign. But Trump and his brand will continue to be a compelling story, and filings at the PTO will continue to tell part of that story.

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