

The Record
BUSINESS

SECTION

B

TUESDAY, JANUARY 29, 2008

THE MARKETS

DOW

176.72

Close:

12,383.89

S&P 500

23.35

Close:

1,353.96

Mark

THE RECORD B-3

ASK A LAWYER

Trademark serves a vital role – but first be sure it's yours

Q. What are the legal considerations in picking a trademark for my company?

Your company's trademarks can be among its most valuable business assets. They set your company's goods and services apart from those of other businesses. They assure your clients and customers that the goods they receive are of equal quality with other goods and services sold under the same marks. They symbolize your company's hard-earned goodwill.

A "trademark" is a designation used to identify and distinguish a company's goods from those of other companies. A trademark can be a word or combination of words, either stylized or in plain print. It can be a design or a combination of words and a design. It can even, in proper circumstances, be a design or appearance of a product or its packaging.

Many companies pick trademarks that describe their products or services. Paradoxically, the more a trademark tells the customer about the nature of the product or service, the less protection it can receive in trademark law. "Kodak" and "Exxon" tell consumers nothing about the products sold under those marks, and they receive very broad pro-

tection. On the other hand, an automobile dealership that hangs a sign that reads "Cars" could receive no protection for that word. Falling between these examples are many trademarks that describe or suggest the products to which they apply. These marks may or may not receive trademark protection.

Trademark rights depend on who first used (or applied to register) the trademark, so it is wise to conduct a trademark search before investing time and money in a new mark. Trademark searches identify prior users of similar marks so that informed decisions can be made whether the new mark infringes someone else's trademark rights.

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Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com. This column is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of a client.