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Trademark Infringement: Is It Infringement If A Detergent/Softener Is Named After The Name Of A Previously Registered Compact Disc?

[Kristie Prinz](#)

Q. A company has just released a new laundry detergent and softener branded under the name of a CD (music) I created and registered about a year ago. Is there a case here?

-- Sam

A.

The short answer to your question is that the naming of the laundry detergent and softener after a previously registered compact disc most likely does not constitute trademark infringement.

Section 1114 of the U.S. Trademark Act states that:

"Any person who shall, without the consent of the registrant--

(a) use in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or

(b) reproduce, counterfeit, copy, or colorably imitate a registered mark and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive, shall be liable in a civil action by the registrant for the remedies hereinafter provided. Under subsection (b) hereof, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to cause confusion, or to cause mistake, or to deceive."

In the present case, the use in commerce of a laundry detergent and softener that has the same name as a compact disc is most likely not going to cause confusion, cause mistake, or deceive customers who might

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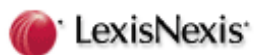
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be looking to buy a copy of the compact disc. Thus, there is unlikely to be a trademark infringement problem with the branding of the detergent and softener and the branding of the compact disc.

So, in all likelihood, you probably do not have a case worth pursuing here. However, if you still have additional questions or concerns to discuss on the specific facts of your case that you want to raise with a qualified professional, my recommendation would be to consult with an intellectual property attorney in your jurisdiction specializing in trademark litigation. Such attorney should be in a position to hear the specific facts of your case and advise you as to whether or not your specific facts constitute a viable case of trademark infringement.

-- Kristie Prinz

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