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Word Generation - Unit 3.21

Focus Words

trademark | explicit | media | compensation | prior



WEEKLY PASSAGE

Last April, a restaurant with the name “Roscoe’s House of Chicken and Waffles” opened in Chicago. But there was a problem. A famous restaurant in Los Angeles had the same name except “Roscoe” was spelled with only one S. In addition to stealing the name, the Chicago restaurant had a logo that was similar to the one used by the original restaurant in Los Angeles. Copying the name and logo was an **explicit** violation of Roscoe’s **trademark**, so the Los Angeles restaurant immediately sued for trademark infringement. A Chicago court has ordered the Chicago restaurant to remove the name and logo from its business. The original Roscoe’s restaurant plans to seek money, or **compensation**, for damages.

A trademark is a word, name, or symbol used by a person or company to identify products and services. In the United States, you have to apply for a trademark which, if accepted, is then registered. Then no one else can use your trademark.

But trademarks can be tricky. The controversy is over how much and what kind of language we can claim as trademarks. For example, you cannot trademark descriptive words or terms like “liquid soap” or a geographic term like “New

York” (as in calling your bagels “New York Bagels”). But Snapple was able to trademark the phrase “made from the best stuff on Earth” to describe its juices and other products.

Phrases are also being trademarked. Paris Hilton trademarked the phrase “That’s hot!” as her own personal brand or catch phrase. Boxing promoter Bob Arum trademarked the phrase “Let’s get ready to rumble” which is a catchphrase used in boxing events. Thus, a trademark can become an explicit and unique mark of a person. The **media** and internet have gotten these phrases into widespread circulation at a faster rate. But trademarks aren’t new. Trademarks were used centuries ago, **prior** to the internet and mass media. The companies for the beers Lowenbrau and Stella Artois claim that their logos have been in use since 1383 and 1366 respectively.

What do you think? Should people be able to trademark words, names, or phrases for their exclusive use? Should they do it only for the purposes of selling a product or service? Should trademark applications be decided on a case-by-case basis? Where do you stand?

Should people be able to trademark phrases?

FOCUS WORDS OF THE WEEK

trademark : (noun) a distinctive mark or feature that identifies a person or thing

FORMS:

EXAMPLES OF USE:

NOTES:

prior : (adjective) previous

FORMS:

EXAMPLES OF USE:

NOTES:

compensation : (noun) payment

FORMS:

EXAMPLES OF USE:

NOTES:

media : (noun) forms of communication that reach a large number of people

FORMS:

EXAMPLES OF USE:

NOTES:

explicit : (adjective) fully and clearly expressed

FORMS:

EXAMPLES OF USE:

NOTES:

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PROBLEM OF THE WEEK



Option 1: Paris Hilton's life is covered by the **media**. Millions of people have heard her say, "That's hot." In 2007, Hallmark began selling cards showing Hilton saying, "That's hot." A few months **prior** to that, Hilton had **trademarked** this phrase. Trademarks on phrases must be for some **explicit** purpose, and Hilton trademarked the phrase for use on clothing. Nonetheless, she sued Hallmark. She asked for **compensation** based on the profits from the cards.

The Paris Hilton cards sold for \$2.49. If 20% of the price of each card is profit, how much profit is made on each card?

- A) about \$.50
- B) about \$.05
- C) about \$.10
- D) about \$2

Option 2: Paris Hilton was a **media** figure **prior** to **trademarking** the phrase "That's hot." She says that the Hallmark cards are based **explicitly** on her use of the phrase and that she deserves to be **compensated**.

If p = the profit earned on each card, and s = the number of cards sold, which expression represents the total profit earned on these cards?

Math Discussion Question: Paris Hilton claims that Hallmark violated her **trademarked** use of the phrase, "That's hot." She also claims that Hallmark violated her privacy. Hallmark disagrees. U.S. law **explicitly** gives regular, private people more privacy protection than it gives public figures like Jennifer Lopez, Tiger Woods, or Barack Obama. **Prior** to Hilton's many appearances in the **media**, she may have been considered a regular, private person. However, Hallmark's lawyers argue that she is now a public figure. Therefore, they claim using her image is like using George Washington's picture or the story of Cinderella. Since these items are free for public use, the lawyers argue that Hilton should not get **compensation** for Hallmark's use of the phrase. Do you agree? Is Paris Hilton a public figure?



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THINKING SCIENTIFICALLY

Ms. Kahn's class was discussing how quickly fads and fashions change among high school students. "There aren't **explicit** rules about what you should wear, what music's hot, or what new gadgets are cool," said Max. "Everyone seems to sense what's in or out based on gossip at school and on social **media** sites. One day a brand is just a wannabe, then *BAM!* it's the cool new thing, then *BAM!* it's yesterday's news."

"Yeah, for a product to have a shot at being popular at least for a while, companies have to be really smart about getting people to focus on their brands," said Aliyah. "They've got to get their brands into our heads, so they can get their hands into our wallets."

"Yes," said Ms. Kahn. "Branding elements like logos, character mascots, distinctive color schemes, and catch phrases or tag lines can be valuable assets for businesses. Research studies have shown that children and teens assign higher or lower value and status to certain products, like jeans or athletic shoes, based on brand names. The law sees branding elements as property that should be protected from theft. If businesses register brand elements with the U.S. Patent and Trademark Office as official **trademarks**, then they can sue in court for **compensation** if someone uses their trademarks without permission."

→ Ms. Kahn's students decided to find out which brand elements are most important for making a brand memorable. They made up an imaginary smartphone application called "SockCompass" that selects socks to match your outfit based on photos taken with the phone's camera. The students gave the SockCompass brand a certain color scheme, a logo, and a tagline as brand elements. They designed an experiment to examine the effect of those different variables on brand recognition.

Question:

In addition to a name, what brand element is most memorable for students?

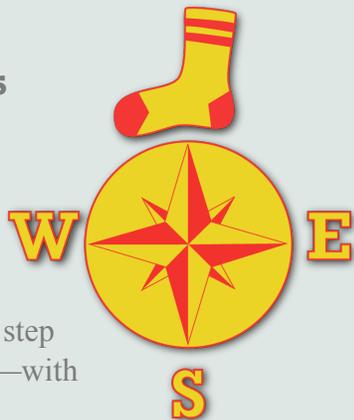
Hypothesis:

The most memorable brand elements will be name and logo. Students will most often remember the name and description of a product when shown its logo.

Procedure:

Start with a group of 30 students. Show all of them the same description of the product: "Based on a photo you take of yourself with your smartphone, the SockCompass app makes suggestions about what socks would look best with your outfit." Then show one third of the students the color scheme for the brand; show one third of them the logo for the brand; and show one third of them the catch phrase for the brand. Later, check to see which students remember the name and purpose of the product when they are shown the brand element they saw before. Do this memory check after one day, one week, and one month.

SockCompass



"Take a well-dressed step in the right direction—with SockCompass!"

Brand element seen (in addition to name)	After one DAY	After one WEEK	After one MONTH
Colors	50%	20%	10%
Logo	70%	60%	60%
Catch phrase	90%	80%	80%

- Is the hypothesis supported by the data? Why or why not?
- Based on the above data, what recommendations would you make to a company that wanted to build a strong brand?
- Can you identify any problems with the data? What would you do to improve this experiment?

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DEBATING THE ISSUE

I. Get ready...

Pick one of these positions (or create your own).

A You should be able to trademark any word or phrase you want if you make it famous and people start using it in their daily lives. If you trademark a phrase or a word no one can take it away from you.

B You should only be able to trademark a common phrase or word if you are selling a product or service, not an idea.

C People should not be able to trademark words or phrases that are commonly used, such as "That's hot!" in Paris Hilton's case.

D Trademarks should be evaluated on a case-by-case basis. If businesses with the same name are in two different cities or even countries, this should not prevent both businesses from using that name. Only if for example, you copy the logo of the company should that be considered an explicit violation of the law.

E _____

2. Get set...

Be ready to provide evidence to back up your position during your class discussion or debate. Jot down a few quick notes:



GO!

Be a strong participant by using phrases like these.

I think it's more accurate to say...

That's interesting - can you tell why you think that?

I think the evidence is contrary to what you're saying because. . .

Let me share something from the reading that will help us...

