

the Business Connection

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How Strong Can a Cabernet Get?

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I was wine tasting the other day and came across a Merlot made by the Twomey Vineyard. The person pouring the wine told me that Silver Oak Winery, renowned for their cabernet sauvignons, created Twomey Cellars for its merlots because it was afraid that the association of its Silver Oak name with good cabernets would discourage consumers from trying a Silver Oak Merlot. Hence, the Twomey Vineyard was born. I have not researched the accuracy of this statement. In this day and age of branding and trademark recognition, it is interesting that a mark could become so strong it might hinder a company's ability to expand into other areas. Now that is a strong mark!

While trademarks may seem to be a fairly new phenomenon, they have actually been around since ancient times. In ancient Egypt, for example, trademarks allowed the

ability to trace a particular brick to the brickyard and the person who made it. Likewise, craftsmen in Medieval times were required to mark their work so as to identify the producer. Generally, the marks allowed a consumer of goods to attach liability to a particular producer in the case of a defect and to protect a producer's good will.

Prior to the Industrial Revolution, consumers primarily bought goods from local producers with whom they were familiar. Following the Industrial Revolution, and in the wake of many recent technological advances, consumers and producers are no longer in close proximity with one another. Yet, trademarks continue to indicate the producer and the quality of the good to which it is affixed.

So, what is a trademark? The legal definition of a trademark is a word or

symbol used in commerce to indicate a product's origin. The law protects trademarks against unscrupulous competitors. Trademarks protect both trademark owners and purchasers of identified products. Consumers make purchasing decisions based on a product's mark. For example, someone may only buy shoes made by Adidas because that person has learned that Adidas shoes are the most comfortable for them. Or, a person may not buy shoes made by Reebok because that person once had a bad experience with Reebok shoes. So, the above shoe purchaser would attribute a higher quality to the Adidas symbol than the Reebok symbol.

On the other side of the coin, producers use their marks to distinguish their goods from another producer. For example, the Nike "Swoosh" is different than the Union

Jack used by Reebok.

As shown by my recent wine tasting experience, a mark can become such a strong indicator of source and quality that it may impede a producer's ability to expand into other areas. An interesting dilemma for any owner of a strong mark, but one that I am sure most mark owners would relish. A trademark is or should be a significant part of a business plan. Indeed, the value of a strong trademark should not be overlooked. Once established, a trademark should be zealously guarded against infringement and dilution.

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