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## [The Meaning of "Readily Identified" in Trademark Nominative Fair Use](#)

Posted on September 13, 2010 by [Steve Baird](#)



We've talked a lot about the [nominative fair use](#) of trademarks.

Remember the [Cars.com billboard](#) that used the Minnesota Twins name as [brand bait](#)?

We had some discussion in the [comments](#), where I said this about the Cars.com ad:

Although the billboard doesn't use the Twins script or logo, I still believe the stronger argument may be that saying "Hey Twins Fans" goes beyond what is necessary to communicate with this class of consumers (important in nominative fair use), especially when the physical context of the ad is in close proximity to Target Field, where the Twins play ball.



Seems to me a reasonable expectation, at least under a nominative fair use analysis, that Cars.com should have said something like "Hey Baseball Fans" -- that avoids a direct free-ride on the goodwill and emotional ties consumers have to the Twins organization.

Just so you know, I hadn't seen the above "Baseball Fans" signage on a storefront window in [Block e](#), just around the corner from [Target Field](#) and the former location of the Cars.com billboard, but it seems to validate the same point in a picture, so I thought I'd share it.

To quote the first element of the nominative fair use test, do you think referencing "Hey Twins fans" in unsponsored ads is legitimate because "the product cannot be readily identified without using the trademark," or do you think the unbranded use of "baseball fans" on signage in close physical proximity to the only baseball venue in downtown Minneapolis, i.e., Target Field (where the Twins play home games), does the job?

So, really, where do you come down on the trademark fair use issue?

