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## [Is your Cell Phone Service Deceptively Misdescriptive?](#)

Posted on January 26, 2011 by [Susan Perera](#)

There seems to be few industries with such fiercely combative advertising as wireless phone service providers. Reminiscent of the cell phone map advertisement war in 2009, 4G advertising is certainly on its way to the same level of tension. Sprint, Verizon, T-Mobile, and AT&T have all rolled out 4G advertising in the last year, but it may be a surprise to some consumers that 4G doesn't actually mean 4G.

The International Telecommunication Union (ITU) sets the definition and criteria to meet 4G standards, however, none of these wireless carriers currently make the cut. In fact, true 4G doesn't even exist yet, so what's going on here?

It appears that one carrier jumped the gun and decided to start marketing as 4G before the ITU finalized the criteria for 4G, and not to be left behind, the rest of the providers have followed suit.

Not surprisingly, multiple trademark applications have been applied-for in connection with 4G, including:

- [America's Largest 4G Network](#), T-Mobile
- [Life in the 4G Fast Lane](#), Time Warner Cable, Inc.

So is there any recourse for filing a deceptive trademark? There can be, registration can be refused for a mark that is considered deceptively misdescriptive.

A trademark is deceptively misdescriptive when it conveys the idea of a quality or characteristic of the goods or services, but that idea is false and consumers are likely to be deceived by the use of the trademark. Arguably ripe for such a refusal, neither of the marks identified above have received this type of refusal.

Clearly false advertising law may be a better arena for policing the truthfulness of these advertisements and marks, but this situation does make me wonder about the decision making process of moving forward with a trademark application that may be considered a falsity and the implications it may have on a consumer perceptions.

Marketing types – what do you think? Is the risk of confusing and frustrating consumers balanced by the need to match your competitor's claims?

