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[Mark Zuckerberg Means What?](#)

September 2, 2011 by [Steve Baird](#)

This billboard ad has been running in the Twin Cities for a while now, promoting a local car dealership who is very proud of its website:



Does anyone seriously believe that [Mark Zuckerberg](#) -- the twenty-seven year old president, chief executive officer, and co-creator of the [Facebook](#) social networking site -- is jealous of the [morries.com](#) website? I didn't think so.

So, does that make it false or misleading advertising? Probably not, given the puffery defense.

But what about another possible claim, does Mark Zuckerberg have an enforceable right of publicity (I'm assuming his public figure status pretty much limits any meaningful right of privacy), and does a commercial use such as this cross the line? In other words, does this kind of use require permission or a license?

Taking it a step further, what if Morries were to use the phrase as a tagline and attempt to register it with the U.S. Patent and Trademark Office? I suspect it would be an uphill battle to overcome a Section 2(a) False Suggestion of a Connection refusal, as this portion of the Lanham Act is designed to protect rights of privacy/publicity for individuals, according to TMEP 1203.03:

"The right to privacy protects a party's control over the use of its identity or "persona." A party acquires a protectible interest in a name or equivalent designation under §2(a) where the name or designation is unmistakably associated with, and points uniquely to, that party's personality or "persona."



A party's interest in a name or designation does not depend upon adoption and use as a technical trademark or trade name. *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 703 F.2d at 1376-77, 217 USPQ at 509; *Buffett v. Chi-Chi's, Inc.*, 226 USPQ 428, 429 (TTAB 1985).

Having said that, [according to Seth Godin](#):

"Mark Zuckerberg" has become a codeword for the truly gifted exception, the wunderkind freak of nature for whom traditional rules don't apply.

Well, sure, Mark Zuckerberg can drop out of Harvard, but you're not Mark Zuckerberg...

Here's the thing: Even Mark isn't Mark Zuckerberg.

So, I'm left wondering, when a person's name becomes a codeword for something else, at what point, if ever, does it become part of the public domain?

