

A Winthrop & Weinstine blog dedicated to bridging the gap between legal & marketing types.

[i am ben](#)

August 31, 2011 by [Steve Baird](#)

The ben of today's post is not one of the [many celebrities having the name](#), a truncated version of any number of other product and service brands, such as [Bengay](#), [Ben & Jerry's](#), [Ben Franklin](#), [Benihana](#), or even dear old [Uncle Ben](#). Today we're talking paint, and this paint brand has at least two things going on here:



First, as you can see, the [Benjamin Moore](#) brand has truncated to [add a more friendly, informal and personable second face to the brand](#). For a more expansive discussion of the legal implications of two-faced brands, see [here](#).

Moreover, it appears the Benjamin Moore brand may not be the only beneficiary of this truncation, as evidenced by the [www.benmoore.com](#) third-party website, which [appears designed to earn click-through revenue](#) by capitalizing on the Internet traffic generated from those aware of the brand truncation. To add insult to injury, according to the Wayback Machine, located at [www.Archive.org](#), it appears this is a domain [once owned by the owner of the Benjamin Moore brand](#).

Second, the Benjamin Moore brand also appears to favor the more informal and intimate all [lower case visual identity](#), given the prominence of "ben" on the product labels. For a more expansive discussion of the legal implications of lower case branding and visual identities, see [here](#).

Not surprisingly, the owner of the Benjamin Moore brand owns a federal registration for the truncated [BEN version of the mark in Int'l Class 2](#) for paint, but for some reason it has permitted the similar [BEN TOUCH mark to also register in Int'l Class 2](#) for paint, without any apparent objection.



Did this result from a failure to update a trademark watch service to capture marks confusingly similar to the truncated version of the original Benjamin Moore brand, or might it be a question of the scope of rights, due to the fact that another third party already had [BIG BEN](#) and [LITTLE BEN](#) for paint applicators -- even before the Benjamin Moore truncation to BEN for paint?

Although it doesn't appear that [Ben Franklin Stores](#) has a private label paint brand at the moment, given all this, how comfortable would you be clearing such an effort, if asked?

By the way, did you note that the Uncle Ben's brand [appears weary of crying Uncle](#), and appears to be flirting with a truncation to Ben, as well, as evidenced by the "Begin With Ben" and "Better Meals Begin With Ben" taglines?

Last thought for the day, how frustrated do you think the [managers of the Uncle Ben's brand](#) are with this [UncleBen.com website](#)?

