

Top Trademark Trends in 2010

By Erik M. Pelton

In 2010, many of the biggest news stories touched on the world of trademarks in some manner. Facebook and Apple were active taking steps to register and protect a variety of trademarks. But the most notable trademark story of 2010 was the release – and subsequent retraction – of a new GAP® logo. Here are the 10 most significant trends in trademarks for 2010:

1. **New logos.** Many companies unveiled new logos in 2010, including Aol., Hertz, Comedy Central, iTunes, MySpace, MTV, and Kayak. Few of them were enthusiastically embraced and several bombed, such as the GAP.



Customer reaction to the new GAP logo was very strong and fueled by Facebook pages, twitter posts, and websites. Within days, GAP cancelled plans to use the new logo and [filed to abandon](#) the application it had filed with the USPTO. The GAP incident reflects the strong bond that consumers and brands enjoy and the significance of a good trademark which resonates with customers. Companies looking to re-brand in 2011 should heed this message and evaluate whether a new logo is really the best way to do so.

2. **iPhone Apps.** Names and logos for mobile software applications are increasingly a battleground for trademarks and brands. Apple recently registered many of the icons for its programs on the iPhone, including:



In 2010, several companies fought over app names and listings in Apple's app store; this trend is likely to increase in 2011.



3. **Facebook.** As Facebook continues to grow, so does the reach of its trademarks. In 2010, Facebook went after 'Teachbook' and 'Faceporn' and was preemptively sued by 'Lamebook'. In addition to trying to stop those it believes are infringing or diluting the Facebook brand, Facebook filed a slew of US trademark applications in 2010 to protect terms including "[Like](#)" and "[Face](#)."
4. **Reality TV Stars.** Reality TV stars realize that trademark registration helps maximize the value of their brands. [Snooki](#) and [The Situation](#) each filed for trademark registration in 2010, and Kim Kardashian filed four trademark applications in 2010 for her brands.

**The
Situation**

5. **Social Media.** Proper usage of brands and logos on social media websites is more important now that customers expect every major brand to have a social media presence. Companies that do not set up and use social media websites to promote their brands may find fans or competitors misusing their names. For example, the NFL Players Association, in anticipation of a possible lockout next year, set up a website at nfllockout.com. But someone already owned the Twitter handle 'nfllockout'. After a formal complaint to twitter, the NFLPA was

able to obtain control of the Twitter account. The ‘gaplogo’ Twitter account is controlled by someone mocking the GAP.

6. **Trademark Scams.** Trademark owners are increasingly targets for a variety of scams. Worthless foreign or business ‘registers’ and ‘directories’ continue preying on owners of registered trademarks, as do a variety of domain name scams, particularly for the .cn, .hk, and .asia extensions. Trademark owners should carefully examine all solicitations regarding their trademarks and ignore those for meaningless publications.
7. **BP.** The Gulf oil leak was a major news story in 2010. The BP brand has weathered the storm fairly well due to good advertising and a strong brand. Ironically, the BP logo is very green and natural, evoking thoughts of the sun, flowers, growth, youth, and cleanliness.



8. **Stories in the News: The Tea Party & WikiLeaks.** While the ‘tea party’ movement was prevalent in the headlines in 2010, the name was also quite active in the world of trademarks. More than 30 U.S. Patent and Trademark Office (“USPTO”) applications in 2010 contain ‘TEA’ and ‘PARTY’. While WikiLeaks, another newsmaker in 2010, is not a registered U.S. trademark, in 2010 more than 20 applications were submitted to the USPTO containing “WIKI”, including WIKISOAP, WIKIGAME, WIKISHOE, WIKIPAD and WIKITUBE.
9. **‘Bullies’ study.** As part of a bill passed by Congress in 2010, the USPTO is conducting a study about overreaching trademark enforcement efforts and their effect on small businesses. The USPTO has issued a request for comments and has said that it will hold public discussions on the issue in early 2011. More details at <http://bit.ly/tmbulliesstudy>
10. **Trademark filings increase.** As the economy rebounds from a recession, trademark filings at the USPTO are increasing, though still not at pre-recession levels. Through November, more than 256,000 U.S. trademark applications were filed, an increase of about 4% compared with the first 11 months of 2009.

What to watch for in 2011: Social media and iPhone® applications will continue to be hot areas for brand development and trademarks. Look for companies to be more cautious about launching new logos on the heels of The GAP’s disaster. As the economy continues to rebound, look for successful businesses to realize the role intellectual property plays in their success, and look for trademark filings in 2011 to increase another 5% to 10%. Celebrity trademark stories will continue in 2011 as reality stars, professional athletes, and entertainers continue protecting their brands. Finally, look for Facebook to continue expanding the reach of its brands and trademarks, but don’t be surprised if a public backlash disapproving of the company’s overreaching efforts to control words such as ‘face’, ‘wall’ and ‘like’ eventually forces Facebook to take a more conservative approach to its trademarks.

About Erik M. Pelton: Erik Pelton is the founder of Erik M. Pelton & Associates, PLLC, a boutique trademark law firm in Falls Church, Virginia. Established in 1999, the firm has registered more than 1,400 U.S. trademarks for clients, represented dozens of parties in Trademark Trial and Appeal Board disputes, and practiced before the U.S. Court of Appeals for the Federal Circuit. In 2010, Erik presented on trademark and social media issues to a variety of audiences, including Harrisburg University’s Social Media Summit, Corporate University Xchange, and the Software Industry Conference. Erik’s blog about trademark and social media issues, IPelton®, can be found at www.ipelton.com.

