

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

When You Verb Your Trademark, You Know What?

October 31, 2011 by Steve Baird

Well, perhaps more than just about every trademark use guideline in existence, including those offered by the International Trademark Association (INTA) ("[NEVER use a trademark as a verb](#)"):



(television commercial link on Youtube [here](#))

Maybe because you have been following the [trademark verbing](#) dialogue here on DuetsBlog and you have learned all about [Managing The Legal Risk of "Verbing Up" Brands and Trademarks](#).

If so, you probably also know that it makes sense to seek federal registration of the slogan or tagline containing the verbed use of your mark, as Orbitz has done [here](#).

As I have written before:

A growing number of brand owners apparently are convinced the stated risk of [genericide](#) is either too remote or distant to fear, or at least that the marketing benefits of encouraging the verbing of their brands far exceeds losing all exclusive rights in the trademarks associated with those brands. So, what is a responsible trademark lawyer to do when those in charge of the brand insist on treating it as a verb? Instead of papering the file with "I told you so" memos, I'd suggest we roll up our sleeves, put on our thinking caps, and get creative.

Here was [my attempt](#) at such creativity, while wearing something close to a thinking cap.

Have you modified your company's trademark use guidelines to manage/control any verbing uses?



What creative solutions do you have toward mitigating the risk of trademark genericide?

Can we agree that this is [one more example](#) of where *per se* rules simply won't cut it anymore?

