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[Right Royal, Protecting a Royal \(To-Be's\) Name](#)

Posted on January 12, 2011 by [Susan Perera](#)

Just across the pond, the UK has been aflutter with the news of the royal engagement of [Prince William](#) to [Kate Middleton](#) since the story broke back in November.

As with many high profile events, this one has spurred some creative ways to profit from Kate's newly elevated status. One area of apparent concern to the Royal Family is the use of Kate's name in connection with merchandise, more specifically clothing. Following the release of each new photo of William and Kate the demand for Kate's most recently worn item seems to skyrocket. This week news sources (including [Ella Alexander at Vogue.com](#)) have reported a warning has been issued to UK designers that use of Kate's full name on a fashion label would be in violation of UK trademark and copyright laws.



The recent concern over protecting Kate's name might make you wonder if our own Trademark Office had seen a rush to trademark the same. A quick search identified three applications that may have been applied for in an attempt to profit from Kate's name:

- [Princess Kate](#) and [Royal Kate](#), applied for by Nieves & Nieves LLC, for use in connection with clothing, shoes, bags, accessories, and household linens, filed Nov. 17, 2010.
- [Kate Collection](#), applied for by Frederick Goldman, Inc., for use in connection with jewelry, watches, hairpins, cuff links, and money clips, filed Jan. 6, 2011.

While none of the identified trademark applications use Kate's full name, I think it is quite apparent that both Princess Kate and Royal Kate refer to Kate Middleton, which is further supported by the filing date of these applications, one day after the announcement of William and Kate's engagement.

So what recourse is available in the U.S. to protect a celebrity's name?



Under Federal law, [section 43\(a\)](#) of the Lanham Act, celebrities can prohibit the economic exploitation of their name by another, if such use creates a false designation of origin. Because celebrities have an interest in protecting their identity they can prevail under this type of claim by showing that use of their name is likely to cause consumer confusion as to the affiliation, sponsorship, or connection of the celebrity and the particular goods or services bearing their name. In other words, if consumers are likely to mistakenly believe that Kate sponsored, or approved, a product that uses her name, when in fact she did not, there exists a false representation in violation of the Lanham Act.

In specific states there also exists state claims based on the Right of Publicity (or Right of Privacy) that prevents the unauthorized use of one's name, image, or likeness. Based on these state laws the use of a celebrity's name for commercial exploitation often violates both the celebrity's right to profit from the use of their name, and their right to privacy from the intrusion on, or exploitation of, their name.

We will continue to watch the UK for developments, so stay tuned.



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