June 2023

Rania's Business Roundtable

I thought long and hard about how to describe my practice and decided that it is a **Bespoke Law Firm.** To me, "bespoke" is a philosophy and an attitude. To serve at the highest level possible while developing a true relationship with company decision makers, so that my firm become trusted advisors who help them monetize their business, navigate the ever-changing and global legal landscape and continue to be a brand of choice.

During this process, I double-checked the meaning of bespoke to ensure that the title would actually suit the service. "Bespoke" simply means custom-made; but, it is the experience around obtaining something custom-made that distinguishes my firm from others. Bespoke services are designed with your company in mind, offer unparalleled customer service, and make each client feel like they're your only client.

When considering names, remember that the true core value of your business is an articulation of what you do along with an explanation of how you do it and how your uniqueness is exhibited in your business.

Rania Sedhom

Roundtable Live!

Join your fellow entrepreneurs for a conversation about the issues facing small businesses today, with complimentary refreshments and legal advice provided by attorneys Rania Sedhom and Matthew Scott.

Email info@bespokelawfirm.com to reserve your seat!

Is This Trademark Chicken Scratch?

Max Singer

In Judge Michael B. Adlin's opinion, R.S. Lipman Brewing Company, LLC was denied a registered trademark for a new beer called "CHICKEN SCRATCH." The USPTO ruled that a beer with the mark CHICKEN SCRATCH could reasonably be confused with an identical mark already registered for "restaurant services."

Although the applicant cited the registrant's website, which stated "Chicken made from scratch with a nostalgic flavor profile" as evidence of the mark's origin, the board ruled that the common meaning of Chicken Scratch (bad handwriting) carries a different connotation from chicken "made from scratch".

Continued on Page 2

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Continued from Page 1

In their conclusion, the Board noted:

[W}e are left with (according to Applicant) Registrant's CHICKEN SCRATCH mark being associated with chicken dishes and Applicant's CHICKEN SCRATCH mark being associated with the commonality of the ingredients of Applicant's beer and chicken feed. Thus, even according to Applicant, the respective marks have similar (or at least related) commercial impressions given their connection to "chicken."

This case is a perfect example of the vital importance of competent legal professionals when it comes to trademark applications. Both the applicant and the examining attorney were reliant on the CAFC's 2003 decision In re Coors Brewing Company, which reversed a prior refusal of the Blue Moon beer trademark because of an existing Blue Moon registration for restaurant services.

In that case, attorneys for Coors submitted evidence documenting the small number of breweries which marketed beer and restaurant services with the same mark. In the Chicken Scratch case, the examining attorney identified 21 registered marks covering both beer and restaurant services, in addition to 18 further restaurants serving beer under the same mark as the restaurant, but the applicant failed to provide any evidence to contradict the assertion that beer and restaurant services share a closer relationship today than they did at the time of In re Coors. Had they been able to demonstrate that the businesses identified were not representative of the industry as a whole, it's possible the Board may not have refused the registration.

Important Updates For Employers

Organizations with 15+ employees are now obligated to provide reasonable accommodations for pregnant workers under the Pregnant Workers Fairness Act (PWFA). Although many states already had some protections in place, the PWFA effectively raises the federal standards for known pregnancy, childbirth, and other maternity-related conditions to standard of the ADA, without requiring workers to demonstrate or qualify any specific disability.

The National Labor Relations Board (NLRB) reversed its reversal on how employers may discipline workers engaged in labor disputes. In its recent opinion on Lion Elastomers, the Board reversed their decision from General Motors (2020), which had required plaintiffs to prove that their engagement in protected behavior was the motivating factor behind the disciplinary action. The Board determined that this one-size-fits-all solution was inappropriate, and reinstated the precedent of utilizing different tests in different scenarios.