

HIGHLIGHTS
from the
LANHAM ACT
for
Editors
Writers
Publishers
Advertisers

As a newspaper man, you have

an important stake in the maintenance of brand names and trade-marks. Without trade-mark protection, there would be few national advertisers, and the whole nature of American business would be different from what it is.

You will, therefore, be interested in the following observation on the subject of trade-marks made by Pope Brock, Counsel for The Coca-Cola Company, in a talk at a recent marketing conference of the Company.

"The creation, the protection, and the continued legal existence of a trade-mark under our laws depend upon the impressions the customers carry in their minds. Except for formalities of registration and printing on labels, the whole problem of preserving valid enforceable legal rights in a trade-mark is one of planting, cultivating and solidifying impressions in the minds of dealers and consumers."

Obviously, you often have occasion and opportunity to refer in your columns to brand names and trade-marks. It is important to you as well as to the owners of those names and marks that the references be correctly made and do not lead to confusion or misunderstanding in the public mind.

Accordingly, as a help to American business in the application and use of trade-marks, we have prepared and published the inclosed booklet to present significant features of the Lanham Act which went into effect on July 5, 1947.

In this booklet, we naturally use our own two trade-marks, "Coca-Cola" and "Coke," where illustrations and examples are needed to clarify the text. The principles set forth apply with equal force, however, to all valid marks of commerce.

We hope that the booklet, which is entitled "Highlights from the Lanham Act," will prove useful to you. If you want additional copies, we shall be pleased to supply them.

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by
THE COCA-COLA COMPANY

ON JULY 5, 1946, Congress passed a new act, known as the Lanham Act, for the protection of trade-marks.

This statute changes some of the previously existing rules of law applicable to owners and others who use trade-marks. It contains provisions of special interest to publishers, editors, advertising copywriters, wholesalers, retailers and all others who may have occasion to reproduce any trade-mark in print.

We have prepared this booklet hoping that it may be helpful to you, using as examples our own two registered trade-marks, Coca-Cola and its abbreviation Coke.

WHAT IS A TRADE-MARK?

Here's how the Lanham Act defines it:

"The term trade-mark includes any word, name, symbol or device, or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured and sold by others."

A TRADE-MARK ALWAYS REFERS TO THE PRODUCT OF A PARTICULAR MANUFACTURER.

Since the function of a trade-mark is to identify and distinguish the goods of a given manufacturer or seller—and to set them apart from the goods of other manufacturers or sellers, it follows that

—a trade-mark is correctly used only when it refers to the product of that manufacturer alone,

—a trade-mark is incorrectly used if it is associated with the product of any other manufacturer,

—a trade-mark never refers to a class of products.

TO PROTECT THE PUBLIC AND THE MANUFACTURER

The House and Senate Committees stated in their reports that the purpose underlying the trade-mark statute is two-fold:

"One is to protect the public so that it may be confident that in purchasing a product bearing a particular trade-mark which it favorably knows, it will get the product which it asks for and wants to get.

"Second, when the owner of a trade-mark has spent energy, time and money in presenting to the public the product, he is protected in his investment from its misappropriation by pirates and cheats.

"This is the well-established rule of law protecting both the public and the trade-mark owner."

THE RESPONSIBILITY OF THE TRADE-MARK OWNER

The Lanham Act provides that a trade-mark may be cancelled at any time if it is abandoned.

And it provides that a mark may be held to be abandoned—

"when any course of conduct of the registrant, including acts of omission as well as commission, causes the mark to lose its significance as an indication of origin."

The phrase "including acts of omission as well as commission" makes it necessary for the owner to take notice when writers, publishers or competitors use his mark improperly.

He should be on the lookout for such errors, whether deliberately perpetrated to deceive the public or committed in complete innocence.

He is justified in taking action against those who misapply his trade-mark to defraud and may with propriety caution those who misuse it through carelessness. He will naturally take steps to inform those who might not know it is registered. In doing so he is merely protecting his legitimate interests.

THE LIABILITY OF OTHER USERS OF THE TRADE-MARK

Sec. 32 of the Lanham Act defines the penalty for misusing a trade-mark that belongs to another, as follows:

- (1) *"Any person who shall, in commerce, (a) use, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of any registered mark in connection with the sale, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake or to deceive purchasers as to the source of origin of such goods or services; or (b) reproduce, counterfeit, copy, or colorably imitate any such mark and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale in commerce of such goods or services shall be liable to a civil action by the registrant . . ."*

TWO TRADE-MARKS FOR ONE PRODUCT

When we first put our product on the market, back in 1886, we did so under a registered trade-mark that has since become famous around the world.

That trade-mark is



REG. U. S. PAT. OFF.

Coke—A REGISTERED TRADE-MARK, TOO

But as the product grew in popularity, as its distribution grew to millions of soda fountains, grocery stores, eating places and other outlets both here and abroad, the public affectionately abbreviated the trade-mark.

In the same friendly spirit that Susan comes to be known as Sue, or Thomas becomes Tom, Coca-Cola is frequently shortened to



REG. U. S. PAT. OFF.

Coke too is a registered trade-mark distinguishing the same product as the trade-mark Coca-Cola.

THE TRADE-MARK **Coke** UNDER THE LANHAM ACT

Since both Coca-Cola and its abbreviation Coke are registered trade-marks that distinguish the same product, the regulations for the use of each are identical.

Under the Lanham Act we have the same rights and interests to protect in the one as in the other.

Likewise others who make reference to our trade-marks have the same obligation with regard to the one as to the other.

In other words what is proper usage for Coca-Cola is proper usage for Coke. What is improper usage for Coca-Cola is also improper usage for Coke.

HOW MAY **Coke** BE USED?

The rules for the proper use of *Coke* are very simple:

1. *Coke* can be used only to refer to the product of The Coca-Cola Company. It can never designate any other soft drink.
2. It should always be written with a capital letter thus—Coke. It can also be written in all capital letters thus—COKE.
It should *not* be written with all lower case letters thus—coke. Quotation marks are optional thus—"Coke."
3. In all commercial printed material, Coke should be identified as a trade-mark. When space permits this should be done by an asterisk plus the statement "Registered Trade-mark of The Coca-Cola Company."

These same rules apply equally to Coca-Cola. Examples are shown on the following pages.

HOW WE USE Coke AND Coca-Cola

INTERCHANGEABLY

IN OUR ADVERTISEMENTS

Easter's comin'...Have a Coca-Cola



Office lunch... Have a Coke

Folks find there's always a welcome for ice-cold Coca-Cola—at work, at their favorite eating place, shopping or wherever the busy day takes them. So when lunchtime rolls around, it's natural for everyone to say "Let's have a Coke with lunch. It's easy to relax with

the pause that refreshes with ice-cold Coca-Cola—a grand way to break the day. It makes lunchtime so refreshing.

Coke is Coca-Cola
"Coke-Cola" and its abbreviation "Coke" are the registered trademarks which distinguish the product of The Coca-Cola Company.



erve
Coke
home



One of these magazine advertisements has Coca-Cola in the headline—the other, Coke.

One of these posters features Coke—the other, Coca-Cola.



Some newspaper advertisements
say Coke — others, Coca-Cola.

Both trade-marks in
this display piece.



Both trade-marks on this subway card.



Both trade-marks
on the carton.



Both trade-marks
on the cooler.

FROM NOW ON the circle below, containing both trade-marks, as well as the accompanying text, will be widely used in Coca-Cola advertising.



Ask for it either way—
both trade-marks mean the same thing

**"Coke" IN ADVERTISING OF OTHERS THAN
THE COCA-COLA COMPANY AND
ITS AUTHORIZED BOTTLERS**

Outsiders often have occasion to refer to our trade marks in advertising promotions.

Often the trade-mark is combined with some other word as the title of a promotion, as in Coke* Party, or to designate a particular group, as in Coke* Crowd, or to identify a piece of merchandise used in connection with our product, as in Coke* Server.

The same rules are applicable to such combinations as when the trade-mark alone is referred to, except that here particularly the trade-mark should be identified with an asterisk as follows:

Coke* Party

or

Fashions for the Coke* Crowd

*REGISTERED TRADE-MARK OF
THE COCA-COLA COMPANY

Reproduced on subsequent pages are samples of advertisements run by leading department stores showing how this has been done.

REFERENCE TO Coke IN MERCHANDISING EVENTS

If our trade-mark is employed as part of the title of a merchandising promotion, *it is correctly done only if Coke and no other soft drink is served or displayed in connection with it.*

For example, a Coke* Party at a fashion show, at a department store, or in any other public place, is a Coke* Party only if Coca-Cola and no other soft drink is served. It is not a Coke* Party if some other soft drink is served. The same thing applies to terms like Coke* Fest, Coke* Session and Coke* Carnival.

*Registered Trade-Mark of The Coca-Cola Company

IN THEIR PROMOTIONS

Filene's

the  *the Party*
... lion show

and fashion show
initiating the new
members of Filene's

1945 - 1946

1945
Hi-School Fashion Board

*Registered Trademark of Coca-Cola Co.

*Registered Trademark of Coca-Cola Co.

*Trade Mark of The Coca-Cola Co.

Grover Cronin presents

**"Teen Fashion Show"
and "Coke Carnival"**
at the

at the
Hovey Memorial Institute
Tuesday, Nov. 10

Attention all you hrp high schoolers! If you are on the beam about fashions and are looking for a super duper good time, then be sure to attend the Fashion Show and Coke's Carnival. Drop into our High School and floor for your free ticket. The high school is sponsoring this affair and you would be a goon to miss it. The show is a most positively end you.

Trade Shop - Second Floor
"Trade Mark of the Coca-Cola Co."

*Trademark Registered
Coca-Cola Company

R.H. WHITE'S

HIGH SCHOOLERS! COME TO WHITE'S

ROCK FEST
AND BACK-TO-SCHOOL FASHION SHOW
Monday and Tuesday, Aug.

1:00 P. M.
On White's Second Floor

HERE THEY ARE! WHITE'S "STYLE-HEP"
HIGH SCHOOL FASHION BOARD

[illegible]

Shop: Generously
pleated grey wool s'irt. It's
a hit with the Board! In sizes
from 10 to 16.....**3.98**
Classic wool pullover in
copen, cherry, maize or pink.
4.98

SUIT WITH A
COLLEGIATE
FUTURE 39.95

For you, whether collegiate or careerist, an all wool, all-round suit for beauty and wear. Jacket has tucked waistline, new, deeper armholes, and high-button neckline. Silver-colored buttons. Black, Brown, Forest Green, Fuchsia. 9 to 15. \$39.95. Fourth Floor.

Coke * Sesh

Inviting "Teen Charmers" to the
COKE SESH

Inviting "Teen Choice"
"DEE GEE" COKE" SESH
for September 29 at 1:00 p.m.
and October 6 at 1:30 p.m.
on NBC

Saturday, September 25
Heard over KHJ at 1:30 p.m.
Featuring the Radio Favorites of NBC
SHIRLEY MITCHELL and
WALTER TATLEY

Featuring
SHIRLEY HARRIS
WALTER TATLEY
of the "Great Gildersleeves"
heard over the air on KFI
entertainment by the
Theater, F.

THE

OPEN FRIDAYS FROM 12:15 TO 9:00 P.M.

**THE Broadway
Hollywood**

**The Registered Trade-Mark of the Coca-Cola Company*

Proper identification is the basis of fair dealing

TRADE-MARKS are merely a handy way of identifying goods so they can be bought again or rejected according to the satisfaction they give.

Obviously, incorrect usage will result in confusion and tend to destroy the value of a trade-mark as a means of identification.

Proper identification is the very foundation of truth. Without it, no intelligent world could exist. In a courtroom, in a description, in a scientific document, in a historical treatise, and even in ordinary conversation, a statement is valid only if we properly identify the people, material or events with which we are dealing.

The same thing is true of trade-marks. When a trade-mark is used incorrectly it misidentifies merchandise. It thus misinforms and in effect defrauds the public. It makes advertisements incorrect and

makes the advertiser guilty of misrepresentation. It undermines the integrity and faith in fair dealing on which commerce is based.

We will be glad to cooperate

COCA-COLA has become so universally distributed and so popular that our trade-marks—Coca-Cola and its abbreviation Coke—are referred to by outsiders probably more often than any other trade-mark in America.

It pleases us very much that generally the references are correct. In most instances where they are not, this happens inadvertently—in the main because people did not know they were our registered trade-marks. When we call attention to the fact, people are usually glad to cooperate.

For our part we are glad to cooperate, too.

If you ever have occasion to refer to either of our trade-marks, and are in doubt how to do it correctly, we suggest you write us. Such request will always be gratefully received and cordially answered.

THE COCA-COLA COMPANY

Coke

and

Coca-Cola

*are registered trade-marks
of The Coca-Cola Company*

Coca-Cola and its abbreviation Coke are both registered trade-marks that distinguish the same product — the product of The Coca-Cola Company.

Coca-Cola is Coke; Coke is Coca-Cola — and nothing else.

THE COCA-COLA COMPANY



Ask for it either way—both trade-marks mean the same thing