

**ALERT: Article published in IP Law360's "Expert Analysis" on-line August 5, 2015**

# Trump Wins Republican Primary Race for TM Registration

Law360, New York (August 5, 2015, 7:30 PM ET) --  
**To register or not to register your campaign slogan?**

All of the 17 presidential candidates who will meet in Cleveland Thursday night for the first round of debates in the Republican primary have adopted some form of a campaign slogan. But how many have taken steps to register their slogans as trademarks or service marks? Although none of the candidates is likely to be questioned about their official policy on campaign slogan trademark protection, it is a good time to take a look to see what, if anything, each candidate has done.



Dickerson Downing

Campaign slogans can be registered as trademarks and service marks, just like any other slogan, providing all the other criteria for registration are met. However, most presidential candidates historically have chosen not to register their slogans.

At this still very early stage of the primary campaign, only four of the 17 Republican candidates appear to have filed applications to register their slogans, and only one has actually registered his slogan. To the extent you can call this somewhat indifferent collective effort a "race" for registration, the winner is ...

## ***Donald Trump: "Make America Great Again"***

Not surprisingly, the media-savvy Donald J. Trump is the first in the Republican presidential field to register his slogan — "Make America Great Again" — for political action committee services and fundraising in the field of politics (Reg. No. 4773272). Trump benefited from a significant head start as he filed the application in November 2012, barely two weeks after the votes were counted in the last presidential election. The registration issued in July of 2015.

While some have suggested he drew inspiration from the 1980 Ronald Reagan campaign slogan — "Let's Make America Great Again" — the current slogan now belongs exclusively to Trump.

## **Pending Applications**

Three of the Republican candidates have pending applications to register their slogans.

Two of those candidates are seeking to register slogans consisting of three succinct words intended to convey three basic themes of the campaign. These applications were all filed in July of 2015 and are not likely to be reviewed by the U.S. Patent and Trademark Office for a number of months:

### ***Scott Walker: "Reform. Growth. Safety."***

Scott Walker Inc. has filed two applications to register this pragmatic slogan for political campaign services and political fundraising services (App. No. 86689013) and for variety of goods including

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**Pending Applications** (continued)

**Scott Walker: "Reform. Growth. Safety."** (continued)

bumper stickers, pet collars, mugs, items of clothing and campaign buttons (App. No. 86689019). The same company also filed corresponding applications to register "Scott Walker," "Scott Walker for America" and "Walker 16." Gov. Walker leads the field in the number of applications filed.

**Ben Carson: "Heal. Inspire. Revive"**

Carson America Inc. has filed an application to register this more high minded slogan for providing a website featuring information about political issues and providing information in the field of politics and related services. (App. No. 86696085).

One well-known candidate has applied to register his one-word exclamatory slogan through a related company rather than his campaign organization.

**Jeb Bush: "Jeb!"**

The shortest slogan in the Republican field by far. Evocative of the "Lamar!" slogan used by Lamar Alexander in his 1996 presidential run but it also was the slogan Bush used in prior gubernatorial runs in Florida dating back to 1994 — a rare reusable campaign slogan. Bush's Florida gubernatorial campaign registered "Jeb!" for a variety of election-related services in 2004, but that registration was not maintained and has since been canceled (Reg.No.2826942).

In January of 2015, a company by the name of BHAG LLC filed an application to register "Jeb!" for a very wide variety of goods and services including services relating to political issues and political fundraising. (App. No. 86505773). There was a bit of mystery about this application until earlier this week when Bush acknowledged, in a campaign financial disclosure statement, that BHAG, which seems to be an acronym for "Big Hairy Audacious Goal," is an LLC in which he has an ownership interest.

**Slogans for Which No Applications Believed to Have Been Filed**

With the hope no applications have been overlooked and apologies if they were, a search of the USPTO database failed to locate any applications to register the following slogans used by the other Republican candidates:

**Chris Christie: "Telling It Like It Is"**

**Ted Cruz: "Courageous Conservatives. Reigniting the Promise Of America."**

The longest and most contentious campaign slogan in the field from the United States senator from Texas who also wants to teach you how to make Machine Gun Bacon.

**Carly Fiorina: "New Possibilities. Real Leadership."**

**Jim Gilmore: "Gilmore For America"**

**Lindsey Graham: "Ready To Be Commander-In-Chief On Day One"**

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## **Slogans for Which No Applications Believed to Have Been Filed** (continued)

### ***Mike Huckabee: "From Hope To Higher Ground"***

At first glance, this slogan appears to be a conflation of Bill Clinton's first presidential campaign slogan — "A Man From Hope" (Arkansas, that is, the birthplace of both Clinton and Huckabee) — and the title of Huckabee's favorite Stevie Wonder song. But to be fair, this slogan has been ranked as the best in the field by one writer at the Washington Post and a survey conducted by TagLine Guru.

In what may provide some hint as to Huckabee's fallback plan, Christian Media Corporation, a company with reported ties to the candidate, filed an application in December of 2014 to register "Huckabee Post" (SN 86475650) for various services including providing information, news and commentary based on an intent to use the mark in the future.

### ***Bobby Jindal: "Believe Again"***

Gov. Jindal does not appear to be making prominent use of this slogan.

### ***John Kasich: "Kasich For Us"***

### ***Rand Paul: "Defeat The Washington Machine. Unleash The American Dream."***

This slogan combines rage against the machine with love of the American dream and is one of two American dream themed slogans adopted by Republican candidates.

It should also be noted that Sen. Paul's 2016 Senate campaign registered his slogan "Stand With Rand" in 2014 for political campaign services and fundraising services as well as various goods such as bumper stickers posters, mugs and items of clothing (Reg. No. 4526850).

### ***George Pataki: "People Over Politics."***

### ***Rick Perry: "We Must Do Right And Risk The Consequences"***

Although he was reported to have adopted this slogan — which appears to be a paraphrase of a purported statement by Sam Houston — Perry does not appear to be actively using it.

### ***Marco Rubio: "Marco Rubio A New American Century"***

### ***Rick Santorum: "Restore The American Dream For Hardworking Families"***

This is the second of the American dream slogans.

## **The Race Continues**

It is still early, and there may be more applications to come.

There are a number of reasons why candidates often do not seek to register their slogans. The trademark application process is lengthy. Unless an application is filed well in advance of the beginning of the campaign season, the campaign may be over before the registration is issued. Many campaign slogans are not particularly memorable or distinctive and are of only limited value during the campaign. Few have any lasting value after the campaign is over, even to the winner.

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## **The Race Continues** (continued)

Should Donald Trump become president, he is highly unlikely to continue to use his current registered slogan "Make America Great Again" in his 2020 campaign. In any event, to the extent a given slogan is distinctive and memorable, the candidate probably already has protectable common law rights in that slogan that could be asserted in the event of infringement or misuse during the campaign.

For these and other reasons, most presidential candidates historically have chosen, to the extent they may have given it any thought, not to register their slogans and to rely instead on their common law rights. Barack Obama, for example, has used a number of different campaign slogans over the years, including the memorable "Yes We Can" (which some conspiracy buffs actually claim to believe sounds like "Thank You Satan" when spoken backwards), but none of them appears to have been registered. (His campaign committee has registered one design logo.)

In light of the recent publicity given to Trump's registration, that may change. It is possible, and not entirely illogical, that the filing of a trademark application for your campaign slogan may become one way of demonstrating both long-term commitment to the campaign and belief in the value of the slogan as a marketing tool.

—By Dickerson M. Downing, Downing IP Law

*Dickerson Downing is an intellectual property lawyer in Stamford, Connecticut.*

***DISCLOSURE: The author acknowledges that while at his former firm he represented Ivanka Trump Marks LLC in connection with the registration of several variations of the "Ivanka Trump" mark.***

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