

# IP NEWS QUARTERLY

IP Attorneys Group, LLC

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## GENERIC TERMS

As a guide for deciding on words to be used as trademarks, consider the following five (5) categories:

**Fanciful Marks** - made up words that have no relation to the goods being described (e.g., KODAK for imaging products).

**Arbitrary Marks** - existing words that also have no relation to the goods being described nor do they contribute meaning to the goods being described (e.g., APPLE for computers).

**Suggestive Marks** - words that suggest meaning or relation but that do not describe the goods themselves (e.g., COPPERTONE for suntan lotion).

**Descriptive Marks** - words that describe either the goods or a characteristic of the goods. It is very difficult to enforce trademark rights for a descriptive mark unless the mark has acquired a secondary meaning. Examples of marks which might be considered descriptive but have developed secondary meaning include: SHARP for televisions; DIGITAL for computers; WINDOWS for windowing software.

**Generic Terms**—words that are the accepted and recognized description of a class of goods or services (e.g., computer software, facial tissue).

Having a strong mark will give it more protection against other marks. Fanciful and arbitrary marks are the strongest types of marks. However, distinctive marks can become generic over time. Aspirin, margarine, and videotape are just a few of the generic terms that initially were considered fanciful or arbitrary marks. Product popularity and the trademark owners most often are the reason for the change. Trademarks used properly are likely to remain the exclusive property of its owner; however, once improper advertising and labeling start to cause consumers to use the mark as a noun, coincident with the "name" of the product or service, regardless of the source, the trademark loses its distinctiveness.

*Please contact this office with any questions you may have regarding trademark names.*

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### **IP Attorneys Group, LLC**

Patents—Trademarks—Copyrights

16 Oxford Road, 2nd Floor

Milford, CT 06460

Tel: 203 298 4830 Fax: 203 298 4832

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## **Did you know?**

There is a  
USTPO site for  
children. It's  
designed for  
"kids, teens,  
parents and  
teachers"

- have a look:

[http://  
www.uspto.gov/  
kids/index.html](http://www.uspto.gov/kids/index.html)