HOGE · FENTON

# HOW STRONG IS YOUR TRADEMARK?

## Value of a Trademark

A company's trademarks can be some of its most valuable assets. A strong trademark can drive business based on customer loyalty to a brand or familiarity with the product or service.

For example, when you see the "golden arches" or the word "McDonald's®", you immediately identify with the product and service of that brand. Registration of your mark is the first step to protecting its value.

## Many Trademarks are Not Effective

Simply having a registered trademark is not sufficient. The value of a mark is often based on its uniqueness or strength in the marketplace. A strong mark will clearly distinguish your company's products or services from those of others and will increase your ability to enforce the mark against infringement by others.

Many companies are unaware that their trademarks are too "weak" to offer effective protection or to build unique brand identity. Marks can suffer from weakness for a variety of reasons. For example, they can be inherently weak because they are generic or descriptive, or they can be weak because they are too similar to marks used by others.

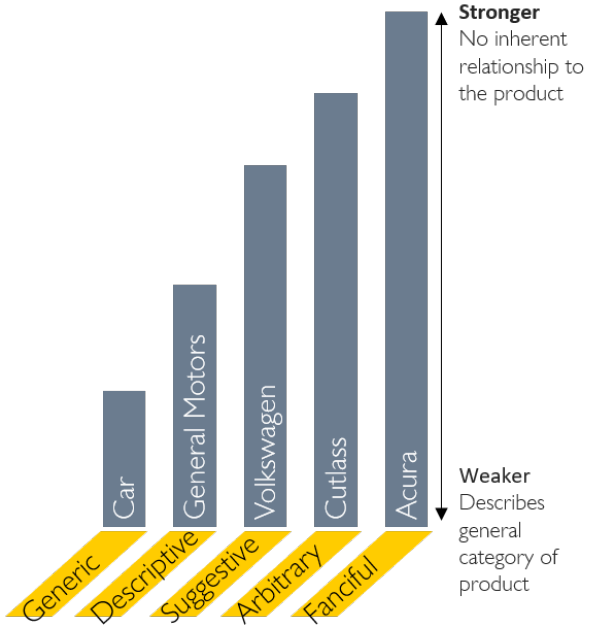
Weak marks often do not qualify for registration. Weak marks that do qualify for registration are difficult to enforce. Worse yet, companies with weak marks can often find themselves subject to a 3rd party enforcement action challenging the mark or can suffer brand dilution from being copied in the global marketplace.

## How Strong is Your Mark?

Strong marks are distinctive, arbitrary or fanciful. Weak marks are descriptive or, worse yet, generic. Strong marks may lose value and become weak over time if they become generic through improper usage. For example, the trademark "Escalator" was initially a strong mark; however, it lost its value as a trademark because of its misusage as a generic term to describe a moving staircase.

## The Three Essential Steps

The three essential steps to creating value in a mark are (1) identify a strong mark, (2) register the mark, and (3) protect the mark against becoming generic.




TRADEMARK STRENGTH PROFILE

**To discuss your trademark strategy, contact:**

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