Insights: Publications

Trademark Law and the Cannabis Industry: Six Things That Will Separate Brand Winners from Brand Losers

Franchise Lawyer

AUGUST 22, 2019 Written by William M. Bryner and Christopher P. Bussert

On January 1, 2014, in an electoral and commercial first, the recreational marijuana market opened for business in the State of Colorado. Recognizing the enormous opportunities a regulated cannabis market presents, numerous states followed suit. As cannabis remains illegal under federal law, the industry operates in a complex, dynamic and uncertain regulatory environment. Given this reality, cannabis businesses understandably focused their legal efforts on compliance—with little, if any, attention paid to properly securing intellectual property rights, including trademarks. This is particularly true for cannabis franchises where the primary value has been operational knowledge and not necessarily brands.

However, this is starting to change. Regardless of when and how the cannabis industry is uniformly regulated, brand creation, protection and enforcement will play an important role in determining the winners and losers in this nascent market, including the potential for franchising. For those contemplating entering this field, taking into account the following points will help maximize brand success.

Related People



William M. Bryner
t 336.607.7482
bbryner@ktslaw.com



Christopher P. Bussert
t 404.815.6545
cbussert@ktslaw.com