Insights: Publications

Avoiding an “Accidental” Franchise in U.S. Trademark Licensing

INTA Bulletin Vol. 68, No. 1

JANUARY 15, 2013 Written by Michael W. Rafter

Trademark owners frequently license their trademarks to expand the scope and geographic reach of their brands and to maximize their revenue. Although it is crucial to have a fundamental understanding of trademark licensing to counsel clients and manage trademark portfolios effectively, it is equally important to understand the boundaries and potential overlap between trademark licensing and franchise law in the United States. The failure to do so may thrust an attorney's client inadvertently into the highly regulated realm of franchising with unwanted, unexpected and costly consequences. This article provides general guidelines to help U.S. trademark attorneys not only recognize a franchise but also avoid common mistakes that could lead to the unintentional creation of a franchise by the trademark owner—a situation often referred to as “the accidental franchisor.”

Related People



Michael W. Rafter
t 404.815.6112
mrafter@ktslaw.com