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Nice to meet you, my name is trademarked



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From dance moves to nicknames to hip-hop slang, there's no surefire way to know what will catch on. Baby from Cash Money has pondered on why he didn't try to [trademark "bling bling."](#) Drake learned he couldn't get the profit he felt entitled to from "YOLO" considering [Tim Petrillo](#), co-owner of YOLO in Fort Lauderdale, beat him to it in 2010. Black Chyna is learning the hard way that trademarking a highly popular name — regardless of a wedding engagement — can lead some straight to court.

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Kylie Jenner is also learning the difficulties of trademarking a name. In 2015, Kylie filed a trademark application for the name “Kylie.” Shortly thereafter, Australian pop-star Kylie Minogue filed paperwork to oppose Jenner’s “Kylie” trademark application in connection with advertising services. According to the [World Intellectual Property Review](#) (“WIPR”), Minogue’s representatives claimed in the opposition filing “that if the US Patent and Trademark Office (“USPTO”) approved Jenner’s application then it would cause confusion among consumers between the two Kylies and dilute her brand.”

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Last month, the U.S. Patent and Trademark Office (“USPTO”) rejected Kylie Jenner’s trademark application for the use of the name “Kylie” for business purposes. On February 6, 2017, Jenner refiled a trademark application but limited the use of “Kylie” to cosmetics. If Minogue wanted to start a makeup line, it would have to be under the trademark “Kylie Minogue.”



Kylie: United States Patent and Trademark Office



Kylie Minogue: United States Patent and Trademark Office

Recommended Reading: [“What’s a name worth?: Snapchat, Kardashians, Tina Turner trademark woes”](#)

Viewers of [“Blackish”](#) on Wed., Feb. 8, may have all pictured Devante Swing from Jodeci the minute Dre tried to talk Rainbow into that name for their baby boy. However, a simple [Facebook search](#) unearths plenty more guys with the first name Devante. However, if one of these people become famous, will they ever be as well-known as the producer Devante? The verdict is still out on that one.

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For trademarking purposes, these are the kinds of questions that must come up when considering trademarking one's own name. It doesn't make much sense to trademark a commonly used name. However, for people with unique names (disregard people's names that may have been objects already, such as Mercedes), trademarking one's own name could become a profitable way of branding. Not sure if your name applies? Complete a Google search of your name right now. If you're the only person linked to the first few pages, this may be as good of a time as any to attempt to trademark your name before someone else can.

Is it necessary? Not always, even for those entering the entertainment industry. Michael B. Jordan was given his name years before Michael Jordan was known as the NBA champion (MJ's first championship was in 1991, MBJ was born in 1987). Both MJ's have become famous for completely different reasons.

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Chances are slim that someone will mistake Denzel Whitaker for Denzel Washington or Forest Whitaker no matter how often “The Great Debaters” comes on. And considering Michelle Williams the actress versus Michelle Williams the singer physically have nothing in common and are well-known for opposing reasons, it’s safe to say these two Michelles can escape confusion (most of the time).

But for people who don’t want to deal with similar naming conventions, including parents who want their children to enter the entertainment industry, trademarking a name beforehand could help avoid these situations.

Recommended Reading: [“Contracts for kids: The legal side of reality music TV contracts”](#)

Can you trademark your personal name?

The short answer is maybe. For a personal name to be protected as a trademark, two elements must be established:

1. The personal name must be used as a trademark. The name must be used in connection with goods or

1. The personal name must be used as a trademark. The name must be used in connection with goods or services for business purposes.
2. The personal name has acquired a secondary meaning. The consuming public has to associate your personal name with a specific good or service.

For example, the McDonald brothers used their last name in business to sell hamburgers. The consuming public associates McDonald's with a specific type of hamburger.

Benefits of trademarking your personal name

A trademark is an exclusive right. If awarded by the USPTO, trademarks receive registration on a nationwide basis. A trademark registration gives the holder the right to prevent or stop others from using the mark without authorization on similar goods and services and in a way that would be deemed confusing to consumers.

A trademark registration of a personal name is also helpful in cybersquatting cases. In the internet age, it is common for cybersquatters to register a domain name containing the personal name of a celebrity or influencer. Under the Anti-Cybersquatting Consumer Protection Act, a trademark owner can sue to recover damages and a domain name from a person who, with bad-faith intent to profit, registered a domain name that is identical or similar to the trademark owner.

If a violation of the [ACPA](#) is found, a court can order the forfeiture or cancellation of the infringing domain

If a violation of the [ACPA](#) is found, a court can order the forfeiture or cancellation of the infringing domain name or its transfer to the trademark owner. The trademark owner can elect to recover profits that the domain name registrant potentially made from his/her use of the mark, as well as losses sustained by the trademark holder as a result of the domain name registrant's actions. Alternatively, the trademark owner can elect to recover statutory damages between \$1,000 and \$100,000 per domain. The actual amount awarded is at the discretion of the court.

Have more trademark and trademark infringement questions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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