

U.S. Strengthens Protections For Famous Marks

On October 6, 2006 President Bush signed into law the Trademark Dilution Revision Act of 2006, which will provide owners of famous trademarks stronger protections for those marks. The Act revises the Federal Trademark Dilution Act to allow relief to an owner of a famous mark who is able to prove that a defendant's mark is "likely to cause dilution," instead of having to prove that the defendant's mark has in fact already caused "actual dilution." In addition, the Act clarifies that dilution can occur as a result of tarnishment of the famous mark or as a result of the blurring of the distinctiveness of the famous mark.

These changes to the Dilution Act are important because they align the law with the original intent of the Federal Trademark Dilution Act, which was to protect famous marks from the likelihood of dilution by either tarnishment or blurring. "As a result of the U. S. Supreme Court decision in *Moseley v. V. Secret*, the standard for dilution became 'actual dilution' and the ability to prove dilution by tarnishment was uncertain," said Senniger Powers' trademark attorney Bill O'Neill. "The Revision Act makes it clear that the standard will now be "likelihood of dilution" and that the likely dilution can be a result of either tarnishment or blurring. Consequently, owners of famous marks will be able to take action before dilution has an opportunity to develop and harm the famous mark."