Respectful Branding
Trademark Law and Practical IP Due Diligence
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What are Trademarks?
- Indicators of Origin/Source
- Identifying symbols

Functions of Trademarks
- Signify single source
- Distinguish goods of one manufacturer from others
- Signify quality
- Marketing

What can be a Trademark?
- Words and Stylization
- Images
- Trade dress (product label or product configuration)
- Other: sounds, smells, etc.
Logos
Trade Dress
Trade Dress
Trademark Due Diligence:

Searching & Clearing

Searching

- Google
- USPTO.gov site
- Beer sites (Untappd, BeerAdvocate, etc.) and alcohol beverage sites
- TTB COLAs public registry
- Outside counsel (trademark attorney)
  - Especially for flagship brands and for packaged beer brands sold through distributors

Considerations

- Descriptive v. Distinctive terms
- Other alcohol beverages: Wines, distilled spirits, ciders, seltzers
- Social media: can’t hide
- Picking up the phone . . .
Registration

- Why register?
- Filing process is simple (https://www.uspto.gov/trademarks/apply)
- Intent-to-Use v. In-Use application

Enforcement Considerations

- Likelihood of confusion
- Costs v. Weakening of Brand
- Delay or inaction => Loss of rights
Respectful Enforcement

Traditional Methods
- Cease and Desist letter
- Litigation
- Bad Publicity/Social Media campaigns

Other Methods
- Phone call!
- Phase-out period or limited license
- Good publicity (donations, informal collaboration)
- Co-Existence
  - Draught only
  - Geographical carve-out
  - Different products
- Formal Collaborations?
- Mediation
THANKS!
Namaste
Intellectual Pooperty
Intellectual Pooperty