

NEWS
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Rare Minnesota Trademark Nears Registration Status

Hammer-Schlagen® prevails in multiple federal challenges; current owner operating brand for 20th year.

STILLWATER, MN (August 1, 2018) -- The United States Patent & Trademark Office is expected to register WRB, Inc. of Minnesota as the sole owner of a specific three-dimensional configuration of shapes and designs, a rare type of trademark known as "trade dress." Says Jim Martin, the CEO of WRB, "This is a very big deal. It's literally a one in a million kind of thing." Of the nearly 2.4 million actively registered trademarks, only 29 are described on the principal register as a servicemark trade dress.

Dating to 1957 and originating in Stillwater, Minnesota, the Hammer-Schlagen® brand of entertainment service is identified by a cross-peen hammer and nails positioned in wood. Though it is already protectable as a trademark under federal law, the registration will provide public notice that WRB is allowed to use the Hammer-Schlagen® trade dress to the exclusion of all others. Every legal challenge to date has left the intellectual property rights of the trade dress fully intact. After over 2 years of prosecution starting in 2015, the United States Patent & Trademark Office acknowledged the Hammer-Schlagen® trade dress as a valid trademark eligible for registration. In 2016, WRB filed suit against Vision Marketing, LLC, of Washington for (in part) counterfeiting the trade dress, which settled earlier this year saving the time and expense of trial. This was followed by Eichenfeld, LLC of New York taking action in 2017 to prevent registration, but the court dismissed the suit late last month due to Eichenfeld's failure to produce any evidence the trade dress was invalid.

Acquiring the brand 20-years ago, WRB offers its Hammer-Schlagen® service at hundreds of event nationwide each year. Since becoming involved in 1999, Martin has been educating the public about trade dress: "The fact that trade dress is not generally understood is a problem. It's a vital part of the relationship had between consumers and companies. It's important to understand what constitutes trade dress because it's fundamental to the ability of consumers to make healthy buying choices. Though 'what is trade dress' is a good question to answer, Hammer-Schlagen® can't conduct such a public education campaign do alone."

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