

### Has Twitter Lost its "Tweet"?

October 2, 2009

Has Twitter lost its "tweet?" Twitter recently filed for federal trademark protection for the mark "tweet," only to have the United States Patent and Trademark Office ("USPTO") preliminarily deny the application.

Although the term "tweet" has been popularized by the trendy microblogging site, three other companies beat Twitter to the punch and filed trademark applications before Twitter. Each application contained the word "tweet," namely for the marks CoTweet, Tweetmarks, and TweetPhoto. The applications that preceded Twitter's application for "tweet" were filed only weeks (between March 19 and March 29 of 2009) before Twitter filed its own application for the "tweet" mark (April 16, 2009). While Twitter may ultimately prevail in its attempts to federally register its "tweet" mark, for the moment, Twitter must decide how to respond to the objections raised by the USPTO. Some of the alternatives, which could include filing oppositions to the cited marks, may be costly.

While there are many factors to consider in filing for federal trademark protection, the situation faced by Twitter underscores the importance of devising a trademark protection strategy even before using a mark. Federal registration may be an option for those who have a bona fide intent to use a mark. A trademark protection plan should then be periodically revised to reflect the goals and strategic interests of the trademark owner.

For more information on protecting your trademarks or devising a trademark protection strategy in the United States or abroad, contact:

Kristen I. Spano  
313.496.7562  
spano@millercanfield.com

Catherine T. Dobrowitsky  
(313) 496-8429  
dobrowitsky@millercanfield.com

or one of our other Miller Canfield Trademark attorneys.

---