

**BEFORE the FEDERAL TRADE COMMISSION**  
**TEXTILE RULES PART 303 PROJECT NO. P948404**

**COMMENTS**

1. I agree with the proposal to eliminate the use of paper notification to FTC when using a house mark in lieu of the business name.
2. I disagree with the proposal to allow any word trademark to be used in lieu of a business name. My disagreement stems from my understanding of a housemark and the assumption the wordmark is unique. I understand a housemark to be a trademark that represents a line of product or source of an individual product. A word mark may represent a single product line and may be very similar to other word trademarks which would be confusing to consumers. The presence of a housemark with a trademark provides clarity to a consumer.

As an example of the use of the house mark to avoid confusion, I reference section B.9. from the opinion *Kate Spade LLC vs Saturdays Surf LLC* (case number 1:12-cv-09260 US District Court for Southern New York)

"After considering and weighing each of the Polaroid factors, I conclude that Saturdays Surf NYC has not shown a likelihood of confusion by a preponderance of the credible evidence. I am particularly persuaded by the relative weakness of the word that the two marks share, the significant distance between the men's and women's products, and **the consistent inclusion of the famous house mark**, Kate Spade, in its Kate Spade Saturday mark." (emphasis added)

This is the trademark in question. The mark in question is "Saturdays" versus "Saturday".



My second concern is the assumption that a word mark is unique. The intent of the trademark law is for marks to be unique and assigned to a business owner. But as the above case illustrates, marks are under assault and the mark's owner must litigate to enforce their ownership. This means that under the proposed rule a mark can be under litigation for infringing another business's mark and still be used on the textile label. This would lead to an inability of the consumer to search online for a mark to ascertain the business owner. True, a similar conflict can occur with a house mark, but a house mark is more uniquely associated with a business and less likely to be imitated. Using a housemark balances the Commission's mission to protect consumers and its desire to provide flexibility to the business.

Thank You for considering these Comments,  
Jonathan Appelbaum