

## What's in a Name?

Written by Jay Beskin, BT Contributor  
May 2019

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### Be proud of the Aventura brand



Companies don't like it much when you use their names for your own purposes, especially if those purposes include puffing up your ego or your wallet. They are likely to sue the pants off you, and what good is a fat wallet without pants to hold it?

So for example, if you put together a nice series of basketball films, you probably don't want to name it something catchy like "Netflix." Felicity Huffman is in enough trouble for poisoning the Ivy League, but if, as the wife of William H. Macy, she decides to open a chain called Macy's, she would likely encounter even more turbulence.

Even if you don't use the name exactly, recognizable appropriations of the branding will still be actionable in the eyes of most judges. If you set up a website with racy photographs and call it Go Ogle, Google will no doubt chew you up for breakfast and spit you out for lunch; by dinnertime you will be firmly ensconced at the local soup kitchen.

You might recall that some clever character decided to market kosher hamburgers under the banner of MacDavid's, and Ronald MacDonald failed to see the humor, ultimately obtaining a court injunction instructing MacDavid to cease and, furthermore, to desist. And if they insist you desist, you don't resist and you don't persist.

There was even a lawyer in New Jersey named Brown who tried to use the UPS marketing slogan "What can Brown do for you?" He was slapped with a lawsuit until he was black and blue.

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Our president, whether you endorse his policies or (like me) not, is a master at creating and protecting a recognizable brand. Arguably, he has proved that a business brand can be turned into a political brand. Indeed, Mr. Howard Schultz, the coffee salesman, considering a presidential run, may well be kicking himself for naming his chain of stores Starbucks. Had he called them Schultz (yes, but would you buy a coffee called Schultz?), he might have the kind of brand recognition that would translate into victories at the ballot box. Instead, the Trump golf course guy is puttering around the White House Rose Garden while the coffee guy daydreams in Seattle.

Part of Trump's success with his name brand is attributable to his fierce and litigious protectiveness. Here in Aventura, the Williams Island development on 84 acres was the work of another Trump family, Orthodox Jews transplanted here from South Africa. Shortly after they began the project, they were surprised to be served papers for a lawsuit by one Donald J. Trump, accusing them of using his name without authorization or recompense.

The suit eventually sputtered ineffectually (pause here to imagine DJT's reaction) to a halt when the defendants demonstrated that their name back in South Africa was indeed Trump.

All of which brings us to Honda of Aventura and Aventura Chrysler Jeep Dodge Ram, two side-by-side car dealerships located along NE 163rd Street in North Miami Beach. I don't mean to single them out; there are other shops using Aventura in their names without being located inside the city limits of Aventura, but these two are the most noticeable because of the wide expanse of their lots. We ask a simple question: Are they benefiting from the Aventura brand to make a profit inside a different tax district?

The City of North Miami Beach has been around since 1926 and was given its current name in 1931. Aventura was incorporated in 1995, with a definite idea of fashioning a more upscale image, and many of its original residents viewed it more as "not North Miami Beach" than almost any other identity. So to see a large sprawling display of automobiles in the heart of North Miami Beach under the banner of Aventura seems like a thumb in the eye of the City of Excellence as it approaches its quarter-century mark.

In legal terms, a city does not have ownership over its name in a copyrightable way (this is not intended as a legal opinion, just sharing the general impressions of the broader populace).

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Government logos and slogans can be protected to a certain extent, but the name is held to be fair game. There must be New York delis all over the country, as well as Chicago pizza shops. We even have a store in Miami named Manhattan Chicago Pizza. A name like Aventura, a Spanish word meaning adventure, can hardly be monopolized by one location. Indeed, there is a big car dealership in the Hamptons, the tony Long Island vacation spot, known as Aventura Motors, and they certainly were not trying to evoke the vibe of a city in Florida.

Still, it opens up an interesting area of law and ethics to ponder. If one city works hard to create a successful brand, connoting excellence or luxury or neighborliness or all of the above, should it be entitled to some degree of ownership of that name?

Libertarian types like to complain that government gets to function without many of the constraints of business, even that a government's control of making the rules for business can be corrupted to give itself unfair advantages. In 2016, for example, when poor federal land management resulted in a nasty oil spill, there were none of the punitive consequences attendant to British Petroleum's oil spill a few years earlier. We get the problem in that, but do we ever consider that government may have some unfair disadvantages as well?

In fact, a few weeks ago, someone correctly pointed out that Trump golf courses shouldn't be selling White House replicas. This certainly gives an unseemly impression of cashing in on the presidency. But what about the flip side? Why should *anyone* be allowed to market White House replicas without paying a royalty to the federal government?

I wish the Aventura car guys well in North Miami Beach, but picture the following absurd scenario: Someone contracts with Honda for a dealership in Aventura, then applies to the State of Florida for a business license as Honda of Aventura. The state sends back a refusal for the application, because the name is taken already -- by a dealership in North Miami Beach! He can choose to reapply under a new name, such as...Honda of North Miami Beach!

As an Aventura resident and a former commissioner, I am proud that we have created this kind of brand, enough that using Aventura in a venture brings *ventura*, or good fortune. We cannot control how it is used beyond our borders, but let's be sure to keep up the good image at home.

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