

Ethics and Law Firm Trade Names

Tennessee Intellectual Property Law Association

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TN Rules of Professional Conduct

Rule 7.5: Firm Names and Letterheads

- (a) A trade name may be used by a lawyer in private practice.
- Comment 1: A firm may be designated . . . by a trade name such as the “ABC Legal Clinic.” A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation.
- Effective March 1, 2002

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Patent and Trademark Office Code of Professional Responsibility

10.35 Firm names and letterheads.

- (a) A trade name may be used by a practitioner in private practice
 - if it does not imply a current connection with a government agency or
 - with a public or charitable legal services organization

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Examples of IP Trade Names

- **A Law Firm, P.C.** **Aileen Law**
- **Chuck-full of Ideas** **Chuck Bagg**
- **Eufra Patent Services** **Eustace Franklin**
- **Pats Pending** **Patricia Costanzo**

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Who Uses Trade Names?

- Newly registered
- Patent Agents
- Small firms and solo practitioners

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More Examples of Trade Names

- Advantage IP Law Firm
- Focus on Patents Inc.
- IP Strategists, LLC
- IP Support Services, LLC
- Invent Capture, LLC

- **Patents on Demand, PA**
- **QuickPatents, Inc.**
 dba Dirt Cheap Patents

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Tennessee Rules of Professional Conduct

CHAPTER 7 INFORMATION ABOUT LEGAL SERVICES

Rule 7.5

FIRM NAMES AND LETTERHEADS

- (a) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and if it does not otherwise violate Rule 7.1.
- (b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.
- (c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.
- (d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

COMMENTS

[1] A firm may be designated by the names of all or some of its members, by the names of deceased or retired members where there has been a continuing succession in the firm's identity, or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Although the United States Supreme Court * has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven to be a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

[2] Paragraph (c) does not require a change in a law firm's name or letterhead when a member of

the firm interrupts his or her practice to serve, for example, as an elected member of the Tennessee General Assembly so long as the lawyer reasonably expects to resume active and regular practice with the firm at the end of the legislative session. Such a hiatus from practice is not for a substantial period of time. If, however, a lawyer were to curtail his or her practice and enter public service for a longer or indefinite period of time, the lawyer's firm would have to alter its name and letterhead.

[3] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, "Smith and Jones," for that title suggests partnership in the practice of law.

* TAK Note: *Friedman v. Rogers*, 99 S.Ct. 887, 440 U.S. 1 (1979), held that it is constitutional for a state to prohibit the practice of optometry under a trade name.

PTO Code of Professional Responsibility

Title 37, Code of Federal Regulations

§ 10.31 Communications concerning a practitioner's services.

(a) No practitioner shall with respect to any prospective business before the Office, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any prospective applicant or other person having immediate or prospective business before the Office.

(b) A practitioner may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the practitioner's practice before the Office.

(c) Unless authorized under § 10.14(b), a non-lawyer practitioner shall not hold himself or herself out as authorized to practice before the Office in trademark cases.

(d) Unless a practitioner is an attorney, the practitioner shall not hold himself or herself out:

(1) To be an attorney or lawyer or

(2) As authorized to practice before the Office in non-patent and trademark cases.

[Added 50 FR 5177, Feb. 6, 1985, effective Mar. 8, 1985]

§ 10.35 Firm names and letterheads.

(a) A practitioner shall not use a firm name, letterhead, or other professional designation that violates §10.31. A trade name may be used by a practitioner in private practice if it does not imply a current connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of §10.31.

(b) Practitioners may state or imply that they practice in a partnership or other organization only when that is the fact.

[Added 50 FR 5177, Feb. 6, 1985, effective Mar. 8, 1985]