

ABOUT BRANDS UNDER ATTACK

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FEUDS OVER FAMILY NAME: WHY A SINGLE OWNER CON- SOLIDATION IS A MUST (PART III)

In our third and final commentary on the subject of Feuds over Family Name as a Brand, we revisit *Miranda v. Miranda*. Brand management like a good lawn requires constant maintenance.

Background

Father and son battled over rights to the family name MIRANDA for their respective window and door installation businesses.

Where the family name is a business brand, its use in a trademark sense may form a basis to prevent competitors from using conflicting trademarks or trade names to try to benefit from the business' reputation.

Lessons Learned

In the *Miranda* case, the son was able to retain his rights to the trademark MIRANDA. In addition to using MIRANDA in a trademark sense, the son had also secured a federal trademark registration for it. Furthermore, the son obtained a transfer of another family member's MIRANDA trademark and trade name rights, thereby consolidating those rights for his own business.

Fighting related family members is not the only feud the family name brands must

face. The MIRANDA mark, like any family name brand still faces challenges in 2020 from other companies in the home renovation business. *A suivre.*

This case illustrates a key business strategy which brand owners must keep in mind in case of brand warfare: When it comes to family names as brands in Canada, from McDonald's to Birkenstock, there is no room for multiple family branch usage. To remain unique, the family brand must be consolidated with one owner.

In addition to using the brand in a trademark sense, it is also important to take the appropriate legal steps at the appropriate time to confirm and preserve those rights in the brand owner's name.

For more information on this, please contact a member of our team at:
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Disclaimer:
This briefing note is not legal or professional advice.

ABOUT US

OLLIP P.C. is an intellectual property agency and law firm with offices in Ottawa and Toronto, Canada.

We are the authors of the leading treatise *Odutola on Canadian Trademark Practice: Vol. I Prosecution and Vol. II Opposition, Summary Cancellation and Appeals*, published by Carswell, a Thomson Reuters Business. Now in its 15th year, it is relied on by the Courts, the Trademarks Office and the trademark profession.

OLLIP P.C. has one of the few lawyers who have been certified by the Law Society of Ontario as dual specialists in trademark and copyright law.

From advice, creation to enforcement - from brands, technology to copyrights - for over 24 years, successful businesses and their counsel have relied on us.

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