Of Marks & Minors

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A number of celebrities have registered their babies' names as trademarks for various goods and services; parents of rising star athletes have done the same for their minor kids, especially in sports like tennis. The USPTO requires that a trademark that comprises the name of a living person can only be registered if their consent is made of record, but parents can consent on behalf of children. Meanwhile, it is a basic principle of contract law that contracts with minors are voidable by those minors. But USPTO does not appear to have any mechanisms in place for a child who no longer consents to the use of their name as a mark and would elect to void the trademark consent. That's probably because the potential for revoking consent is in tension with trademark doctrines and could subvert consumer expectations. For example, if Jay-Z and Beyonce start a fashion line called BLUE IVY when their daughter Blue Ivy is 2 years old, consenting on her behalf to the use of her name, and she revokes consent at age 17, it disserves the goals of trademark law for her parents to abandon a brand name with 15 years of goodwill. This essay will explore this contradiction, which is one that is likely to come to a head in the next few years as celebrity children and celebrities who are minors approach the age of majority. It proposes several possible solutions that seek to balance those children's interests with the interests of mark owners and consumers, including imposing specific requirements on parents registering their children's names as marks or barring registrations that use minors' names.