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Distinctly Personal: Trademarks in Individual Names

This paper considers the trademark status of individual persons' names. While the TTAB has, in recent years, treated full names as inherently distinctive for registration purposes (and more recently, for opposition purposes as well), even the TTAB's standards are not entirely consistent. In addressing trademark rights in full names under common law (and section 43(a)), most circuit courts hold that full names are not inherently distinctive, and thus require proof of secondary meaning. This paper evaluates these two approaches, and considers the potential for conflict when the validity or strength of a registered personal name mark is challenged in a district court. The paper also considers the meaning of distinctiveness and secondary meaning as applied to individual names.