

Section 32 (codified as [15 U.S.C. 1114](#)) is the basic statute governing trademark infringement of registered marks. If you use a mark in commerce that is confusingly similar to a registered trademark, you may be civilly liable under section 32. This section describes how to determine infringement, what the remedies are, and what defenses are available.

Section 43(a) [codified as [15 U.S.C. 1125\(a\)](#)] is the "false designation of origin" statute. If you use a mark in commerce that is likely to cause confusion or deception as to affiliation, association, origin, or sponsorship with another trademark, you may be civilly liable under section 43(a). Section 43(a) does not require that any of the marks be registered.

Section 43(c)[codified as [15 U.S.C. 1125\(c\)](#)] is the "anti-dilution" provision. This section allows the owner of a *famous* trademark to prevent use of the mark by junior users whose use "dilutes" the distinctive quality of the famous trademark. In other words, if someone tries to sell "KODAK pianos," KODAK could stop the person -- even if consumers were not confused -- because KODAK is a famous mark, and its use on products other than film and film-printing accessories (or other products on which Eastman Kodak places the mark) dilutes its uniqueness.

The ACPA [codified as [15 USC 1125\(d\)](#)] prohibits "cybersquatting" and lists the elements and defenses to a civil claim against a domain name holder.

If you identify the statutory provisions on which your opponent relies, you can begin to get a feel for whether the C&D has merit. For instance, if your opponent relies on section 32, but does not disclose a registration number, your first question is: does your opponent have a registered mark? If not, it has no claim under section 32.

Topic maintained by [George Washington University Law School](#)

[Chilling Effects Clearinghouse - www.chillingeffects.org](#)
[disclaimer](#) / [privacy](#) / [about us & contacts](#)