



TTAB Prohibits Trademark Registration With US Flag Design

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This article explores a recent Trademark Trial and Appeal Board (TTAB) ruling, which reinforced that the benefits of federal registration may not be available to trademarks that incorporate flag designs.

In *In re Alabama Tourism Department*, the Alabama Tourism Department (ATD) applied for a trademark registration of a mark that incorporated a design of the US flag. To determine whether to register the ATD's mark, the TTAB considered factors raised under Section 2(b) of the Lanham Act, which prohibits registration of a mark that "consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality...or any simulation thereof."

Several of the factors examined by the TTAB include whether the flag would be perceived as a simulation of an actual flag, significant features of the US flag are missing or changed, and the design is obscured by words or other designs, or is not in the typical shape of the US flag. The ATD argued that the flag design in its mark was missing significant features of the US flag, formed another design, was obscured by other designs and was not in the typical shape of a US flag.

The TTAB ultimately rejected the ATD's argument and affirmed its refusal to register the mark, concluding that the flag design "shown in the proposed mark is not sufficiently altered, stylized or merged with the other elements in the mark, so as to create a distinct commercial impression, other than as a simulation of the [US] flag."

Read "[US: TTAB prohibits registration of mark with US flag design](#)," in its entirety.

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