

Is Offering of a Service Use of a Mark?

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This article highlights how in *Couture v. Playdom, Inc.*, the US Court of Appeals for the Federal Circuit addressed for the first time whether a trademark applicant's offering of a service, without actually providing such services, is sufficient to constitute use of a mark in commerce. Citing past precedent, the court held that "without question, advertising or publicizing a service that the applicant intends to perform in the future will not support registration" and instead such advertising "must relate to an existing service which has already been offered to the public" The decision highlights the importance of making sure services are actually being rendered under an applied-for mark before claiming a date of first use of such mark in a trademark filing.

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Karen Artz Ash

+1.212.940.8554

karen.ash@katten.com



Bret J. Danow

+1.212.940.6365

bret.danow@katten.com