

How Can You Trademark a Mitzvah?®

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How can you trademark a Mitzvah? At this time of the Jewish New Year, I thought I should report to the intellectual property community on this important question.

As we all know, mitzvot are to be shared, one good deed leading to another, not to be monopolized. And yet, American trademark law enables each of us to obtain exclusive rights to particular Mitzvot. In the past five or six years, for example, the U.S. Trademark Office has awarded federal trademark registrations for Mitzvah Kitz® (for Judaic gift packages), MitzvahVision® (for Bar and Bat Mitzvah instructional videos), Mitzvah Ball® (for social events for Jewish adults), and Mitzvah Mensch® (for fundraising services), among others. Start your own Mitzvah Farm to produce kosher meats, cheeses, or milk, and you may well be infringing the exclusive trademark rights of Mitzva Farms® in Waukon, Iowa.

It looks like more and more Mitzvah trademarks are being grabbed every day. According to the Trademark Office's database, the Office is getting close to granting registrations for SpaMitzvah bath and beauty products, Mitzvah Pens, the RockMitzvah band, and (I'm not kidding) Bark Mitzvah for the laudable service of "conducting parties for the purpose of dating and social introduction for pets."

No, Mitzvah trademarks are not reserved for the Jews. One company is well along in the process of registering Mitzvah Earth as a trademark for dozens of houseware items, including Christmas tree ornaments and figurines. Since I'm pretty ecumenical in my own view of mitzvot, I view the broad dissemination of Mitzvah marks as a good thing. There are, after all, plenty of Mitzvot to go around.

But, and here comes the moral of the story, not every Mitzvah is successfully registered. Under U.S. trademark law, as in Judaism, Mitzvah® privileges come not from talk but from action. In recent years, the Trademark Office had provisionally approved registrations for such products and services as Mitzvah bicycles, Mitzvah plush toys, Mitzvah Loans, and Mitzvah Mortgages. Each of these Mitzvah applications was submitted on an "intent to use" basis, which means that the applicant declared that he or she had a *bona fide* intent to use the mark in commerce. But these registrations were never issued because the applicants never followed through on their best-laid plans. And so, sadly, the Trademark Office database lists these Mitzvot as "abandoned."

Whether mitzvot are gifts from God or folkways of the Jewish people is a question about which the Trademark Office is properly agnostic. Either way, you get the benefits of a Mitzvah®, whether in the Trademark Office or in the wider world, only when you stop talking and actually do the deed.