

Trademark Law and Internet Branding

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October 11, 2018



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Disclaimers

- While this presentation contains general legal principles, it is not to be understood to provide legal advice on any specific case or dispute. What is appropriate legal advice in one situation may not be appropriate for another.
- In addition, the legal principles set forth in these materials are subject to change and are not necessarily uniformly applied by every court. Rather, they are general principals followed by most courts in most states. In the event that a specific dispute or legal issue arises, you should contact your attorney.

Trademarks

Trademarks include:

- Brand names
- Logos
- Slogans
- Jingles



Source Identifiers

- Trademarks help consumers know who makes the product or provides the service
- And they help consumers recognize the quality of the product
 - Cheerios -- every box will taste essentially the same every time
 - Mercedes -- likely higher quality than a Hyundai

Trademark Infringement

- Direct copying
 - “Rolex” knockoffs
- Similar marks – tricking consumers who aren’t paying close attention
 - “Mercedez” vs. “Mercedes”

McDowell's vs. McDonald's



Penalties

- Pay all of the money you made from sales while infringing
- x3
- Plus attorney's fees

Domain Names

- Cybersquatting
 - AmericanAirlines.com
 - Competitor.net, -.org, -.biz

SEO / Metatags / Keywords

- #1 on Google searches
- Search Engine Optimization (SEO)
- Words visible on your website
- Metatags
- Google Ads / Google AdWords

Google: Charleston Hotel

Browser window showing a Google search for "charleston hotel". The search results page displays a map of Charleston, SC, and a list of hotels with prices and ratings. A notification bubble on the right says "Google recommends using Chrome. Try it?".

Search results for "charleston hotel":

- About 52,900,000 results (0.70 seconds)
- Map data ©2018 Google
- Filters: Sun, Oct 28; Mon, Oct 29
- Categories: TOP CHOICES (Based on your search, price...), GUEST FAVORITES (Rated 4.0+), BUDGET OPTIONS (Lowest-priced hotels)
- Hotels listed:

Hotel Name	Price	Rating	Star Rating	Reviews	Hotel Type	Quote
Holiday Inn Charleston-Riverview	\$102	3.9	3-star	(842)	High-rise hotel with scenic dining	"Restaurant could use a little help with both quality of food and service."
The Vendue Hotel	\$189	4.4	4-star	(630)	Elegant quarters in a historic building	"Great room, staff, food, and service."
Comfort Inn Downtown Charleston	\$104	3.7	3-star	(583)	Casual hotel with pool & free breakfast	"Good clean room, very comfortable bed I wanted to stay a sleep and nice staff."

[View 147 hotels](#) About these results

THE 10 BEST Hotels in Charleston, SC for 2018 (from \$76) - TripAdvisor
https://www.tripadvisor.com/Hotels-g54174-Charleston_South_Carolina_Hotels.html

Google: Hilton Charleston Hotel

The image shows a Google search interface for 'hilton charleston hotel'. The search results page displays several options, including the official Hilton Charleston website, a map of Charleston, SC, and a list of hotel listings with their respective prices and ratings.

Search Results:

- Hilton® Charleston | Official Site | hilton.com**
www.hilton.com/Official_Site/Charleston (877) 214-6722
Enjoy a Relaxing Stay at a Hilton® Hotel In Charleston. Reserve Your Room Today! Lowest Rates Online. Sign Up For Free & Save. Honors Save Up To 5% Brands: Hilton, DoubleTree, Hampton, Garden Inn, Waldorf, Homewood, Curio, Conrad, Home2, Embassy Suites.
- Specials & Packages**
Learn More about Hilton Specials & Packages. Enjoy the Benefits Today!
- Join Hilton Honors**
Join Hilton Honors Today! Earn Free Stays at Over 4,600 Locations.

Map: A map of Charleston, SC, showing the location of several Hilton hotels: Embassy Suites by Hilton Charleston (\$185), Hilton Garden Inn Charleston (\$169), and DoubleTree by Hilton Hotel & Suites (\$197).

Hotel Listings:

- DoubleTree by Hilton Hotel & Suites Charleston - Historic District** \$197
4.2 ★★★★★ (571) - 3-star hotel
Elegant lodging with on-site lounge
DEAL 16% less than usual
- Hilton Garden Inn Charleston Waterfront/Downtown** \$169
4.3 ★★★★★ (340) - 3-star hotel
Waterfront hotel with free WiFi & a pool
Free Wi-Fi
- Embassy Suites by Hilton Charleston Historic District** \$185
4.0 ★★★★★ (477) - 3-star hotel
Upscale hotel with pool & free breakfast
Free Wi-Fi Free breakfast

Additional Results:

- Charleston Place Hotel | Luxury Hotel | belmond.com**
www.belmond.com/charlestonplace
Luxury downtown hotel with rooftop swimming pool and spa. Book Today! Book Online: Gift Cards Available. Highlights: Offering Warm Welcome, Delivering Contemporary Luxuries.
205 Meeting St, Charleston, SC
- Homewood Suites By Hilton Hotels in Charleston, SC (\$56+)**
www.hotelplanner.com > South Carolina (SC) > Charleston
We list the best Homewood Suites By Hilton Charleston hotels/motels so you can review the Charleston Homewood Suites By Hilton hotel list below to find the ...
- Charleston's Best Hotels | Your Official Charleston Hotel Guide**
https://www.charlestoncvb.com/plan-your-trip/odding-123/hotels-8477
Our prized Charleston hotels present you with amenities that include world-class spas, ...
DoubleTree by Hilton Hotel & Suites Charleston - Historic District
- Hotel Homewood Suites By Hilton Charlesto, Charleston, SC ...**
https://www.booking.com > Charleston Area > Charleston Hotels > Historic District
★★★★★ Rating: 9/10 - 419 reviews - Price range: Prices for upcoming dates start at \$152 per night (W/ Price Match)
Homewood Suites by Hilton Charleston Historic District is located in Charleston
- Hotel Embassy Suites by Hilton Charleston, Charleston - trivago.com**
https://www.trivago.com > Hotels in Charleston
★★★★★ Rating: 8.4/10 - 1,108 votes
A modern, family friendly hotel minutes from Interstate 77, the Embassy Suites by Hilton Charleston offers a complimentary shuttle to Yeager Airport, a 15-minute ...

Tipsy Elves v. Ugly Christmas Sweater, Inc.

The image is a screenshot of a Google search page for the query "tipsy elves". The search bar at the top shows the Google logo and the search term. Below the search bar, there are navigation tabs for "All", "Shopping", "Images", "News", "Videos", "More", and "Search tools". The search results indicate "About 316,000 results (0.82 seconds)".

The first search result is a sponsored advertisement for "tipsyelves.com - Tipsy Elves® - Official - #1 in Ugly Christmas Sweaters". The ad includes the URL "www.tipsyelves.com/", a phone number "(877) 578-0702", and a description: "Buy Funny & Ugly Holiday Sweaters. As Featured On TV's Shark Tank. As seen on TV's Shark Tank · Free Shipping on \$60+ · Perfect for Holiday Party · Easy Fast Returns Excellent Shopping Experience – Google Trusted Stores". Below the ad are four categories: "Ugly Sweaters: Men's", "Men's Christmas Suits", "Ugly Sweaters: Women's", and "Holiday Joggers: Women's".

The second search result is another sponsored advertisement for "Tipsy Elves - Sweaters for Men & Women - uglychristmassweater.com". The ad includes the URL "www.uglychristmassweater.com/ugly/sweater", a description: "Large Collection of Funny Sweaters & Leggings. Free Shipping & Fast Delivery Truly Unique Gift - Custom Sweaters", and a list of types: "Types: Sweaters, Jackets, Leggings, 3d Sweaters". It also lists "Men's Christmas Sweaters · 3d Christmas Sweaters · Star Wars Sweaters · Santa Sweaters".

On the right side of the page, there is a "Shop for tipsy elves on Google" sponsored section. It features a product image of a green sweater with a white graphic, titled "Ugly Christmas Sweaters - Men's Happy Birthday Jesus Sweater: Medium by Tipsy Elves" for "\$54.00" with a "Tipsy Elves" logo and a 5-star rating from 200 reviews.

Below the shopping section is a "Tipsy Elves" company profile. It includes the company name, logo, and a description: "Tipsy Elves is a holiday-themed apparel company. It sells holiday sweaters and other holiday-themed items through its website and other online vendors, and donates part of each sale to charity. Wikipedia". It also lists "Founded: 2011", "Headquarters: San Diego", and "Founders: Nicklaus Morton, Evan Mendelsohn".

At the bottom of the search results, there are two more categories: "Sweaters" and "American Flag Clothing".

Generic and Descriptive Trademarks

- Generic
 - “Peanut” brand peanuts
 - Unprotectable
- Descriptive
 - “Salty” brand peanuts
 - “Ugly Christmas Sweater” brand Christmas sweaters
 - Only protectable if have “secondary meaning”
 - Southeastern Fertility Center

How Do I Get a Trademark?

- Registration not required – but is important
 - Gives statewide or national protection
 - Gives presumption of ownership
 - Provides constructive notice
 - Searchable
- Registration may be rejected

Questions

- Any questions?