

# Can an Apostrophe Save a Trademark Application?

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A Philadelphia deli is hoping that an apostrophe can save its [trademark application](#). Campo's Deli at Market is appealing a Trademark Trial and Appeal Board decision that denied its trademark [application](#) for the phrase "Philadelphia's Cheesesteak."

The TTAB denied the trademark on two grounds. It first determined that the mark was ineligible for trademark [registration](#) because it was primarily geographically descriptive. It also found that the mark was confusingly similar to the registered marks PHILADELPHIA CHEESESTEAK CO. & Design, PHILADELPHIA CHEESESTEAK CO., and THE ORIGINAL PHILADELPHIA CHEESESTEAK CO.. All of the existing trademarks apply to "prepared foods, namely, meat."

As highlighted by the [ABA Journal](#), the deli places particular emphasis on the apostrophe in supporting its claim that it is not seeking to control the more generic term "Philadelphia Cheesesteak."

"The difference in the two phrases, of course, is an ('s)," the deli maintains, "which demarcates a particular kind of gloriously gluttonous sandwich provided only by the plaintiff—not just a Philadelphia Cheesesteak, but 'Philadelphia's Cheesesteak.' Plaintiff's mark is descriptive of the unique and tremendously delicious goods it offers for sale to the famished masses, and is not, by contrast, an indication of the geographic origin of the sandwich, which would otherwise prohibit registration."

The deli also argues that there is no likelihood of confusion with existing marks because they [apply](#) to meat suppliers rather than sandwich makers.

"There is, accordingly, no likelihood of confusion between the requested trademark for a type of sandwich - 'Philadelphia's Cheesesteak' - and three marks for a company which produces wholesale sliced meat. They have different products, different consumers, and entirely different avenues of commerce," the complaint states.

While the success of the appeal remains to be decided, this case highlights that the validity of a trademark can hinge on something as simple as a punctuation mark. As a result, it is imperative to consult with an experienced trademark attorney before filing your trademark application. We encourage you to [contact us](#) today by phone or email to schedule your free 30-minute consultation.

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