

## TRADEMARKS AND STANDARDS OF IDENTITY ARE VITAL TO THE ALCOHOL BEVERAGE INDUSTRY



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Brand value does not exist without a name and a defined existence. Brand owners in the alcohol industry know this and spend substantial time, effort, and expense designing the perfect product name and logo. Those same industry members also expend considerable resources lobbying the federal government to create standards of identity to assure that specific categories of products meet quality and distinct content criteria; think "Bourbon," "Tequila," and most recently "[Singani](#)" (a Bolivian brandy).

Trademarks build goodwill in the market for specific brands, while standards of identity assure consumers that those brands are what they purport to be. They are integral to the alcohol beverage business, and they often are instrumental in driving consumer choices.

Unfortunately, every year there are dozens of [Lanham Act](#) (15 U.S.C. § 1051 *et seq.*) lawsuits and trademark disputes over alleged misuses of brand names. What are not so frequent but just as important to the health and well-being of the alcohol beverage marketplace, are enforcement actions against industry members who fail to abide by the Standards of Identity rules. Enforcement is supposed to be a governmental function; however, most regulatory agencies lack sufficient resources to police what has become a globalized market for alcohol beverages, especially distilled spirits and wine.

Fortunately, trade associations have helped to fill the enforcement gap. This is especially true in the distilled spirits segment.

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**Case in Point:** The Distilled Spirits Council of the United States ([DISCUS](#)) is America's foremost trade association for distillers, their distilleries, and spirits brand owners. Among its many services to the industry, DISCUS actively monitors spirits marketing activities worldwide to guard against improper trademark applications and inaccurate marketing claims.

DISCUS most recently defended the term "Bourbon" from misuse in France. On March 13, 2024, DISCUS was made aware of a new whiskey distillery in France promoting its new whiskey as "Bourbon type." Under European Union law, companies are prohibited from promoting non-protected products by using references to protected products, such as Bourbon, with indications such as "type" or "style."

On March 20, DISCUS drafted and sent a cease-and-desist letter to the company regarding its unlawful use of the term "Bourbon." Less than 24 hours after sending the letter, the company apologized for using the term "Bourbon," removed all references to the term on its website and external media, and is removing all references to the term from a recent third-party podcast episode.

France and the EU are essential markets for American-produced Bourbon. Continued private enforcement efforts by trade associations like DISCUS help fill the gap by supplementing the more formal actions undertaken by U.S. Tax and Trade Bureau ([TTB](#)) and the Office of the U.S. Trade Representative ([USTR](#)). Working together, these efforts by industry and government are often unknown to consumers but vital to the marketplace.

To learn more about trademarks and standards of identity in the alcohol beverage industry, contact the GrayRobinson national [Alcohol Law Team](#) at [alcohollaw@gray-robinson.com](mailto:alcohollaw@gray-robinson.com).

**[Richard M. Blau](#)** leads the GrayRobinson national Alcohol Law Team, focusing on the laws that govern the production, importation, marketing, distribution, and sale of alcohol beverages throughout America. Richard and his colleagues focus on the rules, regulations, and business practices that govern the marketing, sale, and consumption of international importers and domestic producers, processors and regional distributors, and retailers. Richard has achieved numerous peer-related accolades for his legal work, including **Chambers and Partners** – Nationally ranked as "Band 1" for food and alcohol beverage law; **Best Lawyers® in America** – nationally listed for food and beverage law; and **Super Lawyers** – elected member.

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