

Stella McCartney causes a stink with Mrs Bono over the trademark "NUDE"

Fashion designer [Stella McCartney](#) has fallen [foul of pop singer Bono's wife Ali Hewson with the launch of her new scent "Stella Nude"](#).

McCartney has attracted Hewson's ire as she and her business partner Bryan Meehan already have a company called [Nude Skincare](#), which specialises in natural products. This company apparently owns the "Nude" trademark in the EU for perfumes.

But let's face it, "nude" is a pretty widely used term. It's generically used in life in almost every area. It's [a magazine in the UK](#), a [Radiohead song](#) and even a [brand consultancy](#)!

Obviously, these businesses/pieces of intellectual property must have trademarks for the term "nude" that are not in the world of cosmetics and perfume, meaning that consumers are unlikely to be confused. But should brands be able to trademark terms at all that some might claim are entirely generic?

For example, you can't really have a computer firm called "Computer". Sure, you could have "Dell Computer", where the generic term is part of the trademark, but you can't have that generic word on its own.

Interestingly, there seems to have been a move away from letting firms have complete control over generic terms recently.

Last month, a South African business, Bodetrade, was granted a trademark that was allowed to contain the word "virgin" in its slogan: "You can't be a virgin all your life, it's time." This is the first time a business other than Branson's Virgin Enterprises has been awarded a trademark including the word, apart from olive makers using it to define the grade of olive oil production.

The online website Hotels.com was also dealt a [blow in the US last month as the court of appeal there refused to allow it to register its name as a trademark as the term hotel is seen by consumers as a "generic term" for hotel information and services rather than being seen as a brand name](#). Apparently, Lawyers.com met the same fate.

I polled Gary Johnston, partner at trademark lawyers Mathys & Squire, for his views. He told me:

"The word NUDE is perfectly capable of registration in relation to a wide range of goods and services. It is certainly not generic for "perfumes and cosmetics". It would, by stark contrast, be descriptive and generic for "nude photography services."

"As indicated, Nude Brands Limited have secured exclusive rights to the brand by means of a Community Trade Mark registration. Any third party using that brand or something similar in relation to identical and/or similar goods and services will be infringing it. Merely putting "Stella" before "Nude" does not avoid the issue."

"It would be similar to you using "Ruth Allure" for perfume and thinking you would get away with it – I fear Coco Chanel might have a different opinion."

"The fact that Stella is a famous brand in its own right may be helpful to Ms McCartney; however, it does not deflect the prima facie case against her and the fact that to allow use in this format may undermine and weaken the NUDE brand by dilution."

So it appears that my dastardly plan to launch "Ruth Allure" is doomed to failure too. Any views?



(PS. This ad is for a previous Stella perfume, not the "Nude" variety, despite the model!)
