

Join the national conversation!



Word Generation - Unit 3.2I

Focus Words

trademark | explicit | media | compensation | prior

Weekly Passage

Last April, a restaurant with the name “Rosscoe’s House of Chicken and Waffles” opened in Chicago. But there was a problem. A famous restaurant in Los Angeles had the same name except “Roscoe” was spelled with only one S. In addition to stealing the name, the Chicago restaurant had a logo that was similar to the one used by the original restaurant in Los Angeles. Copying the name and logo was an explicit violation of Roscoe’s trademark, so the Los Angeles restaurant immediately sued for trademark infringement. A Chicago court has ordered the Chicago restaurant to remove the name and logo from its business. The original Roscoe’s restaurant plans to seek money, or compensation, for damages.

A trademark is a word, name, or symbol used by a person or company to identify products and services. In the United States, you have to apply for a trademark which, if accepted, is then registered. Then no one else can use your trademark.

But trademarks can be tricky. The controversy is over how much and what kind of language we can claim as trademarks. For example, you cannot trademark descriptive words or terms like “liquid soap” or a geographic term like “New York” (as in calling your bagels “New York Bagels”). But Snapple was able to trademark the phrase “made from the best stuff on Earth” to describe its juices and other products.

Phrases are also being trademarked. Paris Hilton trademarked the phrase “That’s hot!” as her own personal brand or catch phrase. Boxing

promoter Bob Arum trademarked the phrase “Let’s get ready to rumble” which is a catchphrase used in boxing events. Thus, a trademark can become an explicit and unique mark of a person. The media and internet have gotten these phrases into widespread circulation at a faster rate. But trademarks aren’t new. Trademarks were used centuries ago, prior to the internet and mass media. The companies for the beers Lowenbrau and Stella Artois claim that their logos have been in use since 1383 and 1366 respectively.

What do you think? Should people be able to trademark words, names, or phrases for their exclusive use? Should they do it only for the purposes of selling a product or service? Should trademark applications be decided on a case-by-case basis? Where do you stand?

TEACHER: Discussion Questions

- ▶ According to the passage, what was the dispute about between the restaurants in Chicago and Los Angeles?
- ▶ Can we trademark any word we want? Please explain.
- ▶ Can you trademark a phrase that you use often? Please explain.
- ▶ How have the media and Internet changed how our language is trademarked?
- ▶ Is the idea of trademarking products new?



Unit 3.2I - Should people be able to trademark phrases?

Focus Word Chart (teacher version)

Word	Meaning	Forms			Related Words
		Inflectional	Basic Word Classes	Prefixes/ Suffixes	
trademark	(n.) - a distinctive mark or feature that identifies a person or thing	trademarks (pl.) trademark (v.)			
prior	(adj.) - previous			priorly	a priori
compensation	(n.) - payment	compensates compensated compensating	compensate (v.)	compensatory compensational	recompense
media	(n.) - forms of communication that reach a large number of people	medium mediums			intermediary mass media intermediate
explicit	(adj.) - fully and clearly expressed			explicitly explicitness explicate	implicit

Unit 3.2I - Should people be able to trademark phrases?

Problem of the Week

Option 1: Paris Hilton's life is covered by the **media**. Millions of people have heard her say, "That's hot." In 2007, Hallmark began selling cards showing Hilton saying, "That's hot." A few months **prior** to that, Hilton had **trademarked** this phrase. Trademarks on phrases must be for some **explicit** purpose, and Hilton trademarked the phrase for use on clothing. Nonetheless, she sued Hallmark. She asked for **compensation** based on the profits from the cards.



The Paris Hilton cards sold for \$2.49. If 20% of the price of each card is profit, how much profit is made on each card?

- A) about \$.50
- B) about \$.05
- C) about \$.10
- D) about \$2

Option 2: Paris Hilton was a **media** figure **prior** to **trademarking** the phrase "That's hot." She says that the Hallmark cards are based **explicitly** on her use of the phrase and that she deserves to be **compensated**.

If p = the profit earned on each card, and s = the number of cards sold, which expression represents the total profit earned on these cards?

Answer: ps , or $p \times s$, or $p \cdot s$

Math Discussion Question: Paris Hilton claims that Hallmark violated her **trademarked** use of the phrase, "That's hot." She also claims that Hallmark violated her privacy. Hallmark disagrees. U.S. law **explicitly** gives regular, private people more privacy protection than it gives public figures like Jennifer Lopez, Tiger Woods, or Barack Obama. **Prior** to Hilton's many appearances in the **media**, she may have been considered a regular, private person. However, Hallmark's lawyers argue that she is now a public figure. Therefore, they claim using her image is like using George Washington's picture or the story of Cinderella. Since these items are free for public use, the lawyers argue that Hilton should not get **compensation** for Hallmark's use of the phrase. Do you agree? Is Paris Hilton a public figure?

Should people be able to trademark phrases?

Debating the Issue

1. Get ready...

Pick one of these positions (or create your own).

A You should be able to trademark any word or phrase you want if you make it famous and people start using it in their daily lives. If you trademark a phrase or a word no one can take it away from you.

B You should only be able to trademark a common phrase or word if you are selling a product or service, not an idea.

C People should not be able to trademark words or phrases that are commonly used, such as “That’s hot!” in Paris Hilton’s case.

D Trademarks should be evaluated on a case-by-case basis. If businesses with the same name are in two different cities or even countries, this should not prevent both businesses from using that name. Only if for example, you copy the logo of the company should that be considered an explicit violation of the law.

E _____

2. Get set...

Be ready to provide evidence to back up your position during your class discussion or debate. Jot down a few quick notes:



Be a strong participant by using phrases like these.

I think it's more accurate to say...

That's interesting - can you tell why you think that?

I think the evidence is contrary to what you're saying because. . .

Let me share something from the reading that will help us...

TEACHER

Whatever debate format you use in your class, ask students to use academically productive talk in arguing their positions. In particular, students should provide reasons and evidence to back up their assertions. It may be helpful to read these sample positions to illustrate some possibilities, but students should also be encouraged to take their own positions on the issue at hand.

Unit 3.2I - Should people be able to trademark phrases?

Science Activity



This activity is designed to help you practice thinking like a scientist and to use this week's focus words. Sometimes the data are based on real research, but they should never be considered true or factual.

Professors Kahn and Seemy are amazed by how quickly their students add new phrases to their language. The new words seem to come from **media** like the internet, TV, and movies. When the professors heard that "That's hot" might become a **trademarked** phrase, they decided to explore this idea further. They wondered just how quickly a new phrase could become part of the daily conversation of students at their school.

The Professors gathered 10 students to help invent a new phrase. As **compensation** for their help in the experiment, the Professors bought them pizza. The students invented a phrase that nobody had used **prior** to the experiment, and agreed on an **explicit** definition that all of them understood. Next, the professors found 50 more volunteers to start using the new expression without telling anybody that it was part of an experiment.

Question:

How quickly can a new phrase be introduced into everyday conversations and then regularly used?

Hypothesis:

Within four weeks half the students within a social network will start to use the new phrase in conversations, including use in text messages, blogs, and online social networks.

Materials:

- ▶ 50 students
- ▶ New phrase

Procedure:

1. Determine the new phrase. Gather 50 student volunteers and have them send a text message using the new phrase.
2. Students record the number of times fellow students use the phrase over a four-week time period.
3. Students record the number of different people who use the phrase in their conversations and electronic media over the same four-week time period.
4. At the end of four weeks, gather and analyze all the data.

Data:

	Week 1	Week 2	Week 3	Week 4
# of times phrased used with electronic media	153	375	1071	5362
# of different students who used the phrase	74	137	492	728

Conclusion:

Is the hypothesis supported or not by the data?

Somewhat

What evidence supports your conclusion?

The second row of data shows that 492 different students used the phrase in three weeks, and 728 different students used the phrase in four weeks. The 500 target was almost reached in week 3, suggesting the spread was faster than hypothesized.

How would you make this a better experiment?

Encourage students to consider sample size, number of trials, control of variables, whether the procedure is a true measure of the question, whether the experiment can be repeated by other scientists, data collection and recording systems, and other potential explanations for the outcome. Students should understand that these simple experiments represent the beginning of an exploration, not the end. If time permits, have students suggest how the experiment could be strengthened, emphasizing the use of the target words in the discussion.



Writing Prompt

Should people be able to trademark phrases?

Support your position with clear reasons and specific examples. Try to use relevant words from the Word Generation list in your response.

Focus Words

trademark | explicit | media | compensation | prior

TEACHER

Ask students to write a response in which they argue a position on the weekly topic.

Put the writing prompt on the overhead projector (or the board) so that everyone can see it. Remind students to refer to the word lists in their Word Generation notebooks as needed.

A tool to help you think about your own writing!

Remember you can use focus words from any of the WG Units.

Check off what you accomplished:

Good Start

- ☐ Stated my own position
- ☐ Included 1 focus word

Pretty Good

- ☐ Stated my own position clearly
- ☐ Included 1-2 arguments
- ☐ Included 1-2 focus words

Exemplary

- ☐ Stated my own position clearly
- ☐ Included 1-2 arguments
- ☐ Included 1 counterargument
- ☐ Used 2-5 focus words

» Perry, C. (2008, April 9). Chicken and Waffles Feud. Message posted to <http://latimesblogs.latimes.com/dailydish/2008/04/chicken-and-waf.html>

» Taub, E.A. (2007, September 26). Trademarks can protect your good name. The New York Times. Retrieved from <http://query.nytimes.com/gst/fullpage.html?res=9807E3D71530F935A1575AC0A9619C8B63>

» The Bryant Park Project. (2008, February 21). To trademark a name, or a phrase. National Public Radio. Retrieved on January 2, 2010 from <http://www.npr.org/templates/story/story.php?storyId=19227066>

» United States Patent and Trademark Office (2004, November 8). Basic facts about trademarks. Retrieved on January 2, 2010 from <http://www.uspto.gov/trademarks/basics/index.jsp>

[illegible]