

Protect your brand, and your wallet

ALAN KNOWSLEY
LEGAL MATTERS



IT'S YOUR BRAND, OR IS IT?

One of the first things most new businesses do is choose their "brand".

Some brands might be developed for special occasions. Rainey Collins, for example, turned 100 in March and so we developed a special 100 year logo.

Many people think that once you have your brand it is protected. However, it is not widely known or understood that reserving a company name and obtaining rights to use it with the Companies Office does not give you full and exclusive rights to use it.

The Companies Office, when approving a company name, will approve it on the basis that it is "different enough" from other registered companies. However, its guidelines on what is "different enough" are not the same as assessing whether it infringes another's rights in the name/brand.

For example, although we have operated under the brand RAINEY COLLINS for many years, the Companies Office would allow the incorporation of companies with a similar name. Despite their allowance of these company names, use of them would still be in breach of our trademark.



We are seeing a flurry of new businesses being challenged in their continued use of their company name because it breaches existing businesses' trademarks. These challenges either result in legal fees to defend the brand, or the extra costs involved with re-branding, which can be particularly hard to handle when in start-up mode.

Prior to entering the market, and incorporating your company with your preferred business name, seek advice as to

existing similar or identical trademarks, and have your adviser undertake comprehensive marketplace searches so you can avoid costly challenges to your brand following your significant investment in it.

AVOID COPYRIGHT INFRINGEMENT

In New Zealand, from the moment you create, publish or perform an original creative work it is automatically

protected under the Copyright Act 1994. Generally, you as the author have exclusive rights such as to use, publish, copy or sell your work for the life of the author plus 50 years.

Copyright law prevents others from copying, showing, performing, communicating, or adapting your work, or a substantial part of it, without your permission. Additionally, it also grants you moral rights to object to any derogatory treatment of your work.

If you decide to use a substantial, distinctive, or important part of someone else's copyright work, it is recommended to contact the owner of the copyright work to obtain their written permission before you use it. In some cases the author may require you to pay a fee to license their copyright work for a particular purpose. In some situations permission is not required where the copyright has expired and the work is now in the public domain.

Copyright work can also be used for fair dealing to criticise, review, news report, educational purposes, or private study.

Where copyright has been infringed, courts can grant remedies such as preventing the person from using the copyright work, or making an order to pay damages and account for profits from the misuse to the author.

It is important to remember you cannot just replicate any person's work, because it is protected by copyright. If you are unsure whether you are infringing on copyright you should seek legal advice, as the costs of getting it wrong can be very significant.

Column courtesy of RAINEY COLLINS LAWYERS phone 0800 733 484 www.rainey-collins.co.nz. If you have a legal inquiry you would like discussed in this column please email Alan on aknowsley@raineycollins.co.nz

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From Romania to Mars and here for the stars

ELEANOR WENMAN

As a child in Romania, Haritina Mogosanu would look up at the stars and dream.

Decades later, she never thought it'd be possible she'd end up on the other side of the world, having interned at Nasa, and lived on Mars - or at least on a version of the Red Planet.

"I came here to see the stars," she said, "In particular Canopus, the second brightest star in the sky."

Growing up under communist rule in Romania, Mogosanu was always sure she wanted to learn about outer space.

When she was six, after a few too many questions to her mum, a thick book landed in front of her - a dictionary.

"I was leafing through it and thinking this was 'boring, boring, boring'. [Then] here comes this page that has a picture of the life cycle of a star."

Nowadays, with training as a horticultural engineer and two masters degrees under her belt - one in environmental management and one in international security - Mogosanu calls herself an astrobiologist, not an astronomer.

In 2005, Mogosanu moved to New Zealand and over the last 14 years has worked at both the Carter Observatory in Wellington and the Ministry for Primary Industries.

In 2011, as part of a team sent from the Romanian Space Agency, Mogosanu was sent to a fake version of Mars, in the Utah desert.

There she found a landscape straight out of a sci-fi movie, and a 10-metre habitat where the aspiring astronauts live and work in a simulated Mars environment for two to three weeks.

"I'm a scientist and I don't believe in



Haritina Mogosanu in the replica spacesuits she had to wear every time she left the Mars Desert Research Station hub in Utah.

God. But I got there to this place and it completely changed my life. I started thinking 'what's the meaning of life? What am I doing here?'"

She also came away with a different view on humanity: on artificial Mars everyone was there out of curiosity.

"There were people from all religions, all beliefs," she said. "It showed me that was the future of humankind. In collaboration."

Since then, she's returned a handful of times.

She's used her Mars experience to springboard outreach programmes for kids through Carter Observatory, although often their most burning questions centre around how someone uses the toilet on Mars.

"[Still], I think it's the duty of all of us and especially science communicators, to say science is the common language of people. We can all speak science."