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Best Buy vs. NewEgg: Who Owns “Geek”?

by Seth Dennis

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There was a time when the term “geek” was used as an insult, but those times are long gone. Today, businesses involved in selling technology and electronics have embraced the geek as a shepherd of the masses, here to guide you into the digital age. Today’s geek has upgraded to contacts and ditched the pocket protector.

Last week, Best Buy issued a cease and desist letter to the online electronics retailer NewEgg.com over NewEgg’s use of the word “geek” in its advertising campaign. Best Buy stated that it had offered electronics service “under the ‘Geek Squad’ mark and orange-and-black Geek Squad trade dress since 1994.” Further, Best Buy stated that it “used its Geek Squad mark in connection with a power button design with a necktie forming the vertical line.”

NewEgg’s offense that led to the C&D was using the phrase “Geek On” with a power button symbol replacing the “O.” NewEgg’s ad also occurs in a black and orange font. Best Buy’s C&D letter also referenced a recent television ad by NewEgg that features a customer asking questions to a befuddled store employee that bears a striking resemblance to a Best Buy employee, only to receive no answer. My guess is that NewEgg’s jab at Best Buy was the real impetus for the C&D.

In support of its claim, Best Buy states that it has spent a significant amount of time and money building up the goodwill associated with its Geek Squad service. I do find goodwill to be an odd way of characterizing the Geek Squad service, though. Perhaps some may find it useful, but the only thing I know their service for is when it comes up in the news for stealing data and personal information from its customers’ electronic devices, or charging consumers to perform ridiculous tasks, such \$150 to “set-up” 3D glasses (hint: the only set-up needed for 3D glasses is turning them on).

At any rate, Best Buy claims that NewEgg’s use of the word “geek” with an orange and black color scheme will confuse consumers and dilute the distinctive quality of the mark. As a result, Best Buy is demanding that NewEgg stop using the Geek On logo and refrain from using any mark combined with the word “geek” in an orange color scheme or a power button design. Best Buy would also like NewEgg to remove its mocking advertisement.

So who owns “Geek”? Obviously, this battle isn’t over just the word “geek,” but the word when combined with another word in an orange font or a power button logo. My initial inclination is to think this will be an uphill battle for Best Buy. In the digital age, “geek” is likely to be considered a descriptive term that may refer to somebody skilled with technology, and consumers seeing that term associated with a business are likely to think that the business is somehow related to technology. There are many companies out there today that use the term “geek” in this manner, either by itself or more commonly combined with another word, to signal to consumers that their business relates to technology. Geek has become used in the electronics industry as “burgers” are used in the food industry. Similarly, the power button symbol has become an increasingly ubiquitous and generic representation for anything associated with electronics or technology. My guess is that if this ever ends up in court, Best Buy is going to have a difficult time showing that combining something with the word “geek” in an orange font or with a power button somehow dilutes its brand. The dilution of those terms and symbols occurred 20 years ago. Best Buy will need to demonstrate secondary meaning, and I think the claim of “Geek combined with any other word in orange font” is just too broad to be capable of secondary meaning. The best that Best Buy can hope for probably is getting NewEgg to change its color scheme, but since NewEgg’s colors have been orange and white for as long as I’ve known, even this may prove to be a challenging task.