

Hashtag or Pound? One Law Firm's Quest to Trademark #law

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by Shannon Bjorklund

How would you pronounce #law? Is it “hashtag law,” as the PTO examiner suggested would be the most common understanding, or “pound law,” as alleged by the unsuccessful registrant of #law as a service mark. And to what does it refer: a hashtag for a social media topic, or a number that can be dialed from a mobile phone to reach an attorney referral service?

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Law firm Pound Law, LLC filed a lawsuit against the PTO and its director, arguing that its application for #law was improperly denied. According to Plaintiff, “the #LAW mark has become widely recognized by the relevant public as a distinctive brand and as a mnemonic/vanity telephone number mark uniquely associated with the services of Morgan & Morgan,” because Plaintiff spent “hundreds of millions” of dollars advertising it since 2006. Notably, this #law apparently only applies to telephone calls made on a mobile phone; it does not work on landlines, and the firm uses the website “www.forthethepeople.com” and not either Pound Law or Morgan & Morgan. The examiner, and TTAB, decided that “consumers would not perceive [Plaintiff’s] use of #LAW as a

source indicator but rather only as a means to contact [Plaintiff], based on the manner of use.”

The history of this mark illustrates how quickly technology has unfolded over the past 15 years. Morgan & Morgan allegedly began using #law as a mnemonic and vanity phone number in 2006—the same year Twitter was founded. A few years later, Twitter took off: it had 300,000 tweets per day by the end of 2008, which ballooned to over 50 million tweets per day by early 2010. In 2022, there were over 500 million tweets per day, a non-negligible number of them using #law to identify the subject. A Twitter search renders countless tweets from law firms to law schools, legal consultants, protestors, and coaches using #law. Is Morgan & Morgan’s use really as “unique” and “distinctive” in 2023 as it may have been in 2007?



