

James T. Berger

Expert Witness • Author • Marketing Consultant



Trademark Survey Expert Group Now Offering Services to Law Firms In Common Law Nations

EVANSTON, IL (June 1, 2012) – Trademark survey expert James T. Berger and his research group has expanded globally and is now offering its services to law firms in Common Law nations.

A marketing communications and trademark survey expert, Berger has assembled a team of research professionals and organizations to create and implement trademark infringement and design patent infringement surveys. He believes that his services, heretofore offered only to United States law firms, can provide value to law firms operating anywhere in the Common Law world.

Berger's book (co-written by R. Mark Halligan of the Nixon Peabody law firm), *Trademark Surveys: A Litigator's Guide*, has recently been published by Oxford University Press

"Although courts and laws vary from country to country, we believe the basic principles of trademark infringement are constant throughout the Common Law countries," said Berger. "We believe we can create and implement surveys in the global environment. We also believe we can secure the services of competent market research organizations operating in foreign countries."

"Moreover," Berger continued, "we believe the same high-value, low-cost pricing that we offer to United States law firms can be offered to law firms operating in Common Law countries."

Survey work that Berger's group performs focuses on issues such as: likelihood of confusion, trade dress, secondary meaning, brand distinctiveness, dilution and design patent infringement.

Among global brands and companies represented by Berger include: General Motors Corporation, Reckitt Benckiser, Black & Decker, AT&T, Lucent Technologies, Home Depot, Dioptics Medical Products, Inc., WMH Tool Group and Metso Minerals Industries.

Services performed by Berger's group include:

- Intellectual property surveys, including research design, analysis and interpreting market research data, that test trademark infringement issues such as likelihood of confusion, secondary meaning, trade dress, genericness, distinctiveness and dilution;
- Critiquing surveys on likelihood of confusion secondary meaning, trade dress, genericness, distinctiveness and dilution;
- Intellectual property brand valuation analysis;
- Determining awareness levels of brands;

- Assessing losses in cases where brand equity has been diminished or diluted;
- Consulting on the valuation of intellectual property (see article) for brand acquisition, divestiture and licensing purposes;
- Serving as either a consulting or testifying expert witness, and/or providing assistance with cross-examination strategies for opposing expert witnesses, and
- Determining the extent of liability in cases involving errors and omissions in the creation, production and dissemination of marketing and advertising information.

Berger and his group offer trial lawyers and their clients a unique capability in dealing with marketing- and branding-oriented legal actions. Their services combines the real-world, practical orientation of a professional business person with the theoretical knowledge of the academician.

James T. Berger/Market Strategies, is a full- service marketing company that develops and implements marketing programs for clients including research and strategic analysis, developments of marketing plans and budgets, and hands-on implementation through advertising, public relations, direct mail and online communications.. At the same time, Berger is a faculty member at Loyola University, DePaul University and Roosevelt University where he teaches courses in Market Research, Marketing Management, Strategic Marketing, Selling and Sales Management, Consumer Buyer Behavior and Retail Merchandising & Control.

Berger has implemented nearly 100 intellectual property surveys over the last 20 years. He has testified in court or been deposed more than 50 times. Berger's team includes: two independent full-service research organizations, an intellectual property attorney and a statistical tabulation firm.