

Choose business name carefully

One can work while another brings trouble



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The Courier-Journal

Some people pass down family names to their children. Sue Schofield did the next best thing — she gave her grandmother's name to her Highlands business.

Dot Fox, which opened two months ago to sell clothes by local seamstresses, was Schofield's tribute to her 89-year-old hero.

Checking a name

Before choosing a name for your business, it's important to make sure it isn't already in use.

A few Internet searches can be helpful for finding which names have been formally registered.

Kentucky has a searchable trademark registry on the secretary of state's Web site at www.sos.state.ky.us. Search for federal marks through the U.S. Patent and Trademark Office's home page at www.uspto.gov.

Because a name doesn't have to have a trademark to be protected — it just has to be in use — the registries may not cover all businesses with protected names.

Experts suggest using an attorney to get the best information about whether a name is available. They can help business owners avoid names that are too similar to other names, and thus still protectable.

— *Caroline Lynch, The Courier-Journal*

But for those who haven't been inside to see the clothes and the pictures of Dot Fox, the name can indicate something else.

"When you see the word Dot," Schofield said, "people automatically assume it's going to be followed by a `com.'"

Though she often must explain that she's not a tech start-up, Schofield still loves the name. She's crossing her fingers and hoping that with a little time and brand awareness, others will too.

Naming a small business, as many owners have learned too late, is one of the most important decisions new business owners can make. Names introduce potential customers to the business, are hard to change, and owners usually spend money on business cards,

letterheads or signs even before the doors open.

Those who chose carefully save themselves hassles and money, while others get stuck with monikers that make them miserable, or even worse, land them in court.

So what separates Apple and Amazon from the countless brands that flop before they fly?

Though opinions vary on what's in a great name, experts have found some common ground for selecting a winner.

Louisville's small-business veterans also have insight on what they love and hate about their names.

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Burt Alper, one of the founders of Catchword Branding in Oakland, Calif., said owners should look for a name that grows with the company.

"You want to be careful that you don't pick a name that pigeonholes or overly defines you. It's important to pay attention to what you do today, but what you might do 10 or 20 years from now is also important."

Two decades ago, John and Vicki Hale were comparing names for their gourmet pasta store, when someone threw out Lotsa Pasta. It was short, it was catchy, it was exactly what they did.

Not so, anymore. That small pasta company has a full-scale deli, with fresh breads, sandwiches and cheeses galore. Though Vicki Hale said she still likes the name, she cringes when a customer admits they've shied away from coming in because they're on a low-carb diet.

It helps, at least, that Lotsa Pasta is established: "Hopefully, by now, people know we have more than just pasta."

Like the Hales, most owners begin with a list of names. Alper encourages them to consider what those names might mean in other languages, or to other groups.

Alper also offers a warning about "cute" names — especially ones with odd spellings. They might be memorable or catchy, but owners should be prepared for functional problems.

Jason Greer, co-owner of the Kwik and Gweasy Oil and Tire Center in Buckner, said customers often complain they can't find him in the phone book because they were looking under "Q."

The center got its name before Greer's time. He suspects his father and uncle, who named the business, just wanted something different.

The good outweighs the bad, Greer said, because people remember it, but he wishes it were less cheesy and more professional.

Even correctly spelled names can be confusing. Alper said ambiguous names, like Dot Fox, can work well for the right crowd, but they come with the added responsibility of educating customers.

Schofield said she's considering a tagline for Dot Fox that indicates it's a clothing and accessories store.

She said several friends mentioned it sounded like an Internet company before the store even opened.

"I said, 'You know what? They won't think that for long.'"

Though experts are mixed on the issue, Alper doesn't suggest shopping possible company names to a lot of people. Though some feedback is valuable, he said, people tend to look for what's wrong with every name.

"It's a forced negativity. You'll probably get people saying 'That reminds me of my old high school and I hate my old high school — don't name it that.' Naming is very subjective, and everyone thinks they're an expert."

Rather, offer your name up to experts, or a select few people, and take the answers with a

grain of salt. Large naming firms, such as Alper's, can charge from \$5,000 to \$50,000 to pick names. Some small marketing firms can set up basic focus groups for a few hundred dollars.

A critical step in picking the final name for a business is whether that name is already in use.

By law, if another company was using a name first and your business starts up using the same or a "confusingly similar" name, you can be forced to change it.

Never start spending money or time on a name without checking to see if someone else is using it, Alper said.

Though attorneys can offer additional help, often starting at just a few hundred dollars, new business owners can search federal and state trademark registries online.

Jack Wheat, leader of the intellectual property group at Stites & Harbison law firm, said new business owners can protect their name in their area with a state trademark. Federal trademarks give owners nationwide protection, except in areas where the name is already used.

He added that attorneys often want names to be more specific than marketing professionals, because it's hard to trademark a name that isn't unique, such as Kentucky Fried Chicken.

Schofield, who also owns Cherry Bomb, another Louisville boutique that sells new and vintage clothes, sees the benefit of a federal mark.

She opened Cherry Bomb in 2000. Since then boutiques with the same name have opened in Atlanta; Tulsa, Okla.; and Vancouver, British Columbia. Many of them use the same manufacturers. Schofield has been mistakenly sent clothing orders for the other stores and has had her credit card on file charged for orders she didn't make.

Now, she's Cherry Bomb Louisville.

"I have no regrets, but it's just a bummer they can't keep us straight."

Ellen Shaikun had more serious trademark issues with her real-estate company.

After an extended name search, she opened Opus Properties in April 2001, using attorneys to make sure she wasn't stepping on toes.

She built her business on that name, even giving Opus wine to clients when their deals closed.

Two years later, a letter arrived in her mailbox saying she would have to quit using it.

It turns out a Minnesota company in the commercial building industry had a federal trademark on the name Opus.

It took four months for Shaikun to settle on Opia Properties, because it fit with the logo and sounded similar.

"It was horrible," Shaikun said of the blunder, which ended up costing around \$45,000 to undo. She's not sure what she would have done differently, she admits. Her attorneys were fabulous, and she took the right precautions.

Other very similar names can co-exist, especially if they are in different industries.

Louisville's beauty salon Off Da Hook often gets calls for phone company Off The Hook. Salon owner Johnetta Coleman said it isn't a problem. The calls are just redirected. And their customers know who's who.

Beyond making sure your name is understandable, big enough to grow into and legal, Alper said business owners need to find something that fits them.

For Schofield, there's no better name than her grandmother's. When her mom and stepfather were dealing with Schofield's rebel-rouser siblings, Dot Fox would take care of her.

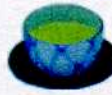
Fox, once a ballroom dancer, was always dressed to the nines. Schofield thinks she's a great fit for the business, because "she the original diva," but offers that it was actually her partner who came up with the idea.

"I said, 'Get out of here!'" Schofield said. "But you know what? It's so perfect."

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