

# INTELLECTUAL PROPERTY

Two brothers opened an ice cream stand in Canton in 1994; they called it the Merry Cow. By 1997 they had franchised Merry Cow stores throughout Maryland and Pennsylvania and the brothers prospered.

The ice cream was tasty and the franchisees signed on for the Merry Cow name, also called a trademark or brand. It identified the stores as the sellers of Merry Cow ice cream.

Merry Cowan opened her first ice cream stand in San Diego in 1997, naming it the Merry Cow. And she also prospered, opening stores in Las Vegas and Scottsdale by 1998. But Merry's advisors were smarter than the brothers' and she registered her Merry Cow mark with the United States Patent and Trademark Office in 1998.

And it came to pass that the brothers expanded their business west, beyond Pennsylvania and Maryland, and Merry expanded her business east. In 2005 the brothers sold franchises in St. Louis and in 2006 Merry, too opened in St. Louis, and when Merry learned of the brothers' St. Louis stores she made them change their name and remove their signs. She could do this as her trademark filing gave her a natural priority everywhere the brothers were not doing business on the day she filed for registration. And as Merry moved east she made all of the brothers' franchisees change their names, except those in Maryland and Pennsylvania. And the brothers were sued and sued and soon they had no money. The moral: protect your brand. Register it and you, too, will prosper.

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