Subject: Trademarks and intellectual property rights
Posted by Wayne Parham on Wed, 14 Sep 2005 05:11:18 GMT
View Forum Message <> Reply to Message

This subject is a hot button for me. So if you are correct in your accusations, I'll stand by you 100%. The internet is a mess of intellectual property theft, from search engines selling trademarks as keywords to websites using stolen content all the way down to teenagers downloading games and music. I'm not too upset when a kid downloads a song, but when companies steal from other companies and the dollars get bigger, it starts to get my attention.I've seen it go bad in many different ways. The most common case is of little companies stealing from big companies by riding on their coattails, as you say. They copy their plans, they sell knock off products, whatever. But I've also seen big companies steal little companies rights, by taking their intellectual property and bleeding them through attrition. It makes it hard to obtain justice, because "fairness" costs money and can be prohibitively expensive. Sometimes the larger company doesn't even have to go to much trouble, because they can use public perception and intimidation. The public may assume that a larger established company would not resort to tasteless tactics. But they do. They do all the time. And the internet is like the wild frontier, so lots of big names have been made almost overnight, some of them bending the rules to unimaginable levels yet most people don't even see what ugliness and games hide underneath.So I'm pretty zealous about this particular issue and your charges definitely caught my attention.Still, those are serious charges, and I think you owe it to all of us to provide proof. You owe it to Douglas, because you have impeached him and drawn his reputation into question. You cannot expect to come here with an anonymous username and claim that you own rights to a defunct company's designs and trademarks without providing some proof.I own two federally registered trademarks, one of which I have had to police a few times. So while I'm not a patent & trademark attorney, I have some experience with trademark and other intellectual property issues.As you have rightly said, trademarks in America are determined by first use in business. Registration is not a requirement. But registration is taken as evidence that the mark was used in business to identify a particular brand. One can say that they were using a mark in business at a prior date, but it may be difficult to prove. Registration is very convincing evidence of that fact. Federal registration also supercedes state registrations or unregistered marks.I know that DST (Now Tymphany, makers of Scan-Speak, Vifa and Peerless speakers) has been using this brand name in America for their loudspeaker products for decades. According to PTO records, they published it for registration in 1988, declared first use in 1960 and obtained trademark serial number 73725000. It was cancelled in 1995, but I notice they still use the mark in commerce. From this, I'm not sure that an electronics company starting out to do business after the 1960's would be entitled to use "Peerless" as a brand name. There is too much potential for brand confusion.I'm not sure whether Altec would have been able to assign rights to you. There are some pretty strict rules governing the transfer of trademarks. See "Transfers of Intellectual Property" by the Ladas & Parry firm. Beyond that, it appears there are several people that are using this name, and I think DST has the longest record of consistent use in commerce.You said that you don't want to get into a legal discussion about your rights to the use of the Peerless brand name, but on the other hand, you seem to want people here to honor your wishes and disregard Douglas's. I'm not sure that is the right thing to do. For all I know, Douglas may have more rights to the name than you do.If you want to go through the records and show us that you have obtained proper transfer of a legitimate Altec trademark that gives you rights, then I think that would set the record straight. But if you cannot provide those records, I think it is inappropriate for you to discredit Douglas or to

talk about "riding on coattails." You speak about misappropriation and try to impeach someone else's good name, so I think it is extremely important for us all that you be clear on your own.
