

Personnel company swallows its pride, changes its name



Small Talk

Rick Desloge

rdesloge@bizjournals.com

For nearly a decade, Sue Huber's company operated as Pride Personnel, providing temporary help to businesses in the office, clerical, accounting and data processing fields.

That changed in June, when Pride began answering the phones "Above All Personnel, formerly known as Pride Personnel."

By December, the company will be simply "Above All Personnel." Huber estimated she will have spent \$30,000 on the name change in attorney fees, new business cards, stationery, a new sign and assorted other costs — big costs for the company that had sales of \$3.1 million last year.

The expensive lesson comes because she failed to check federal trademark information when she formed the business in 1995. Had she done so, Huber would have found that a Fresno, Calif., franchisor in the temporary help business, Pridestaff, chose that similar name in July 1995, several months before Huber started her company.

"If I would have paid for a federal trademark search when I started,



BRIAN CASSIDY

Sue Huber, owner of Above All Personnel, formerly Pride Personnel, spent \$30,000 on the name change after learning that a California company held the trademark.

I would have spent about \$850 at the time," she said.

Instead, Huber said she received a letter in March 2004 from a Pridestaff attorney demanding she immediately stop using the name Pride Personnel and that she account for all her profits in the last 10 years. "That got my attention," she said.

Intellectual property attorneys said Above All's situation is not unusual.

Some people mistakenly believe that if they register their corporate name with the state and register a fictitious name, their business is in the clear. Those state registrations give no rights to use a trademark, said McPherson Moore, an intellectual property attorney with Polster, Lieder, Woodruff & Luchesi in St. Louis County.

Small businesses are vulnerable because they usually fill out state incor-

poration forms when they launch their businesses, then apply for federal tax numbers. "With all that government paperwork, none of it includes a trademark search. Huber is a poster child for what can happen," said Doug Warren, a patent, trademark and copyright attorney in private practice and adjunct professor at the Saint Louis University and Washington University law schools. He represented Above All in the name dispute.

He estimated that between 50 percent and 80 percent of new businesses do not undertake a trademark search when they start up. Confusing matters is the fact that some states register trademarks — Illinois does, Missouri doesn't. The federal trademark is still the strongest of the marks, he said.

Huber said she is still smarting from the experience and considers herself lucky because she potentially could have spent more money on the matter. Of the \$30,000 she paid, about \$5,500 went to an intellectual property attorney before hiring Warren. The original attorney advised her that if she chose to fight to keep her original name, she should prepare to spend three years and about \$60,000.

This time Huber is registering "Above All" for a federal trademark, a move Warren said usually costs between \$1,000 and \$2,000.