

San Francisco Chronicle

How Yosemite lost its historic names — and may win them back

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March 11, 2016 Updated: March 11, 2016 8:00am



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Josh Alsup, a Park Service mechanic, works to cover a Yosemite Lodge road sign with one that reads, "Yosemite Valley Lodge," at Yosemite National Park.

YOSEMITE VALLEY — The story of how Yosemite National Park lost the names of some of its most storied landmarks isn't simply a tale of opportunism by a profit-hungry company.

It's a long, tangled chronology of action — and inaction — that goes beyond Yosemite's former concessions contractor, Delaware North, which succeeded in trademarking the titles of a handful of park properties, including the famed Ahwahnee Hotel and Curry Village.

The U.S. Patent and Trademark Office played a role, as did the National Park Service, which some legal experts say did too little to protect names that are inseparable from the history of one of the country's most beloved places.

And unwinding the mess won't be easy, or quick.

In an effort to minimize damage, Yosemite officials decided not to pony up millions to pay off the old concessionaire and, at least for now, have renamed five park sites as of March 1. The cost is high: a \$1.7 million tab for sign replacement, plus the outrage of longtime visitors who wonder how their memories became a commodity.

The park's new concessionaire has gone as far as halting sales of "Yosemite National Park" T-shirts because of its predecessor's claim to the park title. The name "Yosemite" is being used instead.

But the Park Service hasn't given up. The new signs are purposefully temporary, and officials are waging what's likely to be a prolonged battle to get the names back.

The patent office is scheduled to take up the park's petition to cancel the former concessionaire's trademarks through the middle of next year, while a parallel fight in federal court is yet to begin.

Some legal experts say the Park Service would be wise to stay the course, as it may have an edge over Delaware North — especially now that the concessions contract has changed hands.

"This company can no longer make a case (that it's connected to national park products) because they no longer have the concession," said Mel Owen, a San Francisco attorney specializing in trademark law.

Delaware North faces the additional challenge, he said, of proving it was entitled to register trademarks of federal property in the first place. A licensing deal with the park may have been more appropriate, Owen said.

Park Service officials, meanwhile, have taken steps across the country to make sure contractors don't try to take ownership of other historic names.

"The National Park Service has added language to all new contracts restricting a concessionaire's ability to trademark park names, facilities, features and the like without the consent of the National Park Service," spokesman Jeffrey Olson told The Chronicle.

The Park Service declined to discuss details of the dispute at Yosemite for this story. But the lack of similar restrictions on intellectual property in its 1993 contract with Delaware North clearly set the stage for the current conflict, legal experts say.

That oversight was compounded by the failure of the Park Service years later to protest Delaware North's effort to register the trademarks. The U.S. Patent and Trademark Office publishes a bulletin of applications, while giving stakeholders 30 days to dispute any bids.

But in this case, no appeals were filed.

"At this point, we agree this should have been done," said Kelly McCarthy, an intellectual property attorney in San Francisco. But, she noted, "These issues are not on the forefront of what the National Park Service is spending its time on."

Between 2003 and 2009, Delaware North successfully registered trademarks for the names of five park-owned facilities: the Ahwahnee Hotel, Curry Village,

the Wawona Hotel, the Badger Pass ski area and Yosemite Lodge, according to the patent office.

The company also registered a trademark for “Yosemite National Park,” which doesn’t give it exclusive rights to use the name, but allows it to sell merchandise with the title.

Why the patent office approved these trademarks is another issue. Names that are considered “American icons” are supposed to get special protection under U.S. trademark law. However, the law doesn’t define what the icons are, leaving staffers at the patent office to use their own judgment.

“Trademarks are extremely subjective, and trademark practice is extremely subjective,” McCarthy said.

Records with the patent office show Delaware North’s initial attempt to register “Yosemite National Park” in 2002 was rejected because it would “falsely suggest an association” with the Park Service.

The following year, however, Delaware North challenged the decision and, after the company produced its concessions contract, the patent office granted the trademark, documents show.

The patent office declined to discuss the case with The Chronicle.

This trademark history came to bear two years ago when park officials decided to move ahead with a new concessions contract at Yosemite. The lucrative, 15-year deal involves managing hotel, restaurant, retail and other recreation businesses worth an estimated \$140 million annually — and Delaware North sought a renewal.

The company, in what many saw as a bid to gain leverage, told the Park Service that if it didn't stay on, it would require its successor to buy out \$51 million worth of intellectual property. That included, among other things, reservation databases, websites and the trademarks.

When the contract was awarded to Aramark of Philadelphia last year, Delaware North sued the Park Service for not requiring the new company to pay up.

In subsequent legal filings, the Park Service challenged Delaware North's right to register trademarks of park property and claimed the company's intellectual assets were worth no more than \$3.5 million.

The Park Service, in the documents, accused Delaware North of pursuing "a business model whereby it collects trademarks to the names of iconic property owned by the United States." The documents cite the company's application to trademark "Space Shuttle Atlantis" in connection with its management of the Kennedy Space Center in Florida.

Delaware North, according to patent records, also holds the trademark for Wuksachi Lodge in California's Sequoia National Park, which the company manages through a contract that expires in October.

In legal filings, Delaware North defends its right to register trademarks of federal sites. The company contends that being a concessionaire entitles it to merchandise its association, and that the practice is common among contractors that provide services at airports, universities and parks. The company says the concessionaire can create or add value for certain names.



Photo: Rory Appleton, AP

Aramark, which took over the Yosemite contract March 1 and manages concessions at several other parks, has also registered trademarks for names affiliated with national parks, including Lake Powell on the Arizona-Utah border. The company, though, says its policy is to return intellectual property to the Park Service at no cost at the end of its contracts.

“We have always believed the names and trademarks of properties inside national parks belong to the National Park Service and the American public, and we have never demanded compensation for them,” said spokesman Dave Freireich.

Officials at Delaware North say their situation at Yosemite was vastly different, and that they’re just trying to recoup an unusual investment they were asked to make long ago.

Delaware North’s 1993 contract with the Park Service required the company to buy the assets of the previous concessionaire, which included not only intellectual property but the physical property that its predecessor built, including the Ahwahnee Hotel. Next, Delaware North was required to transfer those assets to the Park Service.

Company officials claim that the required transfer didn't include exchange of certain intellectual property, meaning that while buildings changed ownership, rights to names did not.

Per Delaware North's contract, its successor was similarly required to buy its assets. However, the extent of those assets is now the core of the dispute between the company and the Park Service.

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“There’s lots of levels of confusion, and there is no trickery involved with any of this,” said Dan Jensen, former president of Delaware North at Yosemite. “It really is a contract dispute. ... The issue with the names is one of a number of issues that have arisen because this contract is unique.”

Last month, the Park Service filed a petition with the U.S patent office to cancel seven of the company’s Yosemite trademarks on grounds that Delaware North is no longer associated with the park.

Out of caution, park officials also decided to cover up the trademarked names in Yosemite with panels and fabric strips bearing the new names.

The Ahwahnee Hotel is now the Majestic Yosemite Hotel and the Curry Village campground is Half Dome Village. Yosemite Lodge at the Falls is the Yosemite Valley Lodge, Badger Pass Ski Area is the Yosemite Ski and Snowboard Area, and the Wawona Hotel will be known — at least for now — as Big Trees Lodge.

The custom materials and labor needed for the shift cost about \$1.7 million, according to the recently filed trademark petition.

“If you’re thinking of just the hotel signs it would seem like a lot of money, but (think about) all the trail signs ... road signs, directional signs,” said Yosemite spokesman Scott Gediman. “There are literally hundreds of signs throughout the park.”

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