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# THE CrossFit JOURNAL

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## If It Doesn't Say CrossFit, It's ...

Dale Saran explains how you can help defend the CrossFit name.

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By Dale Saran CrossFit General Counsel

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CrossFit's legal team, Defenders of the Faithful, run into all species and genus of thievery of the CrossFit trademark and brand.

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1 of 4

CrossFit defines what we do. It means we perform constantly varied functional movement at high intensity. We pursue virtuosity. We squat, we press and we deadlift. We learn and play new sports. We eat meat and vegetables, nuts and seeds, some fruit, little starch and no sugar. We time our workouts. We demand measurable, observable and repeatable results. We are a part of the global affiliate community that's over 4,000 strong.

"CrossFit" is a federally registered trademark (USPTO No. 3007458) in Trademark Class 41, which means the U.S. government and the many other countries where we have registered the mark recognize CrossFit as a distinctive identifier for fitness services (part of Class 41).

In short, CrossFit, proper noun, defines a very specific style of training, just as Coca-Cola defines a very specific soft drink. But that doesn't stop others from trying to steal our mark and use it illegally to market a style of training similar to CrossFit or something that's not CrossFit in any way. For us, it's simple: CrossFit defines exactly what we do, and the name means a great deal. We fight to make sure everyone knows exactly what that name means, protecting our intellectual property, our brand and our community.

If we don't define what CrossFit is and fight to protect it, the name can lose its meaning and slide into common usage, known as "genericide." An "Escalator," for instance, was once a proprietary product of the Otis Elevator Company. Otis, however, lost control of the term, and "escalator," lower case, became the catch-all term for moving staircases.

We want to prevent that because our style of training and our lifestyle are most certainly not generic. They're specific. They're CrossFit, and CrossFit is about virtuosity and the very specific mindset that comes along with it. We are not aspirin, made by any one of a number of companies. We are CrossFit.

### Other Uses: Fair and Unfair

Because our trademark is valuable, others try to poach on it for their own means. I want to explain the most common and most insidious threats to the CrossFit name and solicit our community's help in policing it.

The copycats are the main problem, and they're simply stunning in both their ingenuity and stupidity. I've seen people buy up hundreds of CrossFit domain names and sell them back to affiliates at a high markup (we sued and won a \$100,000 judgment), and I've had people argue with me about how they had never heard of CrossFit before they created their exercise program called ... wait for it ... Cross-F.I.T. I wish I were making that one up. I've heard some guy make a statement, "What if my name was C. Ross Fit?" Again, not a hypothetical.

One of the most common riffs of the CrossFit trademark is the Globo Gym or solo trainer who, after having received a cease-and-desist letter from our team for illegally advertised CrossFit classes, immediately changes tack: "XFIT Group Classes, starting Wednesday! Learn how to use kettlebells and Olympic lift and other uniquely scalable stuff!"

There are 45 different trademark classes, and most hardcore CrossFitters would be horrified to learn that "crossfit" is also registered by two other companies in different trademark classes: dental appliances in Class 10 (makes sense when you think about it) and computer shipping/logistics in Class 9 (makes very little sense no matter how I think about it). These companies, one in Switzerland and the other in Chile, like us, have an interest in protecting the trademark, and no one is likely to confuse what they do with what we do: "AMRAP of change your elastics in 12 minutes. 3-2-1 ... Go!"



**Not X-Fit. Not Cross-F.I.T. Not C. Ross Fit. CrossFit.**



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***CrossFit is a brand and a lifestyle.***

There is also a company in New York, a small gym, that owns the trademark for X-Fit. In Class 41, too. It is clear from their filing that this was entirely incidental and they likely had no idea about the registered CrossFit name, nor were they trying to rip off our mark. It's just one of those strange things. Their logo and mark actually stand for "Excellence in Fitness." There is also something called "XFit Lycra" (in Class 24).

Those businesses are also interested in protecting their brands—or they should be.

But there are hundreds and hundreds of people who are constantly using XFit or X-Fit as shorthand to try to get unwitting consumers in the door and then train them in some aerobics-like class with 5-lb. mauve-colored dumbbells. You will not find squatting virtuosity in there. I guarantee it. Our affiliates are genuinely concerned and refer these matters to us.

So now what?

**What You Can Do to Protect CrossFit**

I don't need to give a dissertation on what constitutes a "confusingly similar" use under the Lanham Act for readers here, and I don't need to delve into the finer points of "sight, sound and commercial impression." What I want to do is go in a slightly different direction.

I want us to move beyond XFIT—or X-Fit— so that we make it an instantly recognizable non-use and thus a non-threat to our affiliates. Let me explain.

We are growing to a point where we need to educate everyone, starting with our own affiliates, members, trainers, clients, and wider community, as well as the entire fitness public, that XFit or X-Fit is an immediate indication that whatever is happening behind that glass is most definitely not CrossFit. I won't denigrate what it actually is; it's sufficient to say that it isn't CrossFit. Where there is XFIT or X-Fit, there is no virtuosity, there is no community, there is no CrossFit.





Mike Warfentini

**Show your love for CrossFit by avoiding “Xfit” or “X-Fit” when writing texts, tweets and Facebook posts.**

This also means that as a community, we must enforce our own identity. I know in the world of texts, 160-character tweets and quick social-media posts, it’s trendy and cool to abbreviate everything (LOL!). There is also the fact that we all see the signs for “PED XING” or “RR XING” when we drive, so evidently the Federal Highway Administration recognizes the shorthand “X” for “cross,” but publicly we have to clean that up.

No more affiliates posting about “XFit” or referring to what we do by that moniker.

If it doesn’t have a capital C and F with “ross” and “it” seriatim in Class 41, it is a fake, a fraud. It’s someone else’s mark. It’s not the real deal.

CrossFit: that’s the real deal.

We also should understand that we can’t prevent businesses from registering XFit in other classes. And it’s already happening. Companies are filing trademarks in the U.S. and around the world using XFit, CrossFit and every other possible combination in different trademark classes to sell their products—nutritional supplements and energy bars and drinks and equipment ... and on and on and on. Laws—all different around the world—do not allow us to prevent their filing trademarks where we have no intention of using the mark in those classes ourselves.

So, my fellow lovers of Fran and Helen, the best defense for us is an aggressive education of our community and the world. We are CrossFit, registered trademark, a unique brand of fitness services. We are a community of people dedicated to fitness through hard work and empiricism, all delivered via a network of like-minded professional trainers. And we sure as hell know how to have good time doing it.

Xfit, Crossfitness, cross-fit, X-Fitness and all the other names in all the other trademark classes are not CrossFit.

Spread the word, my friends. Police each other. Let the world know what CrossFit really is: we make people better. We’re the folks who created the Sport of Fitness.

And quit Facebooking and texting about “Xfit.” You’re giving the bad guys ammunition to use against us. There will always be thieves and idiots, but we need to avoid doing them any favors by providing them with loaded guns to take shots at us.

#### **About the Author**

*Dale Saran is CrossFit’s general counsel. The CrossFit Trademark Team are the Defenders of the Faithful.*