

# *Sui-Genericide*

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Generic terms – those that describe a general class of goods or services -- are not eligible for trademark protection. Firms like Xerox have historically gone to great lengths to prevent their trademarks from becoming generic – a fate often referred to as genericide. But in a few rare cases, firms have voluntarily declared certain terms that they have created to be generic, a phenomenon that I refer to as “sui-genericide”. This article explores the little-understood phenomenon of sui-genericide, both its origins in government-sponsored programs of the mid-twentieth century and its most recent incarnation in the area of technical interoperability standards that are embodied in billions of products around the world. Though the voluntary relinquishment of the exclusive rights conferred by patents and copyrights has been studied extensively in the literature, there has been comparatively little scholarly attention to such mechanisms under trademark law. This article examines the potential effects of sui-genericide on producer incentives, follow-on innovation and consumer welfare and considers some of the ramifications of incorporating a sui-genericide doctrine into the law. It concludes by considering a range of practical mechanisms for giving legal effect to declarations of sui-genericide.