



**May 2009**

## **TRADEMARK PROTECTION and YOUR BUSINESS**

A trademark is generally defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, which identify and distinguish one merchant's good(s) and/or services from those of others. A product's shape, sound, color, or even smell can be a trademark. In short, trademarks are symbols of origin, quality, and the goodwill of a business.

Simply owning a business, using a certain name, logo, or slogan, filing a Fictitious Business Name Statement, registering a domain name, and/or even being incorporated with a name, does not entirely protect your business name and/or Trademark. If you would like full protection of your business name, logo, slogan, design or other business mark, you must obtain a trademark registration with the appropriate government office.

Trademark law prohibits the use of a mark likely to cause confusion, mistake, or deception between products and services in the minds of the consuming public. Since a business will make a substantial investment in the design, marketing, and promotion of its goods and services using its trademark, it is very important to ensure the mark does not infringe upon another existing trademark. In general, if your business mark is not registered with the appropriate government office, and your mark infringes on another entity's trademark, then you may have to "cease and desist" all activity with your business mark and may even have to pay damages to such other entity.

As such, a search of any proposed or existing trademark is highly advisable. If the search is favorable, a trademark registration should be obtained with either your State (if doing business solely within that state) or with the United States Patent and Trademark Office ("USPTO") (if doing business across state lines).

Particularly, successful trademark registration provides for the following advantages:

- Permits you to use the federal registration symbol ® with the mark.
- Provides constructive notice of ownership of the registered mark.
- Enables a presumption of validity of the registration.
- Provides you the exclusive right to use the registered mark in commerce in connection with the goods or services specified in the registration.
- Establishes the incontestability of rights in the registered mark.
- Enables you to stop the importation of goods that utilize infringing marks, through depositing copies of the registration with the United States Customs Service.
- Enables you to sue for counterfeiting of the registered mark and to obtain both civil and criminal penalties against counterfeiters.
- Enables you to safeguard future opportunities for international expansion by filing corresponding applications in other countries.

In conclusion, registering your trademark protects your rights to the exclusive use of the mark in connection with your goods and/or services. By registering your mark, you alert others who may want to use your trademark that it is already being used with respect to the goods and/or services you may provide. Further, it affords you rights to prevent any other entity from using your trademark. Once attained, that registration may provide your company with a valuable asset that will increase the worth of your business.

*This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.*

**Citron & Deutsch is a boutique law firm whose practice includes entity and capital formation, management team building, employment issues, real estate matters, trademarks and copyrights, and succession and estate planning.**  
**Please contact Sharona Ghodsian, Esq. for further information concerning matters in this Newsletter.**

**10866 Wilshire Blvd., Suite 970, Los Angeles, CA 90024 \* Tel 310-475-0321 \* Fax 310-475-1368 \* [www.candlaw.com](http://www.candlaw.com)**