



IP NEWS QUARTERLY



IP Attorneys Group, LLC

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Trademark Protection 101 in the United States.

Securing trademark registration for a design, word, or phrase can be an involved process. Months or years may pass between filing a trademark application and the date



on which it is granted registration. In light of this involved procedure it is easy to assume that the process of trademark protection is complete once the mark registers.

However, this is not the case. In the United States, trademark rights begin with use or filing of an intent to use application. Once the mark registers, it is up to the

trademark owner to continue to use the mark on all of the goods listed in the registration. Failure to use the mark on some of the goods listed in the registration will make the entire registration vulnerable to cancellation. The owner should also police against similar marks in all classes, not just the class in which the mark is registered, to prevent dilution of the mark.

The following simple steps can help strengthen one's trademark protection:

1. Consider keeping a photographic journal documenting use of the trademark, which includes the date and location of the first use in commerce and each use thereafter.

Whether the use takes place at tradeshows or in stores, this journal should be a valuable source of evidence in the event one needs to defend a mark in a cancellation proceeding.

2. Identify unregistered or pending trademarks to the public by placing TM next to the trademark wherever the trademark is used; this will show the public that the mark is one's intellectual property. Once the mark registers, replacing TM with ® will show the mark is registered with the USPTO, as discussed in "Marking IP Properly" on page two.

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Did you know?

- The word "crock-pot" is a former trademark that lost its protection.
- In 2010 approximately 40% of trademark applications world wide were filed in Asia.

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3. An effective way to police a mark is to have an attorney set up a watch service for the mark. Watch services typically search the USPTO for filed applications and the Official Gazette for published applications with marks which are similar to the watched mark.

4. Consider training employees who have exposure to competitors' marks, such as field representatives, on the distinguishing features of the company's mark so that they will be able to identify trademarks that are deceptively similar to the company's mark, such as on counterfeit goods.

When a potential infringer is discovered, notify the trademark holder's attorney immediately to discuss the appropriate course of action. While a carefully worded cease and desist letter may be sufficient, an attorney should know what each individual situation requires. Addressing possible trademark infringement with expedience can also keep the cost of resolving the infringement low.

Please contact this office with any questions relating to trademark protection.

Marking IP Properly

Once a mark is registered with the USPTO, one should use ® instead of ™ in order to demonstrate that the mark is registered with the USPTO. One may also use "Reg. U.S. Pat. & Tm. Off." or "Registered in the U.S. Patent and Trademark Office." This marking should appear wherever the trademark is used, whether on advertisements or on the product itself.

Please contact this office with any questions relating to proper marking and trademarks.



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