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GOOD REASONS

Why Federal Registration of Your Trademark is a Smart Thing to Do

Fly your colors. Represent. Parade your trademark loud and proud. That word, phrase, symbol, or design sets your goods or services apart and distinguishes you from all the rest. But, if you're the first user of a trademark, you already have common law and state law rights. What's the point of federal registration? As it turns out, federal trademark registration offers plenty of benefits—both offensively and defensively. Consider these for a start...

1. Federal registration delineates rights in a trademark by recording and securing exclusive use to the registrant. This federal registration can be sold as property, and assignments—even security interests—can be federally recorded.
2. Constructive notice, whereby the public is notified that the trademark is officially in use, begins the date a trademark is federally registered, and competitors are deemed to be aware of it then. When adopting their own trademark, competitors should search U.S. Patent and Trademark Office records to avoid selecting similar marks.
3. The Patent and Trademark Office will reject confusingly similar trademarks from later registration, further protecting your image. And, because of constructive notice, parties could be barred from legally challenging your registered trademark.
4. A federal trademark registration is presumed valid in legal proceedings. The registration provides evidence of ownership and the owner's exclusive right to use the trademark on registered goods or services.
5. Federal law also allows for incontestability—the highest status of trademark protection. After five years of registration, no one can assert prior use, nor can the registration be challenged on numerous other grounds.



6. Registration permits jurisdiction in a U.S. federal court, where a judge may grant injunctions, award damages for infringement, and—in some cases—recovery of legal fees and the defendant's profits.
7. Beyond the federal courts, registration helps U.S. Customs protect you by preventing the importation of goods that bear a similar trademark.
8. The federal registration of your trademark can also serve as the foundation for obtaining registrations in foreign countries.
9. Only federal registration allows use of the circled "R" symbol, ®, when you deem the trademark important enough to protect. Without federal registration, a "TM" may be used, which is merely an assertion that the user believes it has trademark rights.
10. Last, but certainly not least, the cost for these benefits is very reasonable. Typically, the charge for preparing and filing federal trademark applications in one class is approximately \$1,000, and trouble-free prosecution about the same cost. For information on how to register and enforce your trademarks, call the author.

Intellectual Property
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