

Importance of Trademark Protection for Small Business Owners

Article

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Small business owners should consider securing a federal trademark registration as a means of safeguarding their business identity and distinguishing themselves from competitors. Although you are not required to register a tradename or a logo and can acquire common law rights simply by using the trademark in commerce, registration allows a company to establish exclusive rights to its brand name, logo, slogan, or product name or designs

More importantly, it allows business owners to prevent others from capitalizing on their company's hard-earned reputation and goodwill. Trademarks are a relatively low cost investment to effectively protect your business interests while preserving consumer trust and confidence in your products or services.

At its core, a trademark is a source identifier and used to create brand recognition and loyalty among consumers in the market place. Registered trademarks are evidence of a company's credibility (for reliable products and services) and professionalism to potential customers, which in turn fosters brand loyalty, market visibility, and business growth.

An effective and recognizable trademark can positively influence the buying decisions of consumers and bring to mind positive and powerful messages about a brand. Over time, the positive association between the trademark and the goods and/or services provided thereunder could be the defining or sole factor in a consumer's purchasing choice and allow for the company to charge a higher price point for such goods and services.

For example, when consumers see the trademarked Nike "swoosh" on a shelf or pair of shoes, without further research, the consumer reasonably knows what to expect about the quality of the product given the brand's reputation in the marketplace. The consumer's decision to purchase the Nike shoes is influenced by, or may entirely be based on, the "social image" of athletic excellence and triumph the brand conveys, which Nike has fostered continuously over time through its trademark use.

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The brand's image and status through continued and positive trademark use in the marketplace inherently raises the social value of the goods and in turn, allows Nike to charge a higher price point for its branded merchandise.

Business owners interested in obtaining a trademark registration for their brand name, logo, slogan, or product name or designs should first consider conducting a trademark availability search of the U.S. Patent and Trademark Office (USPTO) registry, other common law resources, search engines, and/or social media sites to determine if the proposed trademark is available. This search allows a business owner to determine whether there are trademarks of the same or substantially similar nature to the proposed trademark already in use in commerce—which could create hurdles in the USPTO application process or prohibit registration or use of the trademark entirely.

Assuming desirable search results are obtained, the next step is to prepare an actual use application or intent-to-use application (if the trademark is not yet used in commerce) to file with the USPTO for the applicable goods and/or services, as identified by the applicable USPTO trademark class(es).

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