



PATENT

PORTFOLIO BUILDERS PLLC

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What is a trademark?

A trademark (or service mark) is typically a name (or logo) that identifies a source of the goods or services. Rights arise based on use and are in conjunction with specific goods or services. Well known examples of trademarks and their associated goods include MICROSOFT® software and SUBARU® automobiles.

How do I know if someone else is using my trademark?

An internet search using a mainstream search engine is a good place to start. Such results may include both unregistered uses of a mark, and also marks that have been federally registered. In addition, the United States Patent and Trademark Office (“USPTO”) provides search functionality to search for marks that are either federally registered, or for which registration is underway. Finally, a more formal search can be performed by a search company or trademark attorney, depending on the financial commitment one may have to a particular mark.

What is a federal trademark registration?

Federal registration starts with the filing of an official application, and often involves back and forth with an Examining Attorney at the USPTO. The back and forth process is called prosecution. Federal registration of a trademark gives nationwide rights to the mark that can be enforced against an infringer in, e.g., federal court.

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How much does legal help cost with respect to my trademark?

Typical fees for registering a trademark with the USPTO for a single class of goods or services are approximately two-thousand dollars (USD) start to issued registration. There are continuing annuity fees after registration (mostly from the USPTO), though such fees are nominal. While the official government fees and our professional fees often come in at less than one-thousand dollars for the original application, there will be fees charged in conjunction with prosecution of the application that typically range from a few hundred dollars to a thousand dollars.

What are the advantages/rights to obtaining a federal trademark registration, and what are the risks of not doing so?

While use of a trademark may give rise to local rights in the mark under various different state laws, federal registration generally gives nationwide rights, even if your use is only in a couple of states. Once a registration issues for your trademark, you can use the federal court system, as well as certain federal agencies like the U.S. Customs and Border Protection to enforce your rights. On a practical and affordable level, federal registration will almost certainly stop a later registrant for the same or a similar mark in conjunction with the same or similar goods.

Conversely, not obtaining federal protection generally leaves your use of your trademark more susceptible to limitation or even loss. You may acquire local rights, but another user may be able to obtain federal registration thereby arresting growth of your use of the mark. Further, waiting to register enables additional local users of the mark to crop up. In short, federal registration offers many benefits, while not registering does come with real risk in the marketplace.



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