

Has Your Business Start-up Registered Its Trademarks?

by Kenneth C. Oh on August 15, 2013

When starting a new business, intellectual property concerns should certainly be on your “To Do” list. Your company’s name, logo, trade secrets and inventions may one day be your greatest assets.

Despite the importance, many start-ups are unsure about when it is the right time to apply for registered trademarks and other IP protections. The short answer is, the sooner the better.

With regard to trademarks, you can establish rights in a trademark based on use of the mark in commerce without seeking registration with the U.S. Patent and Trademark Office. However, the time and expense it takes to file a formal registration is well worth it in the long run.

As highlighted by the USPTO, below are several other key advantages of a federal trademark registration:

- Public notice of your claim of ownership of the mark;
- A legal presumption of your ownership of the mark and your exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration;
- The ability to bring an action concerning the mark in federal court;
- The use of the U.S. registration as a basis to obtain registration in foreign countries;
- The ability to record the U.S. registration with the U.S. Customs and Border Protection (CBP) Service to prevent importation of infringing foreign goods;
- The right to use the federal registration symbol ®; and
- Listing in the United States Patent and Trademark Office’s online databases, which will dissuade others from proceeding with the registration of the same or similar mark and prevent infringers from claiming ignorance of the mark.

The trademark search that accompanies the trademark registration process can also save you time and money. It not only helps ensure your application will not be denied for being “confusingly similar” to an existing mark, but also prevents you from wasting money on marketing materials and office stationary that feature a company logo or name that already belongs to someone else.

For companies just starting out, the most important marks to register are your company's name or logo. If you have not yet used your mark in commerce, you can file an “intent-

to-use” trademark application to ensure that you can use the marks once you start operating.

If you have any questions about trademarks or would like to discuss your company’s intellectual property concerns, please contact me, Kenneth Oh, or the Scarinci Hollenbeck attorney with whom you work.