

TRADEMARK PROTECTION FOR STARTUPS AND EARLY-STAGE COMPANIES

Your trademark will be a key asset of your business, so it's important to protect it properly. If you don't start with advice from experienced trademark counsel, you could face a costly infringement lawsuit, be forced to rebrand just as you are gaining traction, be unable to stop infringers, or be blocked from key foreign markets.

1. Consult an expert in trademark law before choosing your brand.

- Start with a brief consultation with an experienced trademark lawyer. He or she will guide you on selecting a mark that is defensible, help you avoid costly pitfalls, and map out a cost-effective brand-protection strategy.

2. Don't commit to a mark without a proper search.

- Too often we've seen companies launch a brand without properly vetting it – only to be hit with a costly and disruptive infringement suit. What is “infringement” is notoriously subjective, and trademark searching is an art. An experienced trademark lawyer won't just give you a list of trademarks that came up in a search – he or she should give you an assessment of the risk and, where applicable, strategies for reducing it. Using a “low-cost,” cookie-cutter search service is false economy, and often will cost more in the long run.

3. Filing isn't enough – to have all the rights the law provides, you need to get to registration.

- Federal registration gives you important legal rights that make it much easier to defend against claims and stop infringers. But you don't get those benefits until the registration issues. Good trademark lawyers know it's not enough to get an application on file – their goal is to get through the examination process as quickly as possible. Your trademark lawyer should make every effort to ensure the application meets the PTO's requirements from the start, so it will sail through examination. And if the PTO raises any issues, your lawyer should respond promptly, to push the application to registration. A service that offers a low-ball price just for filing may end up costing much more if the PTO refuses the application, and delay the process.

4. Protect your brand abroad, sensibly.

- If you plan to expand to foreign markets, you'll need to register your trademark in those jurisdictions. Otherwise you could be at the mercy of trademark squatters, infringers, and unscrupulous local distributors. International protection doesn't have to break the bank. An experienced trademark lawyer will work with you to create a plan that will give you good, basic protection.

5. Have a well-thought out plan for policing your brand.

- It's important to protect your brand against infringements. But taking on every perceived threat is costly and can even damage your trademark rights. A good trademark lawyer will help you define an appropriate trademark strategy and ensure that you pick your battles wisely.

6. Make sure your trademark protection keeps up with your growing and evolving business.

- As you add new brands, products, and markets, let your trademark lawyer know, so he or she can help ensure that your trademark portfolio gives you adequate coverage.

