



TRADEMARK REGISTRATION

OF COURSE YOU LOCK YOUR DOORS, SO WHY WOULDN'T YOU LOCK DOWN YOUR RIGHTS?

THE PROCESS:

1. **Choosing a protectable mark.**

Not all names, logos, or slogans are protectable or can be registered. Your mark cannot be a generic term or one that merely describes your goods or services. The more creative your mark, the stronger the protection you get. Want the strongest possible mark, make up a word like Xerox did!

2. **Performing a proper search.**

The first to use a mark in commerce is considered the “senior user” and acquires common law trade mark rights. Because the standard for trademark infringement is “likelihood of confusion,” a mark that is even somewhat similar to a senior user’s mark could lead to a cease and desist letter, or worse, a lawsuit. We use search reports to help discover whether a senior could pose problems for you.

3. **Registering with the USPTO.**

Filing a registration with the United States Patent and Trademark Office (USPTO) offers amplified enforcement powers and the legal presumption of ownership. USPTO registrations, and their costs, are based on classes, which can be loosely defined as the market for the goods and/or services. The USPTO evaluation of the application can take up to a year, and the entire process can last for 18 months or longer. Once a registration is issued, the owner can now use the ® symbol.

4. **Maintenance and Policing.**

There are post-registration filings that are required 5 to 6 years after the registration date and on every ten-year anniversary. Failure to submit them could cause the loss of the registration. Also, the law requires trademark owners actively control and enforce their marks, known as policing. Unlicensed use of a mark that is allowed to continue could result in the loss of all trademark rights.

359

Average number
of pages
in a search report

13

The number of
factors considered to
determine “likelihood
of confusion”

Genericide

Marks that have
lost protection:
aspirin, cellophane,
trampoline, dry ice,
and zipper

This is not legal advice. It is for general information purposes only and does not create an attorney/client relationship.