

The Benefits of Federal TM Registration

"Is federal registration of my mark required?". . .

The quick answer is "No, but it will enhance your rights."

Using your trademark, in commerce, with specific goods and services, establishes legal rights in the mark, known as "common-law" rights. Those common-law rights, however, may be limited. Depending on your situation, those rights might only cover a limited geographic area and it might be more difficult to enforce those rights than it would be if you have a federal registration.

Federal registration can greatly enhance common law rights. Specifically, federal registration of your trademark on the Principal Register provides the following advantages:

- Federal registration confers a legal presumption of the exclusive right to use your mark nationwide on or in connection with the goods and services identified in your registration. That's in contrast to a state trademark registration that only gives rights within the borders of that particular state. Federal registration carry a presumption of rights throughout the United States and its territories.
- Federal registrations create a legal presumption that you are the owner of the mark subject to the ability of someone else could prove that they are the rightful owner because they started using the mark earlier than you did. That's a real advantage if you need to enforce your registration.
- A federal registration can achieve the legal status of "incontestable" with continuous use for five years after the registration date. This status stops challengers from contesting your right to use the mark or

its validity unless there was fraud during the process of obtaining the registration. This is a very powerful and desirable business asset for a company.

- A federal registration puts the public on notice that you are the owner of the mark. If there's a question as to who owns the mark, the USPTO's online database can resolve the issue. This also allows others to find your mark when they search the USPTO database to see if the mark is available for use by another. The existence of your mark in the database can help others to avoid selecting a mark that is too similar to yours. The USPTO uses this same database for its examinations but does not search state registrations.
- A federal trademark registration gives you the ability to record your trademark with Amazon.com for its Product Registry program to curtail counterfeit and infringing listings as well as with the U.S. Customs and Border Protection for import protections.
- A federal registration provides a legal basis to bring infringement actions in federal court.

A federal registration can serve as the basis for trademark registration in many foreign countries.

A federal trademark registration means that you have the right to use the ® symbol with your mark. This mark puts the public on notice that your mark is registered and that you have nationwide rights in it.



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