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# Stop Wasting Time: Protect Your Business' Intellectual Property With A Federally Registered Trademark

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There are very few things a business owner can do for their business that give the business as much “bang for its buck” as acquiring a federally registered trademark on its name, logo, or slogan. A trademark, or a service mark, is any word, words, symbol, design, or combination of the preceding that identifies the business' products or services.

Trademarks provide substantial benefits with low initial costs and low maintenance fees.

First, a trademark allows the owner to tightly control their brand across the entire United States. If there is a competitor using a similar mark to a registered trademark that creates a likelihood of confusion among potential consumers, the owner of that trademark has the right to initiate legal action against the competitor. In a trademark infringement action, the trademark owner can pursue both injunctive relief and money damages. Importantly, a federally registered trademark is treated as presumptively valid by the court. Presumptive validity means exactly what it sounds like—a court will presume that the registered mark is valid. Such a presumption can greatly improve a business' chances of success in a trademark infringement lawsuit.

Second, trademarks are valuable assets that accrue in value over time. Money that a business puts into advertising its brand, goodwill generated among customers, and careful brand management all increase the value of a trademark. Likewise, business owners are able to leverage the value put into their trademarks to raise more capital for the business by using brand recognition to attract new investors or by using the trademark as collateral for debt financing.

Third, trademarks help potential customers find a business, and the more unique and distinctive the mark is, the easier it is for the average consumer to sift through numerous, faceless competitors to locate a product.

Finally, registering a trademark puts would-be infringers on notice and allows the Trademark Office to cite the trademark should a competitor attempt to register a similar mark.

Obtaining a trademark requires some information and a bit of patience. Businesses or individuals seeking a federally registered mark should be prepared to, among other requirements, demonstrate actual use or real intent to use the trademark in commerce, submit a drawing or specimen(s) of the trademark, offer personal information, and provide the date or dates the trademark was first used in commerce anywhere, as well as in interstate commerce (these may be the same date...but they don't have to be). Additionally, an application for a trademark must include a list of the particular goods or services on or in connection with which the applicant uses or has intent to use the mark.

The identification and classification of the goods and services is a complicated part of the application process requiring a trained eye because this is where a business must identify exactly in which industries it intends to use the trademark. Application examiners will rely, in

part, on this section when they are determining whether a proposed trademark creates a likelihood of confusion with already-registered marks which may be similar to the mark a business wants to register. Therefore, correctly selecting in which International Classes to list in a trademark application can be the difference between a new trademark being issued or having to start the process over again.

While parts of the trademark application process can be fairly nuanced, the numerous benefits that a federally registered trademark can offer a business relative to filing fee and maintenance fees may prove to be a very worthwhile investment. If you or your business have been considering whether to register your trademark, now is a great time to start that process.

If you need any assistance obtaining a trademark for your business or have questions about meeting your intellectual property needs, please contact Blake Hurt at [bhurt@tuggleduggins.com](mailto:bhurt@tuggleduggins.com) (336.271.5252) or Connor Christensen at [atchristensen@tuggleduggins.com](mailto:atchristensen@tuggleduggins.com) (336.271.5254).

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400 Bellemeade Street, Suite 800  
Greensboro, NC 27401

P.O. Box 2888  
Greensboro, NC 27402

Phone: 336.378.1431  
Fax: 336.274.6590