

# Trademarks

---

BENEFITS OF ESTABLISHING TRADEMARK PROTECTION

# Rights of Unregistered Trademark Holders

---

- Exclusive right to use mark in geographic area where it is used.
- Can bring a civil lawsuit against individuals who have infringed on the mark
- Protections against false advertising

# Benefits of Registering Trademarks

---

- The trademark holder has a presumption of ownership and exclusive use. May use the mark *nationwide* rather than only locally.
- The public has notice of claim ownership
- Can bring an action in federal court
- The registration can be used as a basis for securing registration of the trademark in foreign countries
- Registration of the trademark enables the holder to register the mark with U.S. Customs and Border Protection Service to prevent infringing foreign goods from being imported.
- Can also use the registration listing in the USPTO database.

# How to Register a Trademark

---

- To be eligible, must be using the trademark in conjunction with commercial activity OR about to use it within 6 months.
- File affidavit stating when mark was first used and producing a specimen which demonstrates how it was first used in commerce.

# Trademark Value

---

- A trademark can be assigned to another entity in the case of a purchase or acquisition.
- A trademark can also be assigned in the case of a name change, security agreement, license, lien, collateral for a loan or a bankruptcy.

# Abandonment of Mark

---

- Discontinued use of mark. Three consecutive years of nonuse should qualify as sufficient proof of abandonment.
- If abandonment is found, the owner of the trademark can no longer prevent infringement.