

## **Benefits of Trademark Registration**

Benefits to federally registering a mark include:

- Nationwide priority rights from the date the application is filed;
- Constructive notice nationwide of the trademark owner's claim of ownership;
- Presumptive evidence of the validity of the registration and ownership of the mark, and of the owner's exclusive right to use the mark on or in connection with the goods or services set forth in the registration; and
- Federal jurisdiction over claims of infringement, counterfeiting, and other unfair competition claims.

There are two types of federal Trademark registrations in the United States: Principal Register registrations and registrations on the Supplemental Register. Both Principal and Supplemental Registrations confer upon the registrant valuable procedural and remedial benefits. Among these benefits are:

- The registration can be used as a basis for suit in federal courts.
- The owner may use the r registration notice, which tends to discourage third party innocent infringement.
- The registration will be located by Trademark Examiners when conducting trademark searches and may therefore be cited as a bar against the registration of similar marks in later filed applications.
- The registration will also be located in clearance searches conducted by third parties and may therefore discourage adoption of a similar mark.
- The registration can be the basis for collecting treble damages for infringement of trademarks.

Marks that are registered on the Principal Register confer the following significant additional benefits:

- A Principal Register registration is prima facie evidence of the validity of the registration and of the registrant's ownership thereof. In an infringement action the owner of a Supplemental Register registration would be required to prove ownership and validity of its claim.
- A Principal Register registration is constructive notice of the registrant's claim of ownership. A Supplemental Register registration is not deemed to be constructive notice of such a claim.
- A Principal Register registration can become incontestable under Section 15 of the Lanham Act, 15 U.S.C. Sec. 1065 (which means it is not thereafter subject to

cancellation on the grounds that it is descriptive, among other basis). A Supplemental Register registration can never become incontestable.

### **Benefits of Copyright Registration**

Copyright Act provides several inducements or advantages to encourage copyright owners to file for copyright registration. Among these advantages are the following:

- If registration is made within 3 months after publication of the work, it is possible to collect statutory damages and attorney's fees in infringement actions (otherwise only actual damages may be collected);
- If made before or within 5 years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate;
- Registration establishes a public record of the copyright claim and allows for the recordation of transfers of ownership of the copyright; and
- Registration allows the copyright to be used to prevent the importation of infringing copies.
- Registration establishes a public record of the copyright claim and allows for the recordation of transfers of ownership of the copyright (prima facie evidence of ownership);
- Registration allows the copyright to be used to prevent the importation of infringing copies; and
- By registering a copyrighted work in a timely manner the copyright owner has the ability to bring the lawsuit at the specific moment it is required. It also permits the copyright owner to send a "cease and desist letter" to the infringer that incorporates demands that are backed-up by the knowledge that a lawsuit could be immediately filed and that the (i) validity of originality and ownership will be presumed, (ii) statutory damages may be awarded, and (iii) legal costs and attorneys' fees may be recovered.

### **Benefits of Patent Registration**

- Keep others out of the market: Prevents theft of the invention by filing the patent application and obtaining patent pendency, any application filed later in time will be junior to your patent application.
- Give your product credibility: When marketing a patented or patent pending product you can mark the product and give notice of the status. When consumers, manufacturers, developers see that a product is patented they know that much effort and resources went into the product and they are less likely copy and more like likely to invest.
- Reduce Competition: Patents serve as a barrier to entry for competitors who are contemplating entering the market for the patented product or service. Competitors may consider the risks of patent infringement greater than the rewards of potential profits. Also, patentees may assert their patent(s) against competitors to enjoin them from offering a competitive product.

- Investment and economic growth: In addition to obtaining revenue from licenses or sale, possessing a patent may help a company to grow by capitalizing on the market potential of its inventions. Small companies may use patents to attract financial backing. In addition, patents stimulate the growth of national industry because local companies that hold patents can attract overseas investment and develop products for export. Profits generated by patent exploitation can be invested in further research and development, which may stimulate commercial and industrial growth.
- Resource use and knowledge sharing: Patents promote knowledge sharing by requiring the details of the patented invention to be placed in the public domain in return for the exclusive right to exploit the invention. In the absence of this exchange, inventors might protect the details of new inventions through secrecy. The disclosure requirements of the patent system are based on the idea that 'scientific and technical openness benefits the progress of society more than do confidentiality and secrecy'.
- Retain the right to practice the invention: Inventors and start ups may initially seek a licensing deal or an investor for an infusion of cash. In order to attract licensees and investors, the invention must first be disclosed so that the potential licensee or investor can evaluate the deal. If no patent application is filed, then the investor or licensee may reject the offer to license or invest but turn around and file their own patent application. Any application filed by the real inventor will be later in time. As such, the Patent Office will award the patent to the licensee or the investor, instead of to the real investor.