

Let's first go over the reasons why you need to protect your trademark and then give details on how to do it.

WHY YOU NEED TO PROTECT YOUR TRADEMARK

Here's the biggest reasons why protecting your trademark from infringement is important:

1. Weakening of the mark

When someone infringes on your TM, meaning they use a similar mark or any mark that causes confusion with your mark, your mark necessarily becomes less and less distinctive. The more the infringing mark gets established with use (when you don't stop it), the worse the confusion gets and the weaker your TM gets. The weaker your trademark gets, the more likely you are to not be able to enforce its protections.

2. Abandonment

Also, failure to protect you mark or act on infringement may be considered as evidence of abandonment. Remember that TM rights are only protected as long as you use the mark as a trademark. If you are deemed to have abandoned your mark, it means you are considered to have stopped using it. Consequently, the protection over your trademark stops as well.

3. Loss of TM or TM Rights

The weakening of your trademark or abandonment, if you don't do anything about it, can eventually lead to loss of your trademark rights altogether. What's worse, the original infringer may end up with better rights than you in the end.

4. Loss of income and/or reputation

TM infringement can affect your bottom line in 2 ways: loss of sales - when buyers get confused and buy the infringer's product when they intend to buy yours - and loss of patrons when, thinking they got your product, they are disappointed by the quality of the infringer's product they bought by mistake.

WHAT CAN YOU DO TO PROTECT AGAINST TRADEMARK INFRINGEMENT

Complete protection of your trademark consists of fortifying it, keeping an eye out for possible infringement, and taking direct actions to stop infringement. You can do that by:

1. Registering your mark
2. Doing a TM search for conflicting marks regularly
3. Contest and oppose approved registrations and applications
4. Take actions to stop infringement through:
 - a. Cease and Desist letters; or
 - b. Suing in court

1. Register your mark

You do not need to register to have your trademark protected. However, registering your mark with the USPTO gives your mark a more complete protection specifically:

	Registered with the USPTO	Unregistered
Wider scope of rights	In the whole country	Limited to areas of actual use
Venue when suing	May sue directly in federal courts	Can only sue if the amount involved passes a certain threshold
Evidence required in court	No need to prove bona fide trademark, ownership over it, and date of actual use.	Must prove all 3
Causes of action for suing	With more basis for suing like counterfeiting	Limited to common law principles of unfair competition
Less defenses	Defendant cannot usually use innocent infringement defense	
More damages	More causes of action and wider scope of rights means potentially more recoverable damages	Limited to available cause of action and scope of rights

2. Do a TM search from time to time to check for conflicting applications

There's no alarm that goes off to tell you that someone is trespassing on your trademark rights. You will need to be proactive in looking for marks that conflict with yours. You can do this by doing a trademark search from time to time. When you do, do it as if you are searching for your trademark, use as search parameters those characteristics that you would describe your own mark with. After that, do a general search of marks within the same category as your product.

3. File an opposition to the registration or petition for cancellation of the registration

If you find a conflicting or infringing mark on the USPTO database, you can file your opposition to the registration if the mark has not been registered yet. You may do this within 180 days of the publication of the application. If the mark has already been registered, you will instead file an application for cancellation of that mark. Of course, before filing either, you should confirm who among you and the owner of the conflicting mark has a better right. Remember that in trademark, the first to have used the mark on goods in trade has the better right. You can check on the details of the application, including the date of first use in commerce in the USPTO website as well.

4. **Cease and Desist letter – you can write to them and tell them to stop**

In case you find that someone is infringing on your trademark in actual trade, the first and most cost-effective thing you can do would be to make it stop is send them a Cease and Desist (C&D) Letter. It's basically a letter telling them that you own the trademark, they are infringing on your mark and that you are telling them to stop. if you decide to do this, it's best to go with a lawyer--it's cheap and more imposing, and there's better chances that they will comply. Do this so you pay a smaller amount first rather than suing directly in court which costs a lot more.

5. **File a case in court**

If they don't comply with your C&D letter, you might have to sue them. When you sue, depending on the how they are infringing you TM, you can try to get the court to order them to:

- a. Stop the use of the mark or the infringing activity
- b. Rectify the damage by;
 - recalling their products with the infringing mark and/or have those destroyed
 - setting the record straight - clarifying the confusion caused
 - putting a disclaimer on their products
- c. Pay damages for:
 - what they made off of the infringement
 - what you lost because of it
 - what it cost you to sue