

SMALL TALK

By KELLY SPORS



How to Register a Trademark

Q: *We have been operating for a couple of years with a strong Web presence and are interested in getting a trademark on our name. Can you shed some light on the most efficient way to do this?*

—E.R., Spartanburg, S.C.

A: Trademark registration is pretty straightforward. Many businesses can file an application online in less than 90 minutes, without a lawyer's help, says Rich Stim, a San Francisco intellectual-property attorney. The simplest way to register is on the U.S. Patent and Trademark Office's Web site, www.uspto.gov¹.

Before completing the online registration form, check the site's Trademark Electronic Search System ("TESS database") to make sure another company hasn't already registered an identical or similar mark for the same categories of goods or services you offer. U.S.

trademark protection is granted to the first entity to use a particular mark in the geographic area where it operates, regardless of whether the mark is registered. But if your chosen mark is already registered by another company -- even if you used it first -- your registration will be rejected and you'll probably want a lawyer to help you proceed.

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Online trademark registration costs between \$275 and \$325 and asks for information such as the categories of goods and

services for which the mark will be used, date of the mark's first use in commerce and whether there's a design component to the mark you're seeking. Internet businesses registering their names should generally refrain from registering their Web extension, such as .com or .net, with their name, unless they're planning to register the mark both with and without. Getting a trademark without the domain extension will help prevent other businesses from registering the same name by just adding a different extension, Mr. Stim says. He also recommends not designating a specific design of your trademark in order to get the broadest protection.



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You should receive a response to your application within six months of filing, the U.S. Patent and Trademark Office Web site says. There are some scenarios where registering through an intellectual-property attorney -- or at least seeking legal advice beforehand -- makes sense. If your desired mark is similar to another registered mark, or similar enough to confuse people, there's a decent chance your registration will be contested.

What's more, it's difficult to register names deemed too generic or descriptive (think "The Ice Cream Shop" or "We Sell Plants"). A

trademark lawyer perhaps can help you find a way to get at least some protection.

* * *

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