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HOW MUCH WILL IT COST TO REGISTER MY TRADEMARK?

Are you currently using the mark in commerce? If so, for how long?

This will determine if you file an intent-to-use trademark application or an in-use trademark application. If you file an intent-to use trademark application there are additional costs associated with filing a Statement of Use or a Request for Extension of Time to file a Statement of Use.

Are you aware of anyone else using the same or similar trademark to sell the same goods and services?

If you file a trademark application for a trademark that is being used by someone else who is selling similar goods and services, you will encounter more expense in the long run since there is a good chance that there will be a challenge to your trademark application or registration.

Have you conducted a thorough trademark search to make sure no one else is using the trademark in commerce for the same goods and services that you are selling?

A thorough trademark search should include the USPTO database, all states trademark registrations, domain names, Google and other search engines for common law trademarks that have not been registered and foreign marks. If you discover that someone else is using the same or a similar trademark in commerce to sell the same or similar goods and services as you, you should seriously consider changing your trademark to something different. This will save you money in the long run.

Where are you selling the products and services? In just the city in which you live? Nationwide over the internet?

If you are only selling your products in the city where you live and have not expanded beyond those boundaries then you only need to obtain a state trademark registration. If you have a website and are promoting your goods and services throughout the nation it is wise for you to obtain a trademark registration through the USPTO.

The filing fees from state to state range. So we will need to contact the state agency, usually the State Division of Corporations that manages trademark registrations and find out how much it costs to file the trademark application.

Do you want to file a trademark application with the United States Patent and Trademark Office?

The USPTO filing fees range from \$225 to \$400 per class. The filing fee depends upon the description of goods and services you insert into the application. If you use a description from the Acceptable Identification of Goods and Services Manual (ID Manual) then it cost \$225 when you file the application electronically. If you customize your description of goods and services then it costs more.

What is your trademark? A simple word mark? A stylized word mark? A design/logo with words? Or a design/logo without words?

If your trademark consist of a design/logo with words you have to decide if you want to register the words separately from the design/logo. You need to consider how you are using the trademark. Do you use the design/logo without the words and words without the design/logo? You may need to file trademark applications for each variation of the trademark that you are using in commerce.

What products and/or services are you providing?

You may need to file trademark applications in more than one class of goods and services. For example, if you are opening a coffee shop that also sells food and coffee accessories you could register in many different classes (i.e. Class 43 for coffee shop, Class 30 for coffee, Class 11 for coffee roasters, Class 21 for coffee mugs, scoops).

Other factors to consider

Once the trademark application has been filed, the State trademark office or the USPTO may refuse to register the trademark for many different reasons. A simple edit to the description of the mark or the goods and services may be requested. If you receive a refusal from the USPTO (an "Office Action") the examining attorney may refuse to register the mark for the following reasons:

- The mark is generic
- Merely descriptive of goods and services
- Likelihood of confusion with an identical or similar trademark
- Primarily Geographically descriptive
- Deceptively misdescriptive of goods or services
- Geographically deceptively misdescriptive
- Primarily merely a surname
- Not used as a trademark
- Use of a name, symbol or device of organization prohibited by statute

The trademark owner then has to determine if he/she wants to file a Response to the Office Action or abandon the application. The response to Office Action takes more time and cost more depending upon the seriousness of the refusal and whether or not there is a chance of ultimately getting the examining attorney to change his/her mind. If the trademark examining attorney does not accept the arguments that are presented in the Response then the trademark owner has to decide if they want to appeal to the Trademark Trial and Appeal Board which cost even more money.

Petition to Cancel another possibility

The trademark owner may need to file a Petition to Cancel another trademark registration if a prior registration is preventing the registration of your trademark. This is possible if your trademark has priority in commerce or if the other trademark registration has been abandoned.

Notice of Opposition

The trademark application may be accepted by the USPTO but during the 30 day period of publication to the public another entity may file a Notice of Opposition to the trademark application. The trademark owner then has to decide whether or not to fight the Notice of Opposition, abandon the trademark application or try to negotiate a settlement or coexistence agreement of the opposing party.

All of these factors play into the overall cost of obtaining a trademark registration. So when you meet with your attorney make sure you have answers to the questions listed. Discuss with your attorney the best strategy for protecting your trademarks and a good budget for obtaining and maintaining the trademark registrations.