

Trademarks 101 for In-House Counsel: What Actually Deserves Your Attention Each Year

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Most general counsel did not build their careers expecting to spend meaningful time on trademarks. They are rarely the reason a deal closes, a lawsuit settles or a quarter hits its numbers. And yet for many companies, trademarks become one of the most valuable corporate assets while receiving the least structured legal oversight.

That disconnect exists because trademark risk behaves differently than other legal risks general counsel manages. Patent disputes, employment claims and regulatory investigations tend to announce themselves clearly and demand immediate attention. Trademark problems usually do not. They accumulate quietly through missed deadlines, casual brand changes, uneven enforcement decisions or international expansion that outpaces legal review. When those issues surface, they often do so at the worst possible moment: during a product launch, an acquisition, a licensing discussion or a dispute that limits available options.

This article is an orientation for in-house counsel who do not live in this area every day. The focus is practical: what deserves attention on an annual basis, why those items matter and how to think about trademarks as part of a broader legal risk management function rather than a collection of filings handled in the background.

Trademarks Are Living Business Assets

One of the most persistent misconceptions about trademarks is that they function like deeds. Once registered, the thinking goes, they sit safely on the shelf until renewed every decade. In reality, trademarks behave more like contracts. Their value depends on ongoing use, consistent presentation and deliberate enforcement choices.

A trademark registration is not a certificate of ownership in the abstract. It is a legal recognition that a company is using a specific mark in a specific way for specific goods or services. If the business changes and the registration does not, the legal protection begins to drift away.

From an in-house perspective, the right question is rarely “Do we have trademarks?” The better question is “Do our trademarks still reflect how the business actually operates today?” That framing turns trademark oversight into an operational exercise rather than a clerical one. It also explains why annual review matters even when nothing appears to be wrong.

The Four Trademark Functions That Matter Each Year

Trademark law contains many technical rules, but in-house oversight usually comes down to four recurring functions. These functions are interconnected, and weakness in one area tends to surface later as a problem in another.

Portfolio Alignment with the Business

Every year, the business evolves in ways that affect brand usage. New product lines are introduced. Services expand beyond their original scope. Marketing refreshes logos, taglines or visual presentation. Legacy brands are retired, modified or absorbed into broader platforms. These changes often occur without legal involvement because they are seen as commercial rather than legal.

From a trademark perspective, misalignment creates risk. Registrations protect what is actually used in commerce, not what the company once used or intended to use. Annual portfolio alignment should confirm a few core points:

- Core brands are still being used in a manner consistent with their registrations
- New offerings are covered by existing registrations or flagged for new filings
- Marketing changes have not materially altered the mark without legal review

This process does not require deep trademark expertise. It requires awareness of how the business is changing and a mechanism for connecting those changes to legal protection. Without that connection, companies often discover gaps only when enforcement becomes necessary or when diligence exposes inconsistencies between registrations and real-world usage.

Maintenance and Renewal Filings

Trademark rights can be lost without any adversarial action. In the United States, trademark owners must file specific declarations and renewals at defined intervals, including the year prior to the sixth year after registration, the year prior to the tenth year after registration and every ten years thereafter. Failure to file on time will result in cancellation, even if the mark is actively used.

For in-house counsel, the risk here is rarely about understanding statutory deadlines. It is about process discipline and accountability. Annual review should confirm:

- Deadlines are centrally tracked rather than residing with individual teams
- Examples of trademark use reflect how the brand is actually presented to customers
- Someone confirms continued use before legal declarations are signed

These filings are often treated as routine administrative tasks. The consequences of error, however, can ripple across the organization. Loss of a registration weakens enforcement leverage, complicates licensing discussions and may require refile from a position of reduced priority.

Monitoring and Policing

Trademark rights can vanish if other parties begin using similar brands. That said, these rights do not disappear the moment a third party adopts a similar name. Accordingly, inconsistent enforcement weakens rights over time and creates credibility problems when enforcement becomes unavoidable.

Annual oversight should include a high-level assessment of how monitoring and enforcement decisions are made. This is less about volume and more about consistency. Key considerations include:

- Whether new competitors or products create meaningful risk of confusion
- Whether internal teams understand when to escalate brand concerns
- Whether enforcement decisions align with broader business objectives

For most companies, the goal is not aggressive enforcement. It is a predictable enforcement that can be explained later to courts, counterparties or acquirers. This predictability helps in at least two ways. First, selective silence often becomes a problem during litigation or diligence when opposing counsel asks why certain uses were tolerated while others triggered

action. Second, it is easier to budget your legal spend if you understand what actions you would take in certain situations.

Strategic Coverage Gaps

Growth frequently outpaces trademark planning. Companies enter new markets, expand internationally or acquire brands with incomplete legal protection. Often, teams assume existing rights will carry forward without evaluating whether that assumption holds.

An annual review creates space to identify and prioritize coverage gaps before they become urgent. Useful questions include:

- Are we operating in new jurisdictions without trademark protection
- Did we acquire brands that were never properly registered or maintained
- Are international operations relying on U.S. rights without local analysis

These issues are easiest to address proactively. Once a conflict arises or a launch is imminent, the range of available solutions narrows quickly and costs increase accordingly.

Why This Belongs on the General Counsel's Annual Checklist

Trademark issues rarely reach the boardroom unless something has already gone wrong. When they do surface, they tend to implicate multiple parts of the organization at once: marketing, sales, licensing, international operations and corporate development.

An annual trademark review allows general counsel to move from reactive problem solving to managed risk. It helps to:

- Reduce surprise issues that disrupt business initiatives
- Allocate legal budget between maintenance and strategic growth
- Create internal discipline around brand usage and escalation
- Preserve flexibility for future transactions, licensing and expansion

Viewed this way, trademarks are less about logos and more about optionality. Clean, well-aligned portfolios are easier to enforce, easier to license and easier to value in a transaction.

Trademarks as a General Counsel-Level Oversight Function

General counsel are not expected to master every specialty area. They are expected to recognize where quiet risks accumulate and intervene before they become material.

Trademarks fit squarely into that category. They rarely require daily involvement. They benefit significantly from periodic review by someone who understands the business and can connect legal rights to operational reality. Outside counsel can handle filings, searches and enforcement mechanics. In-house counsel provides strategic oversight to ensure those efforts remain aligned with how the company actually operates.

A structured annual check-in, whether internal or with trusted outside counsel, is often sufficient to keep trademark risk proportional, predictable and manageable. The objective is not perfection. It is awareness and control.