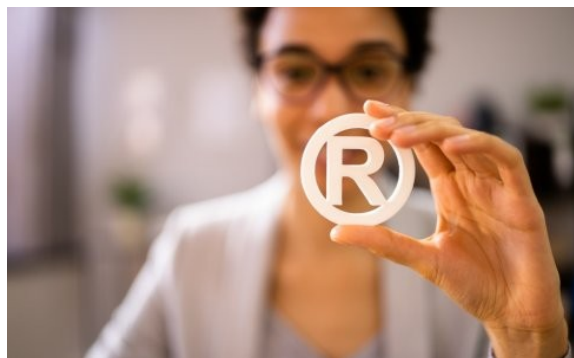


Trademark Registration Misconceptions: What Brand Owners Should Know

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Many business owners view trademark registration as a smart investment—and they're right. A federal registration gives you valuable legal advantages, including nationwide priority, a presumption of ownership, and stronger tools to protect your brand. But registering a trademark doesn't give you absolute control. Whether you can prevent someone else from using a similar name or logo often depends on a few key questions:

- **Who used the trademark first?** If another party has prior rights, their use may be protected.
- **Are they using it for the same or related goods/services?** If you're operating in unrelated industries, another party's use may not be infringing.

Understanding these factors can help you protect your brand more effectively and avoid common trademark misconceptions.

Trademark Protection Is Limited to Specific Goods and Services

A trademark registration does not prevent others from using a similar or identical name, logo, or slogan in unrelated industries. Trademark law is designed to prevent consumer confusion—not to grant brand owners exclusive control over a word or phrase in all contexts. Your trademark rights are fundamentally tied to the goods and services that you sell under your brand name, logo, or other source indicator (i.e., trademark). You can register a trademark to use in connection with the sale of specific goods and services, not for everything.

A perfect, real-world example of this can be found at the corner of Broadway and W 68th Street in New York City, where for several years, a LOWE'S® hardware store sat directly across from a LOEWS® movie theater. Despite the nearly identical pronunciation and similar spelling, both brands coexisted peacefully—and legally—because they operate in entirely different industries. Even though the names are similar, consumers are not likely to confuse a home improvement store with a movie theater or think that there is any shared ownership. The goods and services they offer are so different that consumers would not likely assume the two businesses are affiliated. (The Lowe's eventually closed, but it was likely due to the lack of need for a big-box home improvement store in the heart of Manhattan rather than any trademark conflict.)



If two businesses operate in distinct industries with different audiences and purposes, similar names can often legally coexist.

“I Had It First”: Why First Use Still Matters

When two companies are trading in related commercial spaces (i.e., selling similar goods or services to one another) under the same or similar trademarks, U.S. trademark law will generally favor the party that was using it first.

That's why, before applying for federal registration, your trademark attorney will typically conduct a search to identify existing registrations, pending applications for registration, and unregistered (or “common law”) uses of the mark. The term “common law” refers to trademark rights that arise through the actual use of the mark in commerce, even without formal registration.

Suppose you're opening a bakery in North Carolina called “Maple & Bean.” A common law search reveals a small café in Vermont that has used that name locally for years but never registered it. If you and your trademark attorney agree that the reward outweighs the risk and there are no other conflicts, the USPTO may grant you a trademark registration. But even with that registration, the Vermont café would retain the right to use the name in its existing geographic area because it used it first.

Your registration would, however, generally allow you to prevent others from using the same or a confusingly similar name for related goods or services going forward. However, it wouldn't give you the right to stop someone from using “Bean & Maple” for products in unrelated industries, like glassblowing tools or HVAC systems. In short, trademark protection is both industry-specific and use-based. Registration strengthens your rights but doesn't erase earlier uses—or give you absolute authority over all uses.

Conclusion

A federal trademark registration is a valuable asset, but its scope is not unlimited. Trademark rights are determined by both first use and the specific goods and services involved, making enforcement a fact-specific analysis. Understanding these nuances can help businesses manage their trademark rights effectively and avoid common misconceptions about registration.