1

00:00:06,200 --> 00:00:21,940

[Music]

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00:00:24,960 --> 00:00:29,250

Hi there and welcome to the Trademark Information

Network's Basic Facts Breakdown.

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00:00:29,250 --> 00:00:30,750

I'm Mark Trademan.

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In this segment, we're going to discuss the

benefits of federal trademark registration,

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00:00:35,300 --> 00:00:38,440

essentially asking the question of whether

it's worth it to go through the whole federal

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00:00:38,440 --> 00:00:40,150

trademark registration process.

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We'll also talk about the little "R in the

circle" symbol and when it's proper to use

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00:00:44,690 --> 00:00:45,690

it.

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By the end of this video, you'll know why

federal registration is so important and how

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00:00:50,280 --> 00:00:52,560

to put people on notice that your mark is

registered.

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00:00:52,560 --> 00:00:53,560

Ready?

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00:00:53,560 --> 00:00:55,030

Let's get started...

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00:00:55,030 --> 00:01:00,170

The first question applicants often ask is:

"Is federal registration of my mark required?"

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00:01:00,170 --> 00:01:04,739

The quick answer is "No, but it will enhance

your rights."

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00:01:04,739 --> 00:01:09,229

Using your trademark, in commerce, with specific

goods and services, establishes legal rights

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00:01:09,229 --> 00:01:12,560

in the mark, known as "common-law" rights.

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Those common-law rights, however, may be limited.

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00:01:15,100 --> 00:01:19,520

Depending on your situation, those rights

might only cover a limited geographic area

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00:01:19,520 --> 00:01:23,069

and it might be more difficult to enforce

those rights than it would be if you have

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00:01:23,069 --> 00:01:25,450

a federal registration.

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00:01:25,450 --> 00:01:28,970

Federal registration, however, can greatly

enhance those rights.

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00:01:28,970 --> 00:01:33,180

Specifically, federal registration of your

trademark on the Principal Register provides

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00:01:33,180 --> 00:01:34,920

the following advantages:

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One, it gives you a legal presumption of the

exclusive right to use your mark nationwide

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00:01:40,420 --> 00:01:45,729

on or in connection with the goods and services

identified in your registration.

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00:01:45,729 --> 00:01:49,689

That's in contrast to a state trademark registration

that only gives rights within the borders

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00:01:49,689 --> 00:01:51,829

of that particular state.

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00:01:51,829 --> 00:01:55,640

Federal registration will give you a presumption

of rights throughout the United States and

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00:01:55,640 --> 00:01:57,100

its territories.

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00:01:57,100 --> 00:02:01,930

Two, it creates a legal presumption that you

are the owner of the mark.

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00:02:01,930 --> 00:02:06,960

That's a real advantage if you need to enforce

your registration either in or out of court.

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00:02:06,960 --> 00:02:11,760

However, be aware that even with that legal

presumption of ownership, someone else could

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00:02:11,760 --> 00:02:17,200

prove that they are the rightful owner because

they started using the mark before you.

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00:02:17,200 --> 00:02:21,660

This means a possibility exists that you might

have to stop using your mark.

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00:02:21,660 --> 00:02:26,160

Three, it puts the public on notice that you

are the owner of the mark.

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00:02:26,160 --> 00:02:30,480

If there's a question as to who owns the mark,

it can be looked up in the USPTO's online

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00:02:30,480 --> 00:02:31,920

database.

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00:02:31,920 --> 00:02:33,549

And that's the fourth benefit.

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00:02:33,549 --> 00:02:37,970

Being listed in the USPTO's database means

that others considering potential marks can

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00:02:37,970 --> 00:02:43,260

find your mark when they search the USPTO

database to see if their mark is available.

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00:02:43,260 --> 00:02:47,739

The existence of your mark in the database

can help others to avoid selecting a mark

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00:02:47,739 --> 00:02:49,590

that is too similar to yours.

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00:02:49,590 --> 00:02:54,709

In addition, the USPTO relies on the same

database for its own search and will find

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00:02:54,709 --> 00:02:57,860

your mark when examining someone else's application.

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00:02:57,860 --> 00:03:03,440

The USPTO will cite your registration against

a confusingly similar mark in a later-filed

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00:03:03,440 --> 00:03:06,940

application, preventing a potentially conflicting

trademark from registering.

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00:03:06,940 --> 00:03:12,830

But remember, the USPTO only searches the

USPTO's database of pending and federally

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00:03:12,830 --> 00:03:14,470

registered marks.

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00:03:14,470 --> 00:03:17,300

It does not search for state registrations.

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00:03:17,300 --> 00:03:20,959

And it also does not search for marks that

are not federally registered.

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00:03:20,959 --> 00:03:25,340

Owners of unregistered marks may have superior

common-law rights.

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00:03:25,340 --> 00:03:30,489

Five, a federal trademark registration gives

you the ability to record your trademark with

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00:03:30,489 --> 00:03:32,739

U.S. Customs and Border Protection.

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00:03:32,739 --> 00:03:36,810

That agency will use your trademark registration

to help prevent importation of infringing

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00:03:36,810 --> 00:03:39,400

or counterfeit foreign goods.

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00:03:39,400 --> 00:03:44,250

Six, you have the right to bring legal action

concerning the registered mark in federal

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00:03:44,250 --> 00:03:45,250

court.

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00:03:45,250 --> 00:03:50,780

Keep in mind that the USPTO cannot enforce

your trademark rights or bring legal action

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00:03:50,780 --> 00:03:52,950

against an infringer.

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00:03:52,950 --> 00:03:58,209

It is your legal responsibility to police

your trademark and to protect it from infringement.

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00:03:58,209 --> 00:04:03,530

Only you (or your attorney) may bring legal

action against others infringing your mark.

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00:04:03,530 --> 00:04:08,519

Seven, you have the ability to use your U.S.

trademark registration as a basis for applying

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00:04:08,519 --> 00:04:11,859

for a trademark registration in many foreign

countries.

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00:04:11,859 --> 00:04:15,190

It's a great benefit when your business takes

off and you become a global phenomenon...

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00:04:15,190 --> 00:04:21,850

And, eight, a federal trademark registration

means that you have the right to use the coveted

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00:04:21,850 --> 00:04:26,470

"R in the circle" symbol with your mark, something

you cannot do unless your mark is federally

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00:04:26,470 --> 00:04:28,400

registered.

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00:04:28,400 --> 00:04:32,230

That symbol is typically placed on the right

side of a mark and indicates that you have

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00:04:32,230 --> 00:04:36,680

federally registered your trademark with the

United States Patent and Trademark Office.

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00:04:36,680 --> 00:04:40,400

It puts the public on notice that your mark

is registered and that you have nationwide

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00:04:40,400 --> 00:04:42,360

rights in it.

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00:04:42,360 --> 00:04:47,120

Registration provides a lot of benefits and

it probably explains why the USPTO has registered

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00:04:47,120 --> 00:04:52,081

millions of trademarks from both domestic

and foreign applicants over the years.

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00:04:52,081 --> 00:04:56,550

For those applicants, the answer to the question

"Should I register my mark?" was a resounding

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00:04:56,550 --> 00:04:58,360

"Yes."

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00:04:58,360 --> 00:05:02,790

As always, for more information about trademarks,

feel free to explore the Trademarks section

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00:05:02,790 --> 00:05:05,150

of the USPTO.GOV website.

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Along with other trademark related content,

there is a link to the downloadable "Basic

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Facts About Trademarks" booklet, as well as

links to the other Basic Facts Breakdown videos.

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Thanks for watching and see you next time.

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00:05:16,930 --> 00:05:19,729

I'm Mark Trademan, Trademark Information Network.