



TRADEMARK HEALTH SELF-CHECKUP

How healthy are your trademarks? Use this self-checkup to find out.

MAINTENANCE FILINGS

- ✓ Declaration of Use (§8) – Due every 5 years for the first 10 years then every 10 years thereafter. These are mandatory. If they are not timely filed, your registration may be abandoned.
- ✓ Declaration of Incontestability (§15) – Can be filed at any time after 5 years of post-registration continuous use. Makes registration incontestable. Especially important for descriptive marks.
- ✓ Renewal (§9) – Due every 10 years. These are mandatory. If they are not timely filed, your registration may be abandoned.

POLICING

- ✓ Watch Services – Watch services are inexpensive and can alert you when someone attempts to register a confusingly similar trademark. Each of your trademarks should be on a watch service.
- ✓ Periodic Searching – To protect your commercial “turf,” you should periodically search for infringers and other improper users. Obtaining an annual search from a private search company is a good way to find infringers and other misusers.
- ✓ Enforcement – Once you find an infringer or other improper user, it’s important to take action. For non-infringing misusers, it is generally sufficient to send them a letter educating them on the proper use of your trademark. However, for infringers, more aggressive enforcement is recommended. Allowing infringers to continue to operate and ignoring misusers can erode the enforceability of your mark or cause you to lose your trademark altogether.

PERIODIC INTERNAL REVIEWS

- ✓ Use of Registered Marks – Over time, your marketing materials evolve and variations and improper use may creep into your own trademark use. Word marks should be used as adjectives, not nouns and design marks and word marks should be used exactly as they were registered. If you are not using your own trademarks correctly, it could weaken your trademarks or may cause you to lose them altogether.
- ✓ Identify Unregistered Marks – Businesses frequently adopt new marks without remembering to register them. Registration is an important part of protecting your trademark and your business.
- ✓ Customs & Border Patrol Registration – Infringing goods may enter the US by way of import. Registering your trademark with the US Customs & Border Patrol can help stop infringers at the border. This can be enhanced with local CBP training.
- ✓ Foreign Registrations – If you are selling abroad, make sure you are cleared to use your mark in those countries. If so, consider registering your mark in those countries. Registration in most other countries is frequently less expensive than in the US.