



THE LAW

Protecting nonprofit brands: a guide to trademarks

BY SUSAN GEIER

As a nonprofit, your name and logo are more than just symbols — they represent your mission, values and the trust you've built with your community. But have you ever considered what would happen if someone else started using your name or logo without your permission?

Matt Saunders, founding partner of the intellectual property firm Saunders & Silverstein LLP, breaks down why they're important for nonprofits and the simple steps you can take to protect your brand.

Q: Why are trademarks important?

Matt Saunders [MS]: Every business, whether for-profit or nonprofit, has at least one trademark — its name, logo or slogan (tagline). Trademarks help the public recognize and connect with a business and its services. For nonprofits, the primary trademark is usually the name, followed by a logo or tagline. These elements build trust and goodwill, making it easier for people to identify and remember the organization and its services.

Q: What does it mean to have trademark protection?

MS: Trademark rights are acquired primarily through use. As soon as you start offering your services, you start to build up at least

some rights. You can expand and strengthen those rights through registration. Registration helps you in terms of potential enforcement. If someone else comes along using a similar trademark for similar services, but you were there first, then you may be able to take steps to prevent them from doing that.

Q: In the case of rebranding or updating your name or logo, what are the benefits of trademark protection?

MS: If you are starting an organization, rebranding or launching a new offering that has its own brand, the first step is to conduct a search to find out if someone is already using something similar for similar services. If you've changed your name or have a name you like, the concern is can you use it? What is the risk to your use of this? Even if you're small and local, it's still important to know what that landscape looks like before you go and spend a whole bunch of money.

Q: There are often similar nonprofit names and logos. Does that matter when it comes to trademark protection?

MS: It's good and bad. The good is, if there are lots of variations out there, it means that no one organization could necessarily claim exclusive rights to the point where they are going to enforce it against you. The bad is that it's harder to stand out and enforce if there is ever an issue.

For example, you could call yourself Anytown Community Services, but it doesn't build much into the brand. If the goal is to build in people's minds a story about your organization, it starts with the services you provide and the way you identify yourself. If people have a great experience with you, but they can't remember what you're called, you're not doing yourself any good.

Q: What is the process to register a trademark?

MS: After a background search, decide if you need state or federal trademark registration.

State registration: If your business operates only within one state, registering with the state reserves your name so others in the state can't use it. The process is usually simple and requires a small fee.

Federal registration: If you offer services across state lines, a federal trademark gives you nationwide protection. While you can file yourself, the process is complex and easy to get wrong.

The application must accurately describe your services in a way the U.S. Patent and Trademark Office (USPTO) accepts. After filing, it takes about 7-8 months for review. If rejected, you can argue against the refusal. If approved, the trademark is published for 30 days for opposition. If no one objects, you receive your registration certificate.

Q: Any final advice regarding trademark protection?

MS: Beware of trademark scams which come in a few different forms.

Fake notices are usually sent via postal mail claiming a registration is due for maintenance and offering to file the maintenance documents for a fee. The notice will often include a company name and logo very similar to the USPTO to make it look official.

Email notices are purportedly from a law firm warning that someone else is trying to register a trademark like yours and offering to take action for a fee. However, the law firm doesn't exist, and there is no actual issue to be addressed.

Letters that appear to be invoices offer to list your trademark on a database of registered trademarks. The database is useless if it exists at all.

Some companies are reporting receiving calls that make similar claims to the ones mentioned.

The most important thing for clients to know is the USPTO will never send an invoice. Anything you receive that's asking for payment is either a scam or a demand. Even if you're certain it's a scam, it's always best to ask your attorney. **NHBR**

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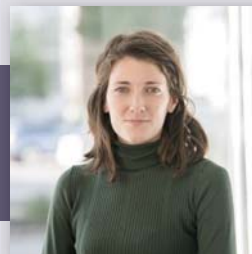
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