

INTELLECTUAL PROPERTY

Q Must a business register its trademark with the Patent and Trademark Office to have enforceable rights against infringers?

A No. A business that adopts a proper trademark to identify the source of its product or service acquires enforceable trademark rights under “common law” merely by using the mark in commerce. However, these common law rights are limited to where the mark is known. A federal registration is useful, in part, because it provides senior nationwide rights as of the filing date. This makes it easier for the business to expand their use geographically. Thus, while a federal registration is not required to enforce trademark rights, it can be quite valuable. A trademark attorney can discuss your situation with you in greater detail.

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