



THE
PLUS IP FIRM
Patents. Trademarks. Copyrights.

Do I have to "use" a trademark before filing an application for trademark registration?

Given that my practice is focused on patent and trademark law, many people often ask me if a business must be selling products in order to file for registration or protection of a trademark. The short answer that question is NO! You do not have to be using a mark in commerce before filing an application to federally register a mark. A business owner only has to have a “bona fide intent to use” a mark before filing an application for registration. However, generally speaking, a business owner must eventually submit evidence that the mark is in “use in commerce” in order to obtain a registered trademark.

You may be asking yourself, why is this important to me? Many businesses spend thousands, if not hundreds of thousands of dollars in developing a brand. As a result of such a significant financial investment, savvy business owners need to ensure that his or her mark is protected before investing their resources into a brand. One of the first steps in protecting a brand name for a product is registering a mark with the United States Trademark Office. A federally registered trademark may give a business owner exclusive rights to use a word, logo, or design in order to distinguish a product from the products of

others. In other words, a trademark may provide a business with a significant competitive advantage.

Do it yourselfers must be very careful when filing applications by themselves. The Trademark Office does not verify all of an application's content for accuracy. As a result, before filing an application it is extremely important to accurately determine whether a mark is in "use in commerce". Failure to accurately state certain "use in commerce" dates may result in the cancellation of a trademark in litigation when the stakes are at their highest.

The attorneys at The Plus IP Firm have experience in preparing and filing hundreds of trademark applications on behalf of their clients. The attorneys at the The Plus IP Firm are available to assist you if you have not filed an application or have questions about an already filed application. If you have any questions, please give us a call. We offer a free consultation. How may we help you create an asset out of your innovation?

"Derek Fahey was so easy to work with. He is extremely knowledgeable, trustworthy and patient. I had no clue as to how to obtain a Trademark. He took the time to educate me on the process, discuss my options, and provide his recommendations. He also expedited the process as I was anxious to get the application completed and submitted. He is the absolute best. I would highly recommend him." - Frank Serrano, a satisfied client.



"The Firm's vision is to provide high quality legal services to client's with excellent friendly customer service."

Derek Fahey specializes in protecting ideas, inventions, logos and artwork, with intellectual property such as patents, trademarks, copyrights and trade secrets. Many businesses

throughout Florida have chosen Derek Fahey to represent and advise them with regards to their intellectual property needs.

Derek Fahey, Esq. | Reg'd Patent Attorney
954.332.3584 (office) ; 954.547.7634 (mobile)
derek@plusfirm.com | www.plusfirm.com