

TRADEMARK BASICS: The “Intent to Use” Application

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If you are thinking of releasing a product or service and are interested in registering a trademark (or service mark) but are not quite sure what kind of trademark application you'll need, here is some basic information about trademarks that you might find handy.

If you have not started selling your product or service, you have a couple of options: (1) you can file a “standard” trademark application after you start to use the mark in commerce (i.e., your web page goes live or you offer the product for sale in interstate commerce), or (2) you can file an “intent to use” application.

Assuming that you have not used the mark in commerce, the “intent to use” application lets you register a mark for your product/service to provide you with a priority date for your mark, the priority date being the date of filing the “intent to use” application. After filing an “intent to use” application, and after the United States Patent and Trademark Office allows your mark, you will have 6 months (extendable up to three years with fees) to file a “statement of use” setting forth the date you actually started to use the mark in commerce. This might be beneficial to your business because rather than waiting until you begin to use the mark, you will have priority of the use of the mark over others that might have started using the mark after you filed. The disadvantage to the “intent to use” application is that it’s slightly more expensive.

A “standard” trademark application is less expensive because there is no requirement to file a “statement of use” but the application can't be filed until you start using the mark (e.g., the day your web page goes live).

As of the date of this article, the current USPTO fee for filing a trademark for a single class of goods/services is \$325 (this is the same for either option). If

you filed an "intent to use" application, once you begin to use the mark you would file a "statement of use" setting forth the first date of the use of the mark. The USPTO fee for the statement of use is \$100 (plus time extension fees if applicable).

Thus, the cost of an "intent to use" application is a bit more in total, but could be advantageous if you want to reserve your mark while still working on getting your product or service on the market.

Please contact us at (860) 368-0040 if you are interested in filing for trademark protection.