



# Client Alert

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After acquiring a trademark registration, you may feel that you have done all there needs to be done to protect the name of your company or brand. While a trademark registration affords significant protection, it is not always enough to combat trademark infringement. In certain circumstances, if enough third-parties in the marketplace begin using a mark confusingly similar to yours, your mark may be weakened and consumers may be less likely to be confused by the infringing third-party use. Hence, remaining vigilant in the marketplace and taking swift action against infringing use is an important consideration for your trademark portfolio. As discussed below, there are a couple of efficient ways to accomplish this goal.

## *New USPTO Applications*

A relatively easy way to keep an eye on third-parties that may be infringing your mark is to periodically review new applications submitted to the United States Patent and Trademark Office (USPTO) for marks that have words or phrases similar to your registered mark. There are numerous “watch” services, including those used by this firm, that can review these applications for you and alert you when a potentially infringing trademark application is submitted to the USPTO. Depending upon the circumstances, you may then find it appropriate to oppose the trademark application through a formal USPTO proceeding and/or send a demand letter to the applicant to cease the infringing use.

## *Under the Radar*

Often, however, it is difficult to root out third-parties infringing your mark because some entities may not seek a trademark registration or make their presence known on the Internet. These third-parties may, however, be using your mark or a confusingly similar mark in their business names or brand names. A periodic search for such businesses through various nationwide business directories and government registries (available in report form from the vendors mentioned above) can quickly identify any such third-parties, and help you investigate whether further action against those third-parties is necessary. Through your vigilance, you may discover that a business operating just a few streets away has adopted your trademark, and that it may even be luring away your customers.

## *Action Plan*

While periodically reviewing and protecting your intellectual property portfolio may not be on the top of your list, it should be. Your trademark can be a valuable asset, and perhaps even the only thing that separates you from your competitors in the marketplace. Take the time to ensure that your trademark



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is not being infringed, and, if it is, be prudent and take swift action to stem any such infringement.

*Not if, but how*

Arnall Golden Gregory, LLP has significant experience in intellectual property law, including patents, trademarks, and copyrights. Do not hesitate to contact us if we can be of help to you.

Feel free to forward this Client Alert to others in your business network.

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*This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.*