

Media Toolkit



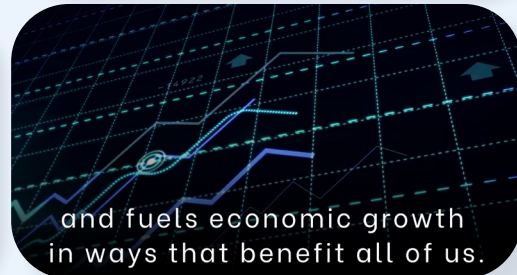
Video [Click to view.](#)

Brands matter.

They give us the chance to make choices that reflect who we are...

and who we want to be.

The intellectual property behind a brand drives innovation...



Learn more about intellectual property...



...and how it protects you and the brands you care about.



Learn more at inta.org/unlockingIP
#UnlockingIP



For consumers around the world, brands on everything from breakfast cereal and sneakers to medical devices and personal care products represent an assurance of quality and consistency. Brands also connect us to the things that matter most to us: our friends and family, our memories and history, and our traditions. The protection of brands and the products they represent—through trademarks, copyrights, patents, and other forms of intellectual property—help make it possible for these promises to be kept.

In addition, the intellectual property at the heart of a brand is what drives innovation, [creates jobs](#) and higher wages, and fuels economic growth, business profits, and competitiveness. Intellectual property also offers protection against counterfeits and fakes that put consumers at risk, hurt the economy, and cost jobs.

The theft or misuse of intellectual property by creating knock-offs, look-alikes, or fakes of protected brands is a growing problem with significant economic and social costs, as well as risks to consumer safety and health. As more companies enter global markets, the risk of misuse and theft of intellectual property grows.

Without protection and enforcement of brands, consumers cannot be sure whether the product they're buying is authentic and safe. They also have no way of knowing whether it has been sourced by crime (including organized crime), child labor, human trafficking, or slavery. Beyond this, brand owners have a duty to prevent misuse, as failure to do so will jeopardize a business' most important asset—its brand—because failure to protect a right can lead to a legal loss of that right. This poses particular challenges for small- and medium-sized businesses that don't always have the resources to prevent misuse or theft of their intellectual property.

We encourage members of the press to:

- Learn the basics of intellectual property so your coverage can be as informed, accurate, and useful as possible.
- Broaden the lens in your coverage of brands and intellectual property to take into account the value IP brings to—and the harm IP misuse and counterfeiting has on—consumers, employees, businesses, the community, and the economy.
- Avoid genericizing brands by using a brand name to generically refer to a class of products.
- Rely on INTA as your go-to resource about intellectual property issues.

For more information about intellectual property, check out this [link](#).

FOR MORE INFORMATION:

Tracey Eyers, Senior Strategist for Communications, International Trademark Association

1-212-642-1770

teyers@inta.org

Data Resources For Reference And Reporting Purposes

The following are data and information resources on intellectual property that may be helpful for reporting purposes and when researching articles:

- [Fact sheets on IP for an SME audience.](#)
- [Data on the contribution of intellectual property to the US economy, United States Patent and Trademark Office.](#)
- [The foreign trade activities of industries that most intensely use IP, the United States Office of the Chief Economist.](#)
- [Global Anticounterfeiting Consumer Survey, Michigan State University.](#)
- [IP right customs seizures statistics, United States Customs and Border Protection.](#)
- [Global intellectual property perception survey 2023, World Intellectual Property Organization.](#)

INTELLECTUAL PROPERTY FACTS: Did you know...



...that some of the first trademarks were used on swords? The [first marks](#)—the branding of livestock depicted in Stone Age cave paintings—were made to assert private ownership, with later marks depicting uniquely crafted swords, with blacksmiths marking finished products to show the makers.



...that King Henry III required trademarks for bread?

[King Henry III](#) passed legislation in 1266 requiring bakers to use distinct trademarks to differentiate the bread they sold.



...that Taylor Swift owns hundreds of trademarks? [Taylor Swift](#) owns 173 trademarks in the U.S. and hundreds worldwide, including TAYLOR SWIFT, TAYLOR'S VERSION, THIS SICK BEAT, and LOOK WHAT YOU MADE ME DO.



...that a whistle can be a trademark? The Mockingjay [whistle](#) from *The Hunger Games* is registered in the U.S. Listen to the sound [here](#).



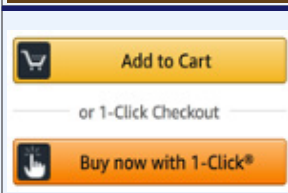
...that the sound of breathing can be a trademark? The sound of [Darth Vader](#) breathing from Star Wars is registered in the U.S.



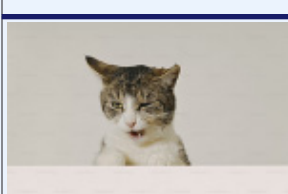
That the Tiffany & Co. blue color is a trademark? The blue color of packaging for Tiffany & Co. is registered as a trademark in the U.S., and the color is coined "[Tiffany Blue](#)."



That the color of UPS trucks is a trademark? The [brown](#) color of UPS trucks is protected in the U.S. The shade of brown is called "Pullman brown," and UPS chose this particular shade because it is considered more luxurious than other shades of brown.



That Amazon patented the "1-Click" button? Amazon filed a patent for the "[1-Click](#)" button in 1999. The "1-Click" button allowed shoppers to enter billing and shipping information only once, so subsequent purchases required just the click of a button. The technology resulted in billions of dollars of revenue.



That memes can receive copyright protection? Jurisdictions around the world offer copyright protection for original memes. The owner of the [Grumpy Cat](#) meme has won a copyright infringement case in the U.S.

1. What is a trademark?

A trademark includes any word, logo, or anything else (e.g., 3D shapes, scents/smells, sounds, animations, sequences of images, and holograms) that identifies the source of goods and services. Trademarks are often called “brands” or “brand names.”

A trademark is not a patent, which protects inventions, and it’s not a copyright, which protects creative works, such as artistic and literary works.

2. Do trademarks have to be registered?

It depends on the country. Many countries only protect trademarks if they are officially registered with the local Trademark Office. However, in some countries, like the United States, registration is not mandatory. That said, trademark registration in the United States is still recommended as it has several important advantages, including providing notice to the public of the registrant’s claim of ownership of the mark, a legal presumption of ownership nationwide, and the exclusive right to use the mark on or in connection with the products or services described in the registration.

3. What are the benefits of registering a trademark?

Registration provides a comprehensive range of benefits, including:

- Acting as a deterrent to others from adopting an identical or similar trademark.
- Providing a better defense against someone else trying to stop the owner of the trademark registration from using its mark.
- Helping to stop others from using or registering an identical or similar mark.
- Providing a business asset that can be licensed.
- Providing collateral for loans.
- Operating as a sign to potential investors that a company is sophisticated and/or is prepared to extend its business to other markets and/or a new range of products.
- Depending on local accounting practices and standards, the registered rights may be booked as a valuable asset on the balance sheet of the company.
- In some countries, registration provides a basis for securing a country-level domain name.
- Allowing the use of the registration symbol ® next to the trademark which is of itself a declaration to others of trademark rights.

4. What do ™ and ® mean?

“™” is used to show that a trademark is unregistered.

“®” is the symbol used to identify a trademark that is registered. Use of the “®” symbol without a trademark registration is generally not allowed.

5. What are common law rights?

In the United States, securing a trademark registration is not required to establish trademark rights. Trademark rights can be established merely by using a trademark in commerce; this is referred to as common law rights. Common law rights only have effect in territories where the mark is actually used or has a reputation. That said, securing a trademark registration is recommended due to the benefits provided by registration.

6. Is it difficult to obtain a trademark registration?

In the U.S. and in most countries, once a trademark application is filed, it is examined by the Trademark Office and, depending on many factors, may encounter bars to registration. Bars to registration include that a trademark is merely descriptive of the goods or services or that the trademark conflicts with a previously filed trademark application or registration.

The bottom line is that each trademark application is decided on its own merits.

7. How long does the U.S. Patent and Trademark Office (“USPTO”) trademark application process take?

According to the metrics provided by the USPTO, on average if no opposition is filed it takes from 14 to 15 months from the filing of a trademark application to registration.

8. Are there costs associated with obtaining a trademark registration?

In all jurisdictions, there will be government fees (and sometimes other costs) associated with the filing of a trademark application, as well as potentially at other stages in the process. In addition, if an attorney is hired, there will be associated legal fees.

9. What is the relationship between brands and consumers?

Brands resonate with consumers in many ways. Advertisements depict lifestyles and levels of happiness that consumers want to experience. A strong brand can sway consumer behavior favorably. Imagine there are two products with similar features and performance. Consumers are more likely to choose the product with a strong brand or a brand that they have a relationship with or emotional connection to.

In addition, brands can create a sense of trust, reassurance, and loyalty among consumers. Brands can also create an emotional connection with consumers.

10. Why are they called “brands”?

The idea of a ‘brand’ has been around for centuries.

The word ‘brand’ (as we are using it here) dates back to Old Norse, the ancient North Germanic language from which modern Scandinavian languages derived. “Brand” originally referred to a piece of burning wood. It wasn’t used as a verb until late Middle English, when it came to mean “mark permanently with a hot iron.” By the seventeenth century, it referred to a mark of ownership made by branding.

11. Does a company own all the intellectual property (including trademarks) that it commissions (via consultants) or that is created by its personnel (employees)?

Whether a company owns the IP created by its employees depends on the role of the employee and on local law. To be sure that it owns the intellectual property created by employees, a business should have a formal agreement with the employee transferring ownership to the company of any intellectual property created by the employee during the regular course of business .

As to intellectual property commissioned or created by a non-employee, a company should have a signed agreement with the entity it has commissioned with appropriate language transferring the ownership in the commissioned intellectual property to the company.

12. Does a trademark registration give me rights to use the mark internationally?

Trademark rights are territorial. This means that a trademark registration in a specific jurisdiction only gives rights to the owner to use (or license to use) that mark in that specific geographical territory.

13. If I get a trademark registration, do I automatically get a business name or domain name rights?

Successful trademark registration does not mean you can automatically secure a business name, company name, or domain name rights. Business names, company names, and domain names are separate rights that the owner of the trademark would need to secure separately.

14. How can a registered trademark be enforced?

Registered rights can be enforced in a number of ways, including through:

- Civil actions
- Criminal prosecution
- Customs seizures

15. If my mark is unregistered, can I still enforce it against counterfeits and other unauthorized use?

In the U.S., unregistered trademark rights can be enforced against others, but the rights may be more limited; it is advisable to secure a federal trademark registration to best protect a trademark.

16. Does an entity need a trademark registration to use its mark?

In most jurisdictions around the world, including in the U.S., entities do not need to register their trademark with the Trademark Office to use the trademark in the marketplace. That said, there can be a risk to using a mark without registering it, and trademark registration provides substantial benefits in terms of both (i) helping to defend rights in the mark if another claims they own rights to the identical or similar mark, and (ii) stopping others who may adopt an identical or similar mark to the registered mark or who attempt to ride on the goodwill in the mark.

Common Misconceptions

The following are some common misconceptions around IP, the clarification of which may assist in your reporting on IP.

A. You can patent or copyright a trademark.

It is incorrect to say, “*Company ABC’s patented trademark is ...xyz.*” There is no provision for “patenting” a trademark. The patent system is for protecting inventions. By contrast, trademarks are typically signs, symbols, distinctive words or phrases, logos, colors (and more recently animations and possibly sounds or aromas that distinguish a product or service from others and that identify the source of goods or services). It is also incorrect to say, “*XYZ’s copyrighted trademark is ...abc.*” Copyrights typically protect original works of authorship including literary, dramatic, musical, and artistic works such as poetry, novels, movies, songs, software, and architecture.

B. Once business has commenced, it is too late to register your trademark.

Even if you have already commenced business, companies can still *apply* to register their trademark. However, in the United States, the rule is that the first person to file a trademark application (rather than first person to use that trademark) is entitled to the rights in that trademark.

C. There is no hurry to register your trademarks.

Many jurisdictions operate on a first-to-file basis. That is, the first person to file an application has priority for the right (other jurisdictions operate on a first-to-use basis). Some jurisdictions may also take into account whether a trademark applicant or a third-party competitor have used a mark before filing. For business reasons, the sooner you apply to register the trademark, the sooner it will be examined and potentially registered.

D. Registering intellectual property is expensive.

There is a cost for building a portfolio of trademark registrations and patent registrations. However, this cost is significantly less than what businesses spend on such things as rent, staff, capital expenditures, promotion and advertising, and the benefits to the business in registering marks and patents are potentially significant. Investing in your intellectual property has a well-earned reputation for being worth the cost. For example, what a company would spend to secure a trademark registration is far less than what it would spend in a court action to try to stop competitors or infringers from using its unregistered mark.

E. The cost of trademark filings outweighs the benefits.

A tailored trademark portfolio brings numerous benefits to a business and extends its life and value. In particular, trademark registrations:

- Distinguish a business, products, or services from those of competitors
- Provide a strong basis for stopping unauthorized third-party use of the mark for identical or related products
- Save considerable expense and time compared to what is required to defend or take action against unregistered rights
- Provide a right that can be licensed to third parties for value, helping companies maximize revenue
- Provide a public record, sending a clear public message that the brand owner has invested in and cares about the brand
- Can be offered as collateral for a loan or other commercial financing, which is another way for companies of all sizes to monetize their creative and commercial efforts

F. Fake products do not hurt anyone.

Despite a range of laws to protect IP rights, the profits from manufacturing and dealing in fakes makes them an attractive business for global criminal organizations. Counterfeiting, piracy, and other unauthorized uses of trademarks create many issues.

One is the risk to health and safety. Counterfeit pharmaceuticals and medicines can have serious health implications as they may not be made to the same standards of purity, efficacy, and hygiene as authentic products. At best, such counterfeits may not have any of the desired active ingredients; at worst they may cause real physical harm. These risks can also apply to food and drink products, as well as cosmetics.

Further, products that are purchased with technical engineering standards (e.g., metal structural members, screws, batteries) could fail due to lack of structural soundness and lead to serious damage or injury.

Trade in all counterfeits, regardless of the product, also impacts society and the economy. The loss of tax revenue can mean fewer funds available for public expenditure. Under-the-counter manufacturing could lead to labor losses, and lost revenue for legitimate businesses of all sizes means fewer jobs, less taxes paid, and other economic challenges. Counterfeits are also tied to criminal activity (including organized crime), child labor, human trafficking, and slavery.

Counterfeits that are seized by customs authorities also present disposal problems. Some of these products are sent to a landfill, occupying precious space, and they may contain toxic substances, which require special care in handling, or they may be destroyed in ways that are unfriendly to the environment

G. Intellectual property rights are unenforceable.

Jurisdictions that enact legislation to allow for the registration of rights (whether trademark, designs, or patents—or others) also provide remedies when those rights are wrongly used without permission.

H. Trademarks protect only words or logos.

A trademark can be any sign that is capable of distinguishing goods or services from those of others. In addition to words, depending on the jurisdictions, this can include logos, names; devices; certain three-dimensional shapes; colors (single colors or combinations of colors); slogans; sounds; smells; trade dress/get-up; holograms; motion; or touch marks, as long as they meet the local requirements for being registered as a trademark.

I. Intellectual property is reserved for only large corporations.

Intellectual property is size neutral and benefits companies of all sizes. More to the point, SMEs are at the heart of economies and innovation, and it is IP that makes (and protects) innovation and brands by making it possible to develop an idea into a product or service. In other words, the benefits are available to all, not just the large entities like Apple and Google. If start-ups do not register their intellectual property rights, they may also be the victim of trolls, opportunists, and those seeking to protect IP based on their their ideas or identity.

J. If someone else has registered a trademark, subsequent filers and users will be blocked from using the mark.

Identical or similar trademarks can sometimes be registered and used by different businesses. This is because registrations are specific to the goods/products and services mentioned in the application and, consequently, the registration. Generally speaking, identical and similar trademarks can be used for different products as long as there is no reasonable likelihood of confusion.

K. Registering a business or a company name is enough; it's not necessary to register a trademark.

Even if you have registered your business or company name, that does not give you rights to use a trademark or to stop others from using their trademarks. A business name registration may be a formal requirement to alert the tax authorities that a company is operating/about to operate, or a voluntary option for shielding an individual from liability. Neither provides rights to use a trademark or a mechanism for stopping third parties from using the trademark.

L. Once you have a domain name you can use it as a trademark.

Domain names and trademarks are fundamentally different. Trademarks are used to identify goods and services and a trademark registration provides statutory rights to stop misuse and recover damages if someone else improperly uses the mark. A domain name is merely a digital address allowing users to access a specific website. A domain name is licensed to applicants by a Domain Name Registrar and is not owned by the licensee/user. The license to use a domain name does not of itself come with any rights to stop third-party use of the word portion of the domain name (that is, the "second level domain") and does it block a third party from securing a trademark registration for the same word.

M. Once registered, I am protected everywhere and forever.

Trademark rights are both specific to the claimed goods and services in the registration and are also tied to the specific jurisdiction in which they are established. If the registration is for one jurisdiction, the registered rights do not extend to other jurisdictions. The bottom line is that a trademark registration is not enforceable all over the world.

With regard to the duration of a registration, once a trademark is registered it must be renewed periodically to remain valid (typically, depending on the jurisdiction, at ten-year intervals). In addition, in most jurisdictions a trademark registration will become vulnerable to attack if not used in a certain time frame after registration. In some jurisdictions, including the United States, periodic proof of use of the goods and/or services is required by the local Trademark Office to maintain rights and/or the right to renew.

Contact Info and Resources

Contact Info and Resources

For more resources related to intellectual property and brands, please visit [inta.org](https://www.inta.org). Our website has informational pages related to areas of particular interest, including [For SMEs](#), [For Consumers](#), [Fact Sheets](#), and content of back issues of the [INTA Bulletin](#). For answers to your questions about brands, trademarks, and other intellectual property-related matters, reach out to the INTA Communications Department to connect with members of the INTA community and find out more about the resources available.