



ON YOUR MARK, GET SET, GO: A Playbook for Launching and Protecting a Brand

Articles

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In an article for [Women Leaders in Sports](#), partner Kate Sherlock explains that a trademark is a powerful business asset—protecting your brand identity, strengthening your legal rights through registration with the United States Patent and Trademark Office, and creating long-term competitive value when chosen and managed strategically.

WHAT IS A TRADEMARK?

A trademark is a word, phrase, logo, sound, or design that identifies the origin of goods or services and distinguishes them from others in the marketplace. In the United States, rights to a trademark are acquired through actual use rather than solely through registration. That means you can protect your brand as soon as you use your trademark in connection with your products or services. You also have the right to stop others from using a similar name or logo if it would likely confuse customers about where products or services come from.

BENEFITS OF REGISTERING YOUR TRADEMARK

You are not required to register your trademark before you use it ; however, registering it with the United States Patent and Trademark Office (USPTO) provides important advantages:

- **Public Notice of Ownership.** Once your trademark is registered, it goes into the USPTO's public database. This can deter others from using a similar name or logo and can be used to stop others from registering similar trademarks.
- **Stronger Enforcement Rights.** A federal registration serves as powerful evidence of ownership in legal disputes making it easier to resolve things.

- **Right to Use the ® Symbol.** The ® symbol lets everyone know your mark is officially registered, which may help stop copycats.
- **Incontestable Eligibility.** After five years of being registered, your trademark might also become “incontestable,” which means that few people can challenge your rights to use it.
- **Platform Benefits.** If selling your products on a platform like Amazon is your goal, federal registration is required to participate in Amazon’s Brand Registry.

CHOOSING A STRONG TRADEMARK

When selecting your trademark, aim for originality and creativity. Make a list of potential brand names that are unique. The strength of your mark determines how easy it will be to protect. Trademarks fall along a strength spectrum:

- **Generic** (e.g. AIR FRYER for a cooking device that uses air to circulate heat): Unprotectible.
- **Descriptive** (e.g.“COLD AND CREAMY” for ice cream): Weak and difficult to protect.
- **Suggestive** (e.g.“NETFLIX” for streaming services): Moderately strong and good for marketing.
- **Arbitrary or Fanciful** (e.g. “AMAZON” for online services or KODAK for cameras): Strongest legally but might take more effort to establish brand recognition and awareness among consumers.

It’s best to avoid generic or descriptive marks due to their limited, if any, scope of protection and potential registration refusals. A recent example illustrates this point: A major league baseball team recently ran into trouble trying to register “LAS VEGAS ATHLETICS” and “VEGAS ATHLETICS.” The USPTO refused to register the trademarks because they mainly describe a location and activity, and do not function as unique brand names. The team isn’t playing in Las Vegas yet, so they can’t prove the name is distinctive. This doesn’t stop them from using the name or moving, and they might succeed in registering it later with more evidence. Each trademark application is judged on its own, so past registrations don’t guarantee approval.

Creativity at the outset can prevent costly obstacles later.

DO YOUR HOMEWORK BEFORE FILING

Before finalizing your pick, it’s smart to scout out the competition. Once you settle on a few potential trademarks, check to see if anyone else is already using something similar. Search the USPTO database, search online, and look for similar social media names or hashtags. Make sure the website domain and social media handles are available.

If you are unsure of whether a current registration or use poses risks to your choice, reach out to a trademark lawyer for guidance. Once you settle on a mark, your trademark lawyer can also help you write your application and describe your products or services clearly.

A small investment in due diligence can prevent rebranding and legal defense costs down the road.



Protecting Your Trademark Registration

- Before receiving a registration, use the TM symbol in conjunction with your mark to put the public on notice of your common law, use-based rights.
- After registration, make sure to use the ® symbol when displaying your trademark in public-facing materials.
- Maintain good records showing ongoing use in your products and services (e.g. ads, emails, websites, sales materials).

As long as you keep using your trademark in business and renew it on time, your registration can last forever. You must renew your registration between the fifth and sixth year, the ninth and tenth year, and every ten years after that. Keep an eye out for people trying to use your trademark or a similar variation of your mark. You can monitor yourself or hire a third-party company to monitor for you.

CONCLUSION

For women building businesses in sports, your trademark is more than a name, it represents your reputation, credibility, and long-term value. A thoughtfully chosen and properly protected trademark is not just a legal safeguard; it is a competitive advantage. With strategic planning and research, your trademark can become a powerful asset, building goodwill over time as your business grows. Protect it accordingly.

If you need assistance in evaluating or registering a trademark, or if you have any questions about trademarks, please contact [Kate Sherlock](#) in Archer's Voorhees office at 856.673.3919 or ksherlock@archerlaw.com.



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Related People



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Related Services

- Intellectual Property
- Sports & Entertainment



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