

Trademark registration and the need to budget for unforeseen legal claims



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How can
a newly established business
minimise
trademark registration
legal claims
upon start-up?

Budgeting for unforeseen legal claims is especially important for small and mid-size businesses where cash flow is tight and start-up costs consist typically of personal savings.

Before getting into details, let us demonstrate the importance of budgeting for legal claims through our recent involvement in developing a sports clothing brand. After successfully registering a trademark and producing samples, we received a legal claim from a well-established outdoors brand. They believed that our sports logo incorporated a word from their logo. Had they viewed the website and full production samples, such a claim may not have been made. But because website and corporate branding are highly dependent on trademark registration, no information about this was publicly available yet.

Of course, the legal professional hired to represent our brand prepared a response that will hopefully resolve the issue. From this experience, we have learned 3 important lessons:

1. Trademark registration by itself does not mean your logo is entirely available.
2. Existing brands are highly protective and immediately react to any market entrants.
3. It will take time to prepare a legal response and this can cost several thousand dollars, depending on the complexity of the claim.

The question is, how can a newly established business minimise legal claims upon start-up? Below we highlight four tips to help minimise legal risk:

1. Budget at least three times the standard trademark registration cost to account for legal claims.
2. Be ready to adjust your logo design for trademark resubmission.
3. Submit your trademark registration with the help of a lawyer, who will be able to respond efficiently to any claims.
4. Do not rush the establishment of full line services until any legal claims are settled.

You never know who will decide to make a claim against your business. But what you can do is expect and budget for such claim responses in your start-up costs.

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