

# Your Brand (Trademarks) in the Age of Amazon\*

\*and other online marketplaces

## The World Marketplace

Perhaps no other innovation of the last 100 years has been more transformative of how the world communicates and does business than the widespread adoption and availability of the internet. It has leveled the playing field for those with products to sell and services to deliver in a manner never seen before in history.

What once required a local physical presence in the form of a “brick and mortar” store, a significant distribution system in place to both stock and deliver products, can now be dispensed with entirely. For those wanting to engage not only in local commerce, but to offer goods and services to potential customers spanning the entire globe the world of online ecommerce has become a proven and reliable method.

Among those giants of ecommerce like Amazon, Ebay, Ali Baba and many more, the process to go from idea, to securing the product(s) you want to sell, to putting those products into the stream of commerce has never been easier. There are now even reputable services companies that assist budding entrepreneurs to identify, private label, and assist with aspects of bringing those products to market including placement with Amazon and other retail outlets and who have been very successful in doing so. Our company UUNetWorldBrands has proven cost effective turnkey opportunities for buyers from around the world that want to private label and sell in the USA. With today's technology, someone can go from nothing to sell to having numerous products being marketed online all over the world and very successfully in very short order.

As evidence of the fantastic growth rates of the internet, let's compare how many domain names were registered between the time the first domain was registered in 1985 until 2000. By the year 2000, that number had climbed to 27,000,000 just for the .com, .net and .org top level domains (“tld's”) alone. Since then, at the start of January, 2016 the number of registered domains stands near 300,000,000!

In 1985, the first year one could register a domain name, the largest retailer in the United States was Sears. Not too many years later, the Sears Empire was eclipsed by WalMart. Now, as of the summer of 2015 the nation's largest retailer is Amazon!

But the explosion of the use of online, ecommerce websites and 3<sup>rd</sup> party platforms like Amazon, Ebay and AliBaba is not just limited to those seeking to sell within the confines of the United States or their own home country. In fact, it is their growing ability to allow a seller to compete in the world-wide market that is fueling their expansion in ways never imagined. What used to be an arduous task to even advertise or make available for sale products in foreign markets is now a near common occurrence.

In many respects, marketing products around the world has never been easier with the ability to place products with online marketplaces such as Amazon. Likewise, distribution and delivery of those same products which used to be a complex task can no longer be completely “outsourced.” Not only Amazon, but a number of alternative fulfillment services now have the capacity to handle nearly every aspect of warehousing and delivery virtually any product on behalf of a seller. What used to take several employees, just to handle the logistical nightmare that accompanied the management of the distribution process, can now often be managed by a single person and nearly fully automated.

## **The Trademark/Brand Problem in a Growing World Economy**

However, as most aspects of creating and managing a selling platform on a world-wide basis have been overcome, there’s one area which has become decidedly more difficult: choosing, clearing and protecting brand names on a world wide scale. What used to be required to secure your brand/trademark in a single country was a relatively simple straightforward task. For added advantage and to get a host of additional protection, one would typically register their trademarks with the US Patent & Trademark Office (“USPTO”) and perhaps extend that protection by extending that registration to neighboring countries such as Canada or Mexico.

From the time the first trademark registration was issued by the US Patent & Trademark Office in 1870, until the year 2000, a period of 130 years, some 2.4 million trademarks had been registered with the USPTO. That same year slightly more than 1 million of those registered trademarks were still valid and enforceable. In the intervening 16 yrs, the US trademark registry has grown to an historical total of some 4.6+ million with well over 2 million registered valid trademarks.

The rest of the world has seen similar patterns of growth as a near explosion of brand name/trademark registrations become a near necessity as sellers drastically expand their marketing efforts well past the borders of their home countries. The simplicity of securing protection for a brand is not so simple when expanded to the world. This is the result of many countries having differing laws and requirements to secure rights to protect a brand name within their borders.

For the most part (with a few minor exceptions for extremely well known and “Famous” brands) the fact that you may have a registered trademark in one country, does not in any way extend that protection to any other country. Thus, those who engage in international commerce are often required to take a country by country approach to securing protection for their brands.

While some nations do not require that an owner of a trademark secure a registration with their government to protect one’s trademark, others may have laws which offer no protection absent a registration. In fact, in many countries some 3<sup>rd</sup> party can simply apply for and secure a trademark registration and use it as a means of “extorting” the

actual owner into paying them off. (Much in the way in the early days of the internet some enterprising folks would register well known company's trademarks and brand names as domains and then offer them for sale to their rightful owner. That was, until the law finally caught up with them and that practice was severely curtailed.) Thus, those sellers participating in the international marketplace will often be facing a hodge-podge of laws and requirements in each country where they sell products.

## **Protecting Your Mark in the USA**

As those of you who are reading this likely intend to market your product(s), at least initially, through the one of the better known online retail outlets, such as Amazon, Ebay, and Google Shopping. Perhaps you are using some of the up and comers like Rakuten or Jet. Or, perhaps you have or intend to avail yourself of Sears.com or WalMart.com (both of whom have morphed their online offerings to be more like Amazon by greatly expanding their offerings to include products from 3<sup>rd</sup> party vendors which are not offered in their physical stores.)

In all of the instances above, that means that at least a significant part of your business will be by necessity be conducted within the USA. As such, you will likely want to create a business presence within the USA, by forming a Corp, LLC, LLP or other within at least one of the States if you are not a resident/citizen of the USA. In the alternative, you may want to establish some sort of office within the borders of the USA in order to handle correspondence or otherwise use to direct your business affairs, if you are not a resident or citizen.

As such, the natural place to start with establishing your rights to make use of your chosen brand would be in the USA.

### **Common Law & Statutory Trademark Rights in the USA**

There exists no requirement that one register their trademark with the USPTO or other government agency in order to secure trademark rights in the USA. One merely needs to make "Use" of a brand name/trademark in "commerce" in a sufficient enough manner to acquire some rights in the mark.

However the practical side of the equation is that it is incumbent upon those claiming such "common law" rights to prove their exclusive rights in the mark in order to sustain a claim of damages in a suit against any claimed infringing party. Such evidence will include, but not be limited to: prior use of the mark, use without geographical limitations, substantially exclusive use of the mark and will be required to meet other applicable evidentiary and factual standards in order to meet their burden of proof.

In addition, the claimed owner of the mark will also be expected to establish that the mark itself is protectable and is not generic, descriptive/misdescriptive, geographically

descriptive/misdescriptive, does not consist primarily of a surname and is not specifically excluded by Statute as incapable of being claimed as a trademark. (Certain marks are “off-limits” as per US Trademark Law, such as marks which make use of certain government symbols, usage of the Olympic ring design or the word Olympics, those which include the names of living individuals without their consent, etc.)

The ability to establish a *prima facie* trademark infringement case against another, without possessing a valid registration issued by the USPTO, is not only often a difficult legal task but the costs can be significant. In contrast, using a valid USPTO registration for the mark in question makes your claim of ownership of the mark a “rebuttable presumption” and shifts the burden of proof to the claimed infringer.

### **The Benefits of Securing a USPTO Registration for Your Trademark**

The following is a fairly inclusive list of all the benefits you receive upon registration of your trademark with the USPTO:

1. Discourages others from using confusingly similar marks in the first place by making the mark easy to find in a trademark availability search. (Upon registration, no infringing party can make a claim that they were unaware of your usage of the mark, as its presence on the USPTO registry imputes legal knowledge of that fact to them.)
2. Protects against registration of confusingly similar marks, as the Trademark Office has a duty to cite prior registrations against applications for confusingly similar marks and to refuse to register such marks, thereby enlisting the power of the US Government in helping to prevent infringement at no additional cost to you
3. Courts will treat the mark as if it was being used nationwide as of the application date. (This helps avoid the “geographical” limitation of enforcing your rights, under applicable common law requirements.)
4. Provides others with notice of ownership of the mark as upon registration as you can legally make use of the registration symbol "®" on your product packaging, advertising, website, etc.
5. Serves as evidence of the validity and exclusive ownership of the mark for the goods/services listed in the registration. This is very valuable if the need for litigation arises, as all US & State courts are required to presume you are the rightful owner with the right to exclude all others from using the same or similar mark on similar goods/services.
6. Grants you the right to sue in US Federal or State court and under certain circumstances to obtain treble damages and recovery attorney fees.
7. Entitles you to recover certain statutory damages in cases of counterfeiting, rather having to prove actual damages.

8. Empowers the US Customs and Border Protection to block/seize imports that infringe your mark, or which are counterfeit, upon recording of your USPTO registration with Customs. This can significantly help in preventing infringement of your mark by those producing “knock-offs” at no cost to you.

9. A registration can also form the basis for challenging another's use of the same or similar brand name, when following the private dispute resolution process through ICAAN (domain name ownership), or through the trademark dispute process afforded by certain internet market providers such as Amazon, Ebay, etc. (Some online outlets, for example Amazon, will only consider your challenge to the use of a mark by another if you can present proof of ownership in the form of a registration.)

10. Provides a basis for securing trademark registrations in literally hundreds of countries which have reciprocal rights through the two primary international trademark treaties to which the USA is a member.

Other important and additional benefits can be derived from the registration which I have not covered in full detail, but they may cover unusual circumstances that may not be applicable to all.

### **Securing a Trademark Registration in the USA**

In order to secure a trademark registration with the USPTO an applicant must file an application with all necessary information required by law; pay applicable and necessary official filing fees; and submit themselves to the application process. The application is submitted under oath and any lies and claims which the applicant knows to be untrue can subject that applicant to punishment for perjury and/or the cancellation of any resulting registration.

Thus, it's crucial that any information the applicant submits is accurate and truthful, working with an attorney is a simple step that can prevent this potential costly problem. An experienced attorney will know what information must be gathered beforehand and will typically perform some minimal level of due-diligence to ensure the information is correct. An experienced attorney can also guide you through the process and will serve as your advocate before the USPTO doing their best to obtain a lawful registration.

### **The Importance of a Clearance Search**

Before you file an application with the USPTO, it is important to conduct a “clearance search” to make certain that there exist no registered marks (or pending applications) which could conflict with the mark you either intend to use, or have made use. At a minimum, this search should be conducted through USPTO's database. However, as finances allow, it is typically a better practice to conduct a more thorough search which

includes not only the USPTO, but the various state registries and common law databases which may identify prior users of the mark.

This serves a vital function, as it not only allows you to choose a mark which will be eligible for registration with the USPTO, but more importantly prevents you from running afoul of a prior user/registrant who could bring suit against you for infringement. As noted above, the penalties for infringing another's trademark can be fairly severe and cost a significant amount of money to defend, if the other party were to file suit. (A recent report from the Int'l Trademark Association indicated that the average cost to defend a trademark infringement suit in the USA is \$400,000.)

Again, performing a clearance search is another area where reliance on an experienced attorney who is not only technically proficient at making use of the various databases to uncover potentially infringing marks, which may not be readily apparent can be a great asset. In addition, it takes a trained eye to actually make an educated decision as to what marks and their associated goods/services could form the basis for a refusal to register from the USPTO, or potentially draw opposition from a prior user.

Thus, before you spend a single dime applying for a registration for your trademark; it is a necessity that you clear your mark so as to not waste your time and money pursuing a trademark which you can never secure for your own.

### **The Registration Process**

Upon submission of your sworn affidavit and application, or in the case of an attorney, handling your case, often it is they who will sign and submit the application. As part of the process they will swear that all the information therein was obtained from their client (you) is accurate and true, and payment and submission the USPTO will assign your application a unique serial number.

At the time of this book's creation, the average time between submission of the application and it first being assigned to an Examining Attorney at the USPTO for review is/was between 4-6 months. The Examining Attorney will review the application to ascertain whether the application itself meets certain minimal mandatory requirements, both "informal" and the more serious "Statutory" requirements established by the Trademark (Lanham) Act.

As the USPTO is governed in part by provisions of various International Trademark Treaties, certain requirements are made to establish compliance with the rules of those treaties. For instance, you will be required to file your goods by their applicable "International Class(es)" as may be appropriate.

The International Classification System (known as the "Nice" system, named for Nice, France where this provision of the treaty was negotiated) divides up goods and services into one of 45 "classes" which are intended to put similar and related goods/services together in a manner to assist in management of registration systems. For example: "Chemicals" (of nearly all sorts) are in Class 1, while foods and beverages are spread

across Classes 29 thru 33 depending on the specific products, while Class 35 is reserved for business related services and Class 43 is used for bars, restaurants and other hospitality related services together.

Applications for goods and services in multiple classes are allowed by the USPTO, but an additional official filing fee will be required to cover any class identified in the application. Further, the Nice agreement will also require that your goods and services are identified by common (generic) terms applicable in the industry to those goods and services. If your initial application does not contain a precise identification or mistakenly places items in an improper class, or you failed to pay the correct fee your application will be rejected on that basis and you will be required to fix the problem and pay any fees that may be necessary.

Among those things reviewed will be the identification of goods and services, the specimen of use (if any), review of all contact information of the applicant, the type of business organization of the applicant, the mark itself and many additional items. Most informal items and requirements can be addressed without it causing the entire application to be rejected. However, certain refusals based on a "Statutory" cause, require a substantial effort to overcome and in many instances these refusals cannot be overcome by any means. Ultimately those applications will be abandoned or the applicant will be forced to appeal to the Trademark Trial & Appeal Board at great cost and without any guarantee they will prevail.

This is another reason why it is beneficial to acquire the services of an experienced and knowledgeable trademark attorney to assist and file your application. All of these issues can be identified prior to use and adoption, and/or an application for a trademark which violates certain statutes or is simply ineligible for registration. Among these statutory reasons for refusal include, but are not limited to issues involving: Likelihood of Confusion with existing mark; that the mark is Merely Descriptive and/or Deceptively Misdescriptive; it is Primarily Geographically Descriptive and/or Primarily Geographically Deceptively Misdescriptive; it is Primarily Merely a Surname; is "Ornamental," is "Functional, consists of a "Trade Name," or "Trade Dress" and is unable to function as a trademark; or is unable to function as a trademark as it is "Generic" as applied to the goods/services of the applicant.

In some instances, certain objections based on a statutory refusal can be overcome, by persuasive argument, by submission of evidence or by making use of other exceptions to these general rules as provided within the US Trademark (Lanham) Act itself. Additionally, certain marks such as those that are comprised in whole or part of Flags, seals and Coats of Arms of the US Gov't or Foreign Nations, make use of the Olympic Rings, or contains the word "Olympics", and those which are otherwise protected from registration by certain treaties are specifically excluded from registration.

These items are things that should be identified by a competent attorney, before submission of your application, so you can remove them, alter your mark or otherwise prepare beforehand to take the proper steps to ultimately secure the registration if

feasible. But, without the ability to identify these issues beforehand, you may find yourself with a worthless brand name which is ultimately unenforceable and/or incapable of being registered.

Following the initial examination process, if the mark meets the statutory and applicable rules, the Examining Attorney will forward the application to “publication.” This is exactly what it sounds like, the mark itself along with the identifying information with it, will be published in the “Official Gazette” which is a weekly publication containing all the trademarks approved within that weeks’ time. Those in the public are afforded some 30 days to file an objection to the registration of your mark by filing the proper objection, or request for extension of time, with the Trademark Trial and Appeal Board (“TTAB”).

If no objection is filed, then your application file will be forwarded to the Government Printing Services Division who will print the registration certificate. If an objection is filed with the TTAB, then the process, although administrative in nature, closely resembles that of a trial in US District Court, with a mix of rules from both bodies applying to the proceedings. Further, in lieu of filing an action with the TTAB, it is also possible that someone who objects to your registration of your mark could file directly in US District Court, where in addition to seeking prevention or cancellation of your registration with the USPTO, they could file particular claims to seek damages and/or injunctive relief.

Upon securing a registration with the USPTO and being assigned a Registration No. you will have between 5 & 6 years to make the proper filings in order to keep your registration valid (there’s actually a 6 month “window” to “save” the registration beyond the deadline, but you must file a separate fee). The renewal form is designated and known as a “Section 8” filing and must be accompanied not only by a fee, but by a submission of evidence that the mark is still in use in commerce or you have a valid excuse as to why you are not making use of it on a short-term, temporary basis.

Along with the Section 8, it is advisable to file its companion form, a “Section 15” application. In it you will be asked to verify certain information about the status of the mark/registration, such as whether or not you have become aware of anyone else using the same or similar mark on related goods/services, whether anyone has sustained a challenge to your use or registration, or whether your mark/registration is currently the subject of such a legal challenge. If you can fulfill the requirements of Section 15, and you submit the form and fee, your mark will become “incontestable” under the Trademark Act. Although there are several notable exceptions to the rule, generally this means that no 3<sup>rd</sup> party can challenge your registration on any ground they might have normally had if they had presented their objection prior to your filing of your Section 15.

### **Making use of the USPTO’s “Intent-to-Use” Rules and Statute**

Until the late 1980’s the only means of securing a registration and a corresponding filing date, was to make “actual” use of a mark in commerce in the USA (or by a foreign

applicant taking advantage of the Paris Trademark Treaty terms.) Thus, for those who were planning a “launch” of their products under a new brand name/trademark, there became a great deal of uncertainty revolving around those who were trying to advertise or create pre-marketing publicity surrounding their products balanced against their desire to secure rights in that trademark.

At the time, Congress passed a law and the USPTO created a corresponding administrative process for those applicants who wanted to reserve/preserve their rights in a chosen trademark, but who wanted to engage in typical disclosures of that brand name and trademark as may be necessary from a business point of view. Thus, the “Intent-to-Use” (“ITU”) registration process was born.

Basically, an applicant who has a “*bona fide*” intent to make use of the trademark identified in their application, in relationship to the goods/services as identified in the application could file their application and their date of filing would serve as the day, that they’re rights in the mark began. This is a two-step process, as ultimately the traditional rule requiring actual “use” does come into play. At some point between the time the application is filed and the applicant acquires a registration, they will be required to submit an Affidavit of Use, or Statement of Use (depending upon where in the process the application is - whether pre or post examination.) This portion of the application must be accompanied by the dates-of-use and specimens-of-use as evidence of how the mark is being used in commerce. (Typically photos of the products packaging showing the mark as applied to the goods claimed in the registration.)

One of the benefits to filing an “ITU” application is that you can identify a much wider range of goods and services in your initial application than if you filed a “Use” based application where you can only identify those goods/services on which you have actually made use. But with an ITU application, if you are uncertain of the specific products/services which you will use with the mark, you can identify the entire “kitchen sink” of goods in your chosen Int’l Class(es) and whittle them down later after you have commenced use.

As noted in the “benefits” of registration section above (#10) filing an application with the USPTO gives the applicant the ability to use one or both of the applicable International Trademark Treaties to file and secure a registration in numerous foreign countries. As the treaty’s obligates any member nation to extend the courtesy of “most favored nation” status to those who make use of the reciprocity agreement, your application and registration must be treated with the same rules and legal benefits offered to a citizen of that country. This serves in large part to level the playing field. (However, truth be told that some countries do, in practice, seem to have a bit of a bias in favor of their citizens and businesses that often is not so subtle.)

This also means however, that the various government run trademark/intellectual property offices around the world may have their own standards and requirements that one must fulfill in order to obtain a registration. However, those rules must be consistently applied to all who apply – for those who qualify for registration under the treaty obligations of that member country.

The specifics of using those available treaties to expand your protection around the world, or in your small corner of it, are outlined in more detail in the following chapter.

## **The Two Primary Trademark Treaties You Need to Know About**

(Trying to make sense of the System)

The two treaties which I will address are best referred by the names of the cities in which they were first negotiated and agreed upon. There's the "Paris" treaty, which dates from 1883 and the Madrid Treaty which is based on certain prevailing principles agreed upon in 1891, but which has only become more relevant from the 1970s on.

There are certain similarities between the two, but in other respects they differ significantly. For instance, by using either the provisions of either the Paris or Madrid treaty, one can get the benefits of the "priority date" (that is the filing date of the application filed in your home country) if you file in another member country no later than 6 months from your original filing date.

As an example: Let's say that you file a trademark application in the USA on Jan 1, 20xx, and on May 31, of the same year you file a trademark application in Canada. Although technically your filing date in Canada is May 31, so long as you claim your rights to your "priority date" in Canada in your application - in affect your filing date will be treated just the same as if you had filed in Canada on Jan 1 – (the same as your USA filing date.)

(FYI, Canada is one of the few "1<sup>st</sup> World" nations who is still not completely compliant with the Madrid Treaty. As such they do not currently require that an applicant comply with the Nice provisions to divide your filing into separate classes. Thus, your filings there can include as many classes and goods/services as you can legitimately identify, without accruing an additional filing fees. Although the Canadian Parliament has approved joining the Madrid Treaty, its final changes to its rules have not fully been implemented, but such change could come at any time.)

The significant differences between the two are however, the most important aspect.

With the Paris Treaty one normally files directly in the Trademark Office of the country in which you want to seek protection. Upon securing a registration, it is completely independent of any other trademark registration you hold in any other country. Typically, by filing direct in many foreign nations using the Paris Treaty as the basis for filing/registration there is an obligation to actually use the services of an attorney who is a resident, or licensed in that country. As they require the same of their own citizens, they are free to make that requirement upon any "foreign" applicant as well. This means that often the cost is significantly higher when compared to those countries that do not impose that requirement.

Further, all amendments, assignments, renewals, etc. will have to be filed directly with that particular nation's trademark office and often only in their native tongue. This can make managing your trademark portfolio a bit more complicated than you can manage and most people hire law firms in those countries to manage those registrations for them.

By contrast, under the Madrid Treaty you can file a single trademark application in your "Home Country" - which is identified as any country of which you are a citizen, have a *bona fide* place of business, or where your business is incorporated or otherwise organized under that nation's law. The process involves filing your application with your home country, then within no later than 6 months, in order to secure your "Priority Filing Date" you file through the Trademark office of your home country, a secondary application designating all the member nations (90+ of them currently) in which you would like to obtain a registration.

In addition, your submissions can be submitted in the language of your choosing, from the approved list, plus you will designate two additional languages into which your documents may be translated. English and French are the most common choices.

This application will actually be managed in large part by the World Intellectual Property Organization ("WIPO") in Geneva, Switzerland. They will in turn take the application, upon certification of its validity from your home country and forward it to all the countries you so designate. In addition, they will generate their own separate "international registration" certificate and assign your application an international registration number which will in turn be used by the designated countries to identify your registration. Thus, all of the registration certificates you receive from any designated country will have the same registration number, identical to the WIPO number.

As the Madrid System is a "centralized" system and is in part handled by the Trademark Office of your home country, you are not required to obtain "local counsel" in any of the foreign countries designated, all your fees will be paid directly to your home country's Trademark Office and the fees are typically less than if you filed directly through the Paris Treaty. The difference in cost can be significant! What used to cost \$40,000 to \$60,000 to secure trademark protection in 30-40 countries can now cost as little as \$10,000 to \$20,000, depending upon the circumstances and the countries chosen.

The only "danger" of the Madrid Process is that at least in nearly every country, for at least the first 10 yrs of registration, you must have and maintain a valid registration in your home country. Thus, if the application in the USA were to be refused and that refusal sustained, you will not be able to continue to use the Madrid Treaty's centralized system to continue the registration process, you will have to convert your applications into nationalized applications similar to the Paris Treaty process requires. For that reason alone: it's very important that you consult with an experienced and knowledgeable attorney, before deciding whether to proceed with securing "foreign" registrations and ultimately which of the available treaties to use.

In general, any registration secured under the Madrid system will be valid for a period of 10 years, renewable for further 10 year periods, so long as the mark is still in use in that country or has not been successfully challenged.

In addition to using a pending application to seek the benefits of either the Paris or Madrid treaty, it's also often possible to make use of either treaty to secure a registration based on an already registered mark in your home country (sometimes allowable through Paris, always allowable through Madrid.) This likewise can often significantly reduce costs and if filing in a number of foreign countries, the single "centralized" filing process makes it a most appealing option.

### **A Quick Note on Copyrights and their Application to Trademarks**

A copyright is significantly different than a trademark in terms of what is protected and for what reasons. However, it is possible for a trademark to include items which may also be protectable under Copyright or could conceivably violate the rights of another Copyright holder.

Copyright protection is generally extended to all who create, or in copyright terms are the "author," of works of art, design, literature, music, dance, sculptures, etc. While there is certainly a creative element involved in Copyright, Copyright laws do not serve to protect inventions, or those items covered by Patent law, such as processes, systems, methods, etc.

The application of Copyright Principles to the owner of a trademark is often straightforward and easily determined.

If your trademark contains artistic elements, created by another and they have not provided formal permission (written), or have otherwise retained their rights in that work, your usage of that trademark is almost certainly an infringement of their rights in that work. This would mean that you could be subject to damages, which can be fairly hefty under the application of the Copyright Act's damages provisions.

If however, if you have secured the proper license from the "author" or the material was created as a "work-for-hire" then you may lawfully include those elements in any logo or design element which forms in part or whole you're Trademark. The general rule is that anyone in your employment or who you have secured their services through "commission" during the course of their employment or obligation to you or your company, creates/authors anything subject to copyright, all rights in that work actually belong to you or your company. However, as a practical matter it is always advisable and to avoid any dispute and include that specific provision by contract or other writing acknowledged by both parties.

This Ebook was authored by Kevin Steinman, Esq., who has over 25 years of experience in the field of intellectual property. Mr. Steinman began his legal career, shortly after graduating with his JD and passing the Bar, in 1988 at the Trademark Examining Division of the US Patent & Trademark Office, which is in turn a division of the US Department of Commerce. He rose to the rank of Attorney-Advisor before he left for private practice. In the intervening years, Mr. Steinman attended the Washington College of Law @ American University in Washington, DC where he concentrated his studies in the fields of intellectual property and administrative law in the Law & Government (LLM Program) Mr. Steinman has consulted with a number of law firms and spent 3 years with the Los Angeles Office of a well known international intellectual property law firm. In addition to his legal practice he has experience in the field of advertising and marketing and often consults with clients in those areas as may be desired.

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