

Three Reasons NOT to do a Full Trademark Search

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What? A trademark lawyer suggesting that you needn't always conduct a full-scale trademark search before you file a new trademark application? Isn't that tantamount to driving without a seat belt? Hear us out.

1. **Longstanding brands.** Say you've been using a brand name or logo nationally for a long time, and just never got around to registering it. Nobody's ever objected, and you have no evidence that anyone else is using a similar brand. You're not going to change the brand if you get a refusal or someone opposes your application, right? Well, shucks. Think about doing a super-quick search, skip the full search expenses, put your feet up for a while, and see what happens. Of course, your application may draw the attention of the owner of an arguably similar brand previously unknown to you – but maybe you will decide that the cost savings and benefits of federal registration are worth that risk.
2. **Brands you won't launch for a while.** Budget got you down? Don't need to start using the brand right away? Maybe a quick-and-dirty search will be enough to confirm that no one else has exclusive rights in the brand, such that you can jump right to filing an application, and then waiting to see how the Trademark Office and potential opposers react. This strategy isn't for the faint of heart, but sometimes, businesses decide that saving money justifies the additional risk. This approach can be attractive to those who need a batch of new brands, and who can pivot quickly to a backup brand if the preferred candidate doesn't work out.
3. **Brands you can phase out quickly and inexpensively.** Now we're really going out on a limb, but – some (fearless!) businesses skip full searches if the brand will be used for a limited time frame in a limited geographical area, or if they're not making a big investment in inventory or promotional materials. They figure, "What's the worst that can happen? I have to stop using my brand on short notice?" Well, yes, and you might have to pay someone damages for infringement, too. If you enjoy adrenaline jolts, this option may be attractive to you.

Okay, okay, we have to close this out by noting that these musings are food for thought, and may not be the best approach for you. There are plenty of good reasons to do searches, especially before you start using a new brand, and before you enforce your trademark rights. But it's worth mentioning that a rote approach of "Do a full search, every time!" may not be the best use of your money.

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