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## Protecting Your Trademark

The primary purpose of a trademark is to identify the source of goods or services and to provide consumers some assurance of the standard of quality associated with that source. Trademarks come in many forms. In some cases even a particular color or a sound (like the distinctive roar of a Harley motorcycle) can function as a trademark. Another unusual type of trademark is known as a “trade dress” mark. For example the particular shape of a perfume bottle or the distinctive décor of a restaurant chain can serve as a trademark. But words, slogans or logos are by far the most common trademarks.

Marks which are used in connection with services, rather than products, are known as service marks. The same general rules apply for both trademarks and service marks and the term “trademark” is generally used to cover both types.

Trademarks are different from trade names or business names. A trade name or business name identifies a business entity. A trademark is the name or logo which identifies the goods that the business produces or the services that the business provides. A business name is not eligible for trademark protection unless it is also used to specifically identify the goods or services of that business.

It is important to obtain a federal trademark registration for your mark. A federal trademark registration allows you to use the ® symbol and gives you the legal right to sue someone who has infringed on your trademark. An application for a federal trademark can be based either on actual use of the mark in interstate commerce or upon a good faith intent to use the mark in interstate commerce in the future.

In the U.S. there is great importance on being the first to file for a particular trademark. Therefore it can make sense to file a trademark application based on “intent to use” even if you have not yet begun to use the mark. If the U.S. Patent and Trademark Office approves the application you will ultimately need to provide proof that you have actually begun to use the mark in order to obtain a trademark registration.

Obtaining a federal trademark registration is a lengthy process. The process can be challenging and complex but does not need to be radically expensive.

For assistance with trademark law matters please contact James Coons at (541) 686-9160 or [jcoons@eugene-law.com](mailto:jcoons@eugene-law.com).