

Trademark Law 101

Do you or your business use a unique logo or name to promote products or services? Do you or your business use a logo or name similar to another business? *If you answer "yes" to either of the above questions, then it is imperative you know the basics of trademark law.*

Let's say your business is a restaurant named "Southern Fried Cafe," and you have one location in Augusta. Should you register the name as a service mark? Absolutely! If you do not register your name and there is another restaurant using a similar name prior to your use of "Southern Fried Cafe," you can be forced to change your name. If the other business is using the name in California and obtained a federal registration, it may be able to force the change of your name. The expense of changing a restaurant's name is much greater than the expense of evaluating a name and registration. Moreover, as a service mark infringer, you may be forced to surrender any profits earned under the name to the prior user.

If you have a unique logo or name, you should protect yourself with registration. This will give you the ability to prevent others from subsequently using a similar name. Likewise, if your name is similar to another's, you can determine your ability to use the name and prevent the expenses discussed above by evaluating and registering the logo or name,

How do you register a trademark? There are two basic registrations: state and federal. With a Georgia/South Carolina registration, you can prevent subsequent users of a similar name from operating here. With a federal registration, you can prevent subsequent users of a similar name nationwide. This is critical for expansion plans.

Augusta Trademark Law Examples:

1. Lone Star Steakhouse and Saloon in Augusta was forced to change its name to Lone Star Café because of a prior use of Lone Star Steaks by an Atlanta restaurant.
2. The Augusta National prevented a California business from using "Augusta" in combination with any golf related design.

Trademark and Service marks:

Trademark: a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party over another.

Service Mark: Same as above, except that it identifies and distinguishes the source of a service instead of a product.

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