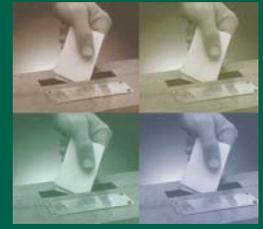




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# Election Law News

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## Protect Your PAC Name and Logo: Register a Service Mark

A PAC's name (and/or acronym) identifies and distinguishes it from other political action committees. Hence, a PAC's name is also a service mark, and, as a service mark, it is an important asset. For this reason, consideration should be given to protecting a PAC's name by registering it as a service mark at the U.S. Patent and Trademark Office (PTO). While there is no requirement that PACs register their names at the PTO, many do because of the added protection provided to registrants by the Federal Trademark Act of 1946 (Lanham Act).

Under the Lanham Act, a federal service mark registration protects the mark's holder against infringement. Among other things, registration constitutes constructive notice to the public of the registrant's ownership of the registered name, raises a legal presumption of the registrant's ownership of the mark nationwide and gives the registrant the exclusive right to use the mark in connection with the services identified in the registration. Moreover, in cases where a registrant has to sue to prevent an infringement, the Lanham Act confers federal court jurisdiction. The owner of a federal registration is also given the right to use the federal registration symbol (®) in connection with its name, which immediately alerts others to the registrant's statutory rights.

Ownership of a federal registration of a service mark makes it easier for a registrant to protect its rights in a name and prevent others from using not only the registrant's name but also a confusingly similar name. For example, the notice

provision of the Lanham Act generally allows a registrant to object to use of a confusingly similar name even when the would-be user was unaware of the registrant's service mark rights. Thus, ownership of a federal registration deprives an infringer of the excuse that it is entitled to use a name because it did not have actual knowledge of the registrant's rights. Further, the presumption of ownership accorded by a federal registration places the onus on the would-be user, in the face of an objection by the registrant, to show that it is entitled to use a name at issue.

A service mark is extremely valuable because, in a crowded field of names and logos, it immediately identifies a particular service with a specific individual or organization in the minds of the public. Examples of registered PAC names are as follows: ABCPAC (Associated Builder & Contractors); NACSPAC (National Association of Convenience Stores); PRINPAC (Principal Financial Services, Inc.) and GENENPAC (Genentech, Inc.). Federal registration of a mark, and the bundle of rights that comes with registration, is recommended because it heightens protection in a name by deterring others from using a confusingly similar name and increases the remedies available should someone infringe the name. In other words, federal registration of a name helps to ensure that it continues to distinguish its owner's services from those of others and, hence, remains a valuable asset. ♦

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