

Can You Trademark a Hashtag? Philadelphia-Based IP Lawyer Weighs In

If you think your hashtag needs trademark protection, you should know a little more about hashtags. Trademark lawyer Alex Sluzas of Philadelphia explains.

PHILADELPHIA, PENNSYLVANIA, UNITED STATES, May 31, 2018 /EINPresswire.com/ -- Today, marketing and promotion of a business or a service are considered incomplete and futile without social media. The concept of going 'viral' is helping products and businesses catapult their brand to newer heights in a short amount time.



Trends in social media and marketing, in general, are constantly changing but one concept that is going to be vital for a long time is the hashtag. In fact, the hashtag concept is so popular that you will find it even on offline messages now, just to emphasize a point.

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...in 2010, only seven companies applied for trademark hashtags but in 2016, there were around 2,200 applications. This number is surely going to increase in the coming years.”
Alex R. Sluzas, Esq.

If you think your hashtag needs trademark protection, then you should consult a trademark lawyer. Before you go ahead and file a trademark, you should know a little more about hashtags, about what can be registered and what can't.

Hashtags and their registration

A hashtag is referred to a phrase or a single word that is preceded by a symbol of hash #, also known as the pound sign. For example, a hair color brand may use #impressivebrown hair to promote their product.

Some hashtags are common and can be used by everyone, individuals or businesses. It could be #enjoyyourlife, #lovemyhair, etc. But there are some phrases that are unique to a certain brand, examples are the ones with the tagline of popular brands.

It was when taglines for brands started catching on, companies started registering unique hashtags that identified their brand value. The registration of hashtags is a relatively new phenomenon.

According to a study by Thomson Reuters CompuMark, now known as Clarivate Analytics, in 2010,

only seven companies applied for trademark hashtags but in 2016, there were around 2,200 applications. This number is surely going to increase in the coming years.

Hashtags recognized as trademark-specific

So, the question is: can you [trademark a hashtag](#)? The USPTO or the United States Patent and Trademark Office identifies registerable hashtags as those which are unique to certain businesses or brands. That means hashtags that individualize a particular business can be registered. Some of the examples of registered hashtags are of the Coca-Cola (#smilewithacoke), Nike (#makeitcount), etc.

In the recent years, the USPTO has allowed around 100 hashtag registrations, some of which are, #THESELFIE for products and services related to photography and videography, #STEAKWORTHY for restaurant businesses and #LIKEAGIRL related to information and stories on women empowerment.

Hashtags refused as trademarks

A hashtag in itself is not a trademark symbol but it is worthy of protection only when it identifies the source or the company it denotes. Thus, USPTO refused to recognize many descriptive phrases with hashtags.

Thus, hashtag registration also functions as conventional trademark recognition. The ones that identify its creator are trademark-specific hashtags and ones that are vague or common phrases are not trademarks.

Steps brands should take regarding hashtag registration

Brands should take steps to protect their business on the internet, especially social media. The first step is to register words or phrases that they have been using as their tagline or identifier without the hashtags.

For instance, if you deal with wrist watches, and if your popular tagline is, 'Now is your time', then you should register the phrase first. Businesses also need to use hashtags that do not include their brand name or the main brand.

Also, you should be careful in using certain hashtags that are easily identifiable with a certain company, because it may lead to copyright infringement. A [trademark attorney](#) can help you find ways to protect your hashtags and the best possible way forward.

Since hashtag creation is also included as intellectual property, an intellectual property lawyer can be of great help. It is also now necessary to include relevant clauses that caution against using your unique hashtags in your license agreement, settlement agreements, etc.

Therefore, it's necessary that you take steps to protect your brand and your business on social media platforms. An intellectual property lawyer can help you in identifying the right hashtags that require registration and can also guide you in using relevant and non-controversial hashtags that do not infringe on any other's rights.

If you have any doubts or questions regarding hashtag trademark registration, then you should contact a Philadelphia trademark attorney at 866-975-7231.

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