

SECTION
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The Record
BUSINESS

TUESDAY, FEBRUARY 5, 2008

THE MARKETS		NASDAQ	
DOW	108.03	S&P 500	14.60
Close:	12,635.16	Close:	1,380.82
			30.51
		Close:	2,382.85

Market Movers B-6

ASK A LAWYER

Trademarks can take hold simply by use

Q. How do I protect my company's trademarks?

Contrary to popular belief, no formal steps are needed to acquire trademark rights. The prerequisite for trademark protection is use: Once one company starts using a trademark, the law prohibits others from adopting an identical or similar trademark in the same marketplace that is likely to cause confusion about the source of the goods or services sold under the two marks.

Although no formal steps are required to obtain trademark rights, certain legal steps can dramatically expand the protection given to a trademark. Most important, trademarks can be registered with the United States Patent and Trademark Office.

The owner of a registered trademark generally will be considered to be the first user of a mark nationwide, not just in the locality or region where the mark is actually in use.

Registration provides certain important advantages in a lawsuit and can make the validity and ownership of a mark "incontestable" by others.

A company that intends to use a trademark, moreover, can file an "intent-to-use" application with the Patent and Trademark Office. If the trademark ultimately is put into use and is granted registration, the owner of that registration will have priority over all who adopted the mark after the date of the application. If you have a trademark

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of value to your company, registration can significantly enhance its value and help you protect that value against both innocent and willful infringers.

Trademark infringements can arise innocently or deliberately. Sometimes all that is necessary is a letter to the infringer calling attention to the infringement and demanding the infringer stop using the mark. Other times, court intervention is necessary — most often in the form of an injunction ordering the infringer to stop using the mark.

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Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com. This is not intended to be legal advice, which can be given only after the attorney understands the facts of a particular matter and the goals of a client.