

NEWS & INSIGHTS

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# How can breweries develop and protect their IP?

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No one in the beer industry needs to be told that as governments impose further regulations, costs continue to skyrocket and competition increases, any additional stream of revenue is very welcome.

Intellectual property monetization could be an answer.

Both fledgling and established breweries have a potential treasure trove of intellectual property - including patents and trademarks - that they often don't use, don't protect or don't enforce.

Obtaining trademarks and patents, however, can be time-consuming and expensive. Breweries that fail to register their IP leave it unprotected by federal and state law and leave the brewery vulnerable to IP theft.

But breweries that do take the time to go through federal or state requirements now have a possible revenue stream since they can sell, protect and enforce patents and trademarks.

Here are some ways breweries can establish their IP:

## *Branding*

Branding is one way to ensure your intellectual property is being maximized.

A brand is a trademark or a combination of trademarks that, through promotion and use, has acquired significance in distinguishing the source or origin of the goods or services from those offered by others in the marketplace. Trademarks can take a variety of forms including words, logos, numbers, designs, stylized lettering, colors, sounds, smells, or a combination of any of them. A brand is IP and can be bought or sold like any other asset.

## *Trademark registrations*

A trademark owner can register his or her trademark with the appropriate U.S. state entity in any or all of the 50 states and/or with the U.S. Patent and Trademark Office (USPTO).

Registration with a state trademark registry is often easier, less expensive and less time-consuming than registration with the USPTO – but it gives limited protection. If the distribution of your goods and services is limited to one or a few states, registration with the state entities may be sufficient to protect your interests.

## *Why register?*

Registering a trademark carries certain important protections and benefits including:

- It prevents other confusingly similar trademarks from being registered
- It can prevent the importation of counterfeit goods or goods being confusingly similar trademarks
- It preempts certain state law claims
- It makes registration and protection in foreign countries easier and less expensive
- It permits the recovery of “treble damages” and attorney fees in “exceptional cases”
- It gives you the right to sue an infringer or counterfeiter in U.S. courts

A trademark on your IP can help prevent your brewery from going through the long and expensive battle of a lawsuit. It can also help your standing in enforcing your creations when you think someone has stolen your IP, and

you can sell IP just like you can sell a four-pack of your latest IPA. If you have any questions about building an IP portfolio for your brand for both protection and monetization of your creations, [please contact me](#).

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