

On Charleston Ave., in the small town of Mattoon, Illinois sits a Burger King. You won't be able to order a Whopper® at this Burger King. In fact, you won't be able to order a Whopper® anywhere within 20 miles of the Mattoon Burger King. There are no other Burger Kings within 20 miles of the Mattoon Burger King. And, there won't be any in the foreseeable future. You see, before there was Burger King®, there was Burger King (Mattoon). A small mom and pop (Gene and George Hoots) burger joint that has been around since 1957. While the company that owned the Burger King® mark had been operating since 1953, they did not obtain a federal trademark registration until 1961 (https://scholar.google.com/scholar_case?case=7620921786566783059). By then, Burger King (Mattoon) had acquired rights to the name Burger King for the little town of Mattoon and had registered their mark under Illinois law. Both Burger King® and Burger King (Mattoon) subsequently took actions to expand their businesses in Illinois and to accuse each other of trademark infringement, with the result being that Burger King (Mattoon) was limited to using its mark in Mattoon, and Burger King® obtained the rights to use of the mark Burger King in the rest of the country, including the rest of Illinois. Burger King (Mattoon) found its ability to expand, without rebranding, essentially cut-off. Burger King®, by obtaining federal registration, found its ability to expand only limited in one small town.

Many entrepreneurs today still have not learned the value of federally registered trademarks. As entrepreneurs start their companies, they often neglect obtaining appropriate protection on all of their valuable IP. They may spend large amounts of money on marketing, developing and promoting a trademark, only to have their ability to compete using the trademark limited when another entity registers their mark. This may result in having to be content with limited growth potential or needing to spend large amounts of money again to rebrand and promote the new brand.

When compared with other IP, federally registered trademarks can be relatively inexpensive to obtain and maintain. Not registering a trademark can result in limited business opportunities or the need to start over with branding. Additionally, a federally registered trademark can be a valuable asset, exclusive of other IP a company may have. Indeed, for many companies, the trademark is the most valuable IP asset. Workman Nydegger has the attorneys and experience to help you with your trademark needs.