

DEPARTMENT: Legal – Intellectual Property	POLICY DESCRIPTION: Trademark
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EFFECTIVE DATE: January 1, 2019	REFERENCE NUMBER: LL.IP.001
APPROVED BY: Ethics and Compliance Policy Committee	

SCOPE: All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, home health agencies, physician practices, outpatient imaging centers, urgent care centers and all Corporate Departments, Divisions, Groups and Markets.

PURPOSE: To protect the Company’s trademarks and ensure compliance with trademark laws and to avoid infringement of trademarks.

- POLICY:**
- Company colleagues will not use any trademarks or service marks that may result in a likelihood of confusion with the source-identifying trademarks or service marks of others in violation of trademark law.
 - Company colleagues will not begin using a trademark or service mark (whether intended for use internally or externally) without first contacting Legal at Corp.Trademark/IPLegal@HCAHealthcare.com to conduct a trademark clearance search to avoid infringement of third party trademarks.
 - Company colleagues will consult with Legal on appropriate action to protect Company trademarks or service marks.

DEFINITION:

Trademark/Service Mark: A word, name, symbol or other device used to identify one’s goods and services and distinguish them from the goods and services of others. The term “trademark” is used in connection with goods and the term “service mark” is used in connection with services. Trademarks and service marks shall be referred to as “Mark(s).”

- PROCEDURE:**
1. **General:** There are two ways to obtain rights to a Mark, (a) via common law trademark rights and/or (b) registration with the U.S. Patent and Trademark Office (“USPTO”). Common law trademark rights may be obtained by using the Mark in association with the goods or services. Additional rights may be obtained by registering a Mark with the USPTO, however registration is not required. Also, if a Mark may be used internationally, a separate foreign trademark application should be considered.
 2. **Process for Securing a Mark:**
 - a. **Selecting a Mark:** Select a Mark that is not confusingly similar to a Mark used by a third party. Selecting a distinctive and unique Mark is recommended. Marks that are descriptive of an attribute of the goods or services or contain a geographic designation are not strong Marks and can be difficult to protect. For example, the mark “CREAMY” would be merely descriptive for yogurt, and “NASHVILLE HOT CHICKEN” would be geographically descriptive of a hot chicken restaurant in Nashville.

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- b. Clearing a Mark: A clearance search should be conducted by Legal before using any Mark to ensure no third parties are using a potentially confusingly similar Mark for similar goods and services. To request a clearance search, Company colleagues must complete the Trademark Research Request Form attached to this policy and send the request to Legal via the Corp/Trademark IP mailbox, Corp.Trademark/IPLegal@HCAHealthcare.com. A preliminary search will be conducted and results and recommendations will be provided to the requestor. Depending on the results of the preliminary search, a full search of registered and common law Marks may be recommended.
- c. Protecting a Mark: Upon the clearing of a proposed Mark, although not required, Legal may recommend filing a federal or state trademark application. In the United States, rights are acquired through use of a Mark, however there are benefits to filing state or federal trademark applications.
1. Federal Trademark Registration: A federal trademark registration broadens the scope of protection to include the entire United States. It provides notice to the public of your claim of ownership of the Mark. In addition, it provides a legal presumption of your exclusive right to use the Mark nationwide in connection with the goods or services identified in the registration. A federal trademark application can be filed based on an intent to use the Mark. Evidence of use of the Mark must be submitted to the USPTO before an application can mature into a registration. An acceptable example of use is a sample of how the Mark is actually being used with the goods or services identified in the application in the marketplace. For example, a picture of product packaging, brochures, flyers, advertisements or screenshots of a website using the Mark. The initial review process by the USPTO can take several months. Once an application is granted, the term of the registration is ten years and can be renewed for additional ten year periods. There are a number of reasons a trademark application can be rejected by the USPTO. The two common reasons are if the Mark is merely description of the goods/services and if the Mark is confusingly similar to an existing registered or pending Mark.
 2. State Trademark Registration: A state registration provides notice to the public of your claim of ownership of the Mark. In most states, a state trademark registration provides minimal benefits and legal protection. State trademark applications are often filed in states that do not allow DBA/Trade Name filings.
 3. Watch Services: For an additional fee per year, a third party monitoring service may be engaged to notify the Company in the event a newly filed federal trademark application, registered domain name or business name is similar to a Company Mark. To subscribe to such monitoring service for a Company Mark, contact the Corp/Trademark IP mailbox at Corp.Trademark/IPLegal@HCAHealthcare.com.
 4. Domain Name Registrations/Social Media Registrations: Domain name registrations and social media registrations should be considered for newly cleared Marks. For domain

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name registration, please contact your marketing department and/or requests can be made through the service cart, <http://servicecart>. For Social Media policies and procedures, see Policy EC 026 and the HCA Social Media Guidelines.

3. Proper Use of a Mark: The following guidelines should be followed to ensure the Company's proper use and protection of its Marks.
 - a. Always use the Mark in a consistent manner, e.g., always in the same typeface, font size and color.
 - b. Do not modify or alter the Mark. Any modification may require an amendment to the registration or a new trademark application with the USPTO (if applicable).
 - c. The Mark should be used in a distinctive manner, e.g., all caps, initial caps, italics or boldface, etc. to emphasize its function as a "source identifier."
 - d. The Mark should always be used as an adjective to identify the goods or services (e.g., KLEENEX brand tissues).
 - e. Never use the Mark in possessive form.
 - f. Never use the Mark in plural form.
 - g. Never use the Mark as a verb.
 - h. Use TM ("trademark" for use in connection with "goods") or SM ("service mark" for use in connection with "services") for Marks which have not yet been federally registered with the USPTO for those particular goods or services.
 - i. Use ® for Marks that have been federally registered with the USPTO for those particular goods or services identified in the registration.

4. Process for Asserting Infringement of Company Mark: If a third party is using a Mark that is similar to a Company Mark, it may constitute trademark infringement. To evaluate potential trademark infringement and determine next steps, forward the following information to Legal via the Corp/Trademark IP mailbox, Corp.Trademark/IPLegal@HCAHealthcare.com.
 - a. A brief explanation of the situation.
 - b. Example of use of Company Mark, such as marketing material or screenshots of a website.
 - c. Example of use of alleged infringing third-party Mark.
 - d. Dates of first use of Company Mark.
 - e. Dates of first use of alleged infringing third-party Mark, if known.

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<p>f. Any other correspondence that may be relevant to this situation. As appropriate, Legal will work with the business owner to prepare a letter notifying the third party of its infringement of Company Mark.</p> <p>5. <u>Process for Addressing Infringement Claims by Third Parties:</u> Upon receipt of notice from a third party alleging infringement of its Mark(s) by the Company, forward the notice and the following information to Legal via the Corp/Trademark IP mailbox, Corp.Trademark/IPLegal@HCAHealthcare.com.</p> <ol style="list-style-type: none"> a. A brief explanation of the situation. b. Example of use of third-party Mark, if available. c. Example of use of allegedly infringing Company Mark. d. Dates of first use of third-party Mark, if known. e. Dates of first use of allegedly infringing Company Mark. f. Any other correspondence that may be relevant to this situation. As appropriate, Legal will work with the business owner to prepare a letter responding to the third party's claim of Company's alleged infringement of the third-party Mark.
<p>REFERENCES:</p> <p>https://www.uspto.gov/sites/default/files/documents/BasicFacts.pdf</p>

Trademark Research Request Form

Please fill out form COMPLETELY and submit to the Corp Trademark/IP Legal mailbox

Date of Request:

A. Requestor Information:

Facility/Division Name	
Facility/Division Location	
COID No. to be Charged	
Contact Person	
Phone Number	
Email	

B. Marks to Research:

C. Description of products or services to be used with the mark:

D. Geographic area will trademark be used in (*i.e.*, state, nationally): _____

E. Who is the originator for the mark(s) to be researched and how was it developed? _____

F. Have you begun using any of the marks? If yes, name the mark being used:

Yes ___ No _____ Date of First Use:

G. How is the mark to be used with the product/services? (*e.g.*, in brochures, in advertising, on a product, on a building, etc.) _____

H. Does the mark refer to or describe the geographic area in which it is to be used? (*e.g.*, as in a cities name or a commonly used term for an area within a city) Yes ___ No _____

I. Provide detail on other users of similar marks of which you are aware, if any. _____
