



## ★CHECKLIST★

### Intellectual Property

- Trademarks
  - Have you chosen a brewery name, logo or slogan (mark)?
    - If no, remember it's best to avoid geographic and descriptive marks, as well as surnames
    - If yes, check to be sure that no one else has a trademark on it already
      - USPTO public database
        - Class 32 – beer
        - Class 33 – wine/spirits
        - Class 43 – restaurant and bar services
    - Verify that no one else has used the mark on alcohol for sale
      - TTB COLA registry
      - Review websites
      - Google (the first few pages)
    - If you find something you think could be an issue, contact the owner in question and see if they will allow your use
      - If they will allow your trademark, obtain a consent agreement
    - If your chosen mark is clear, you should file as soon as possible
    - Filing
      - Have you physically used it on goods for sale AND shipped the product across state lines?
        - If yes, file for an “in use” trademark
        - If no, file for an “intent to use” trademark
      - Keep track of all deadlines
  - Protection – if you find a mark that is potentially infringing your mark
    - Verify that you really used the mark before they did
      - If they were the first user, you may want to ask for a co-existence agreement
    - If you have the prior right, call first
      - Assume it was a mistake or oversight (unintentional)
      - Offer as much as you can to make it an easy fix
        - Allow them to sell through current product
        - Offer to help pay for labels already printed
      - If the phone call is not effective, you may need to consult an attorney
        - Nice cease and desist
        - Stronger cease and desist
        - Mediation
        - Arbitration/Litigation
- Copyright
  - Obtain assignment of all rights for all artwork or copy created for your brand
  - File for copyright with the US Copyright Office.
- Trade Secrets
  - Obtain non-disclosure agreements from employees involved in brewing process.
  - Obtain sign-off that all recipes created will be property of brewery