

Overview:

An application for trademark registration may be based on “actual use” in commerce or upon a *bona fide* intent to use the mark in commerce.

FAQs:

1. What is an intent to use trademark?

An intent to use trademark is a trademark that is filed prior to the Applicant’s use of the mark across state lines. Once a notice of allowance is issued, the Applicant has six months in order to prove that the mark has been used as a source identifier. An Applicant may request extensions of time to allege use in increments of six month intervals, with an additional fee.

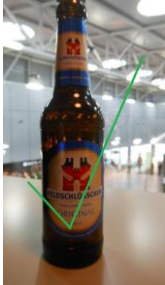

2. What is needed to finalize an intent to use trademark?

When an intent to use trademark is filed, there are four requirements that need to be provided to the Trademark Office in order to finalize the trademark registration:

- (a) The mark is actually used on claimed goods that are legally being sold. This can only be satisfied by successful completion of all TTB and ABC licensing requirements.
- (b) The goods bearing the mark have actually crossed state lines. This may be satisfied by: (i) distribution; (ii) participating in an out-of-state competition; or (iii) participating in an out-of-state festival.
- (c) Providing a photograph showing the use of the mark in claimed goods.
- (d) Paying the Trademark Office fees.

3. Are there photo requirements?

Yes. The proof of use must be a photo of an actual beer bottle or a keg collar, and cannot be a mock-up. Please see examples below:

CORRECT	INCORRECT
	
	

Governing Law

A trademark is a word, phrase, or design that identifies the source of goods or services, which protects a business’s commercial identity/brand and discourages others from adopting a name or logo that is “confusingly similar” to an existing trademark. Common law trademark rights are acquired automatically when a business uses a name or logo in commerce, but marks registered with the U.S. Patent and Trademark Office are given a higher degree of protection.

Questions?

If you have further questions or concerns regarding craft breweries or the ABC Act, feel free to contact us at:

The Craft Beer Attorney, APC
 craftbeerattorney.com
 619.749.4115

