

Publications

How to Report Trademark, Other IP Infringement on Facebook

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Outside of handling internet defamation matters and protecting businesses from product diversion/**unauthorized online sales**, we are often asked about a number of other internet-related issues, including removing intellectual property (IP) infringement from social media websites.

One common forum in which we often see IP infringement issues arise is on Facebook. Fortunately for IP owners, it is easy for businesses and individuals to report trademark and copyright-infringing activity to Facebook (although it is sometimes easiest just to work with the Facebook account holder/poster directly). In doing so it, it is most beneficial for the party alleging infringement if their IP has been registered or, at the very least, is pending registration.

Contacting the poster directly

Before going through Facebook.com specifically – or, perhaps, contemporaneously with a request to the website – the harmed party might consider contacting the alleged infringer directly. Whether the alleged infringer has a personal Facebook profile or a group page, the affected party can contact the alleged infringer publicly or privately.

While typically not recommended, there is always the option of posting on the wall of a personal profile or group page. The better approach would be to contact the alleged infringer directly via a private message (assuming the other user has not disabled the chat function). It could be as simple as a quick message. However, legitimate trademark owners might benefit more by sending a **cease and desist letter**, assuming there is a legitimate basis for asserting a trademark infringement claim.

An affected party can privately send a cease and desist letter in one of two ways: 1) pasting the text in a private message, or 2) attaching a file in a private message. Of course, if the individual person or page lists any contact information, such as an email or physical address, certainly sending a letter through those means makes sense.

Reporting infringement to Facebook

To illustrate how this works, we will explain how to **report trademark infringement through Facebook's online form**, which involves a series of click-throughs and providing certain requested information. The process for submitting a copyright infringement request is very similar. Note that it is not necessary to have a Facebook account or to be logged into one to submit such a request to Facebook.

In the right circumstances, particularly when the trademarks are registered, submitting a report about the alleged infringement to Facebook might be more effective than contacting the alleged infringer (but recognizing that Facebook will not legitimately consider requests for trademarks that have not been registered, are not pending registration, or are without some other legitimate basis for asserting infringement).

After indicating that it is a trademark request, the person submitting the form – who may be the trademark owner, a representative from the organization to which the trademark belongs, or another representative authorized to act on the trademark owner's behalf, such as an attorney – must provide his or her contact information; identify himself or herself as the mark owner or the organization or client; and indicate who owns the trademark. He or she will then be asked to provide information about each trademark, one at a time.

For every registered trademark, Facebook will ask for: 1) a registration number; 2) the country or jurisdiction in which the trademark is registered; 3) the categories of goods and/or services; 4) a URL to the registration, if possible (e.g. a link to the USPTO); and 5) a scanned copy of the registration certificate or screen shot of the registration (a PDF of the listing on the USPTO website will suffice).

If a trademark application is, instead, pending, Facebook will ask for similar information, including the application number as opposed to registration number. Meanwhile, if there is no registration or application pending (i.e. it is a common law trademark infringement claim), Facebook will ask for the basis of the infringement, as well as information as to first use of the mark, locations, categories, and attachments pertaining to the marks.

Next, the submitting party will want to identify the particular content (such as a page, group, photo album or username) and provide a description of the alleged infringement.

For an individual or organization with a strong basis for asserting trademark infringement – typically registration or pending registration – Facebook is likely to take action, such as removing a page or a post. For others, as in the instances of common law trademarks, these will more likely be decided on a case-by-case basis.

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