RECOMMENDED: ABOLITION OF ALL STATE TRADEMARK REGISTRATION SYSTEMS

In this article, I take a loosely scientific approach to the role of state trademark registrations in modern United States trademark law. The hypothesis tested: State trademark registrations have no real value.

In order to test the hypothesis, I have analyzed the various roles a state trademark registration might be able to play. In any of the situations in which a trademark registration might benefit its owner, the question is whether the registration can, in fact, be demonstrated to have value. Finding real value in any role would then disprove the hypothesis. My analysis of each possible situation within civil litigation – including registrations held by a plaintiff or a defendant within both state and federal causes of action – leaves the hypothesis untouched. None of the situations analyzed shows a registration to have any significant value.

As a result, I argue that state trademark registration systems should be abolished. State registrations provide registrants with few to no enforceable rights beyond those awarded under state common law or under the federal statute protecting unregistered common law trademarks. As a result, registrants may rely on these almost-valueless state registrations to their very great detriment, which not only disadvantages those trademark owners, but also creates unnecessary complications in the web of state and federal trademark rights. Moreover, because these systems are not self-funding, state registration systems cause state governments to expend funds that yield little to no public benefit, in a time when many state governments are in a budgetary crisis.