



Intellectual Property and Your Small Business Journey



Your product is your business.

Your brand is your image.

Intellectual Property protects them all.

Don't SkIP It!

To be successful, your business needs a window to the outside world to make your products or services known, to promote them, and ultimately to sell them. Think of your brand as your window to the outside world—it's your image. For your business to thrive and grow, you want to protect that image.

IP is the way to generate revenue and grow your business. With all of the time, money, and energy you spend developing your products or services, don't forget the crucial step of protecting your brand.

Explore these three entrepreneurial journeys to learn how and why protecting your brand—protecting your intellectual property (IP) and especially your trademarks—is so important!

Read about more entrepreneurial journeys to learn more about how strong trademarks help grow your brand's bottom line. Please visit INTA's "For SMEs" page at <https://www.inta.org/resources/for-smes/>.

And if you need help with trademark protection, our Pro Bono Clearinghouse can help. The Clearinghouse serves small businesses with low operating budgets that might not otherwise have affordable access to legal assistance. It's free of charge. If you qualify, you'll be put in contact with an IP professional who can help you with your trademark issues. Please visit: <https://www.inta.org/resources/pro-bono-clearinghouse/>.

An Entrepreneur's Journey to Protect IP: KITCHENRAMA

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Vikas Suri has been in business for nearly four decades, working with various international restaurants to build their brands in Asia. In the mid-1990s, Mr. Suri decided to launch a new business in India providing food service equipment.

Mr. Suri set out to find the optimal name for his new business. He wanted a name with a meaning that resonated with the business he wanted to create, was distinctive enough to be registrable as a trademark, and sounded attractive. After much thought Mr. Suri decided on KITCHENRAMA. Lord Rama is an important avatar in the Hindu religion, and there is a large annual festival associated with him. Mr. Suri had many happy memories of such festivals and the delicious food served at them. He thought the combination of KITCHEN and RAMA created an enticing brand.

Mr. Suri knew that to future-proof his business and protect his customers, he needed to make sure he could stop other people from using the same or a similar name. A new business always has competing demands for its budget, but Mr. Suri decided to prioritize finding an intellectual property firm to help him obtain an Indian trademark registration for KITCHENRAMA.

The Kitchenrama business prospered, and all was going well until one day Mr. Suri was contacted by a customer asking why he had not responded to their emails. Mr. Suri was surprised as he always diligently dealt with customer emails. He checked his junk folders and couldn't find the email. He asked the customer to send him a screenshot of the email and was shocked to see the email was going to kitchenramma.com (with a double "m") rather than kitchenrama.com.

Mr. Suri contacted his intellectual property lawyers, and they sent a letter to kitchenramma.com, demanding it stop using the brand, which kitchenramma.com initially ignored. However, ultimately it agreed to stop using the name once Mr. Suri filed a trademark infringement action in court.

He offers this advice for other entrepreneurs:

- Choose a trademark that can be registered and that gives you the legal right to stop someone using it for the same or similar products or services. This includes choosing the right sort of trademark—nothing too descriptive on the one hand, or so unusual on the other, that it doesn't resonate with customers. Also, before committing to it, conduct a trademark search to confirm that no one else already has the rights to it.
- Work with intellectual property lawyers. Getting this part of your business right at an early stage in your business's development gives you peace of mind and a strong foundation from which to develop your business reputation and goodwill.
- Keep alert in your field—make sure you'd find out if someone else uses your trademark in an infringing way.
- Take action if you need to do so to protect your customers and your business from damaging confusion.
- Reconsider your trademark position periodically. Businesses grow and evolve. Trademarks are not just something to select at the beginning of your business and then ignore. Periodically review your business and check that your trademark portfolio covers the right trademarks, for the right products/services, and in the right countries

In the light of Mr. Suri's experience, as a trademark owner it makes sense to:

1. Put a commercial watch in place so that you are alerted to potential issues;
2. keep an eye on the marketplace for potential infringement; and
3. if you come across any potential infringements, seek legal advice as soon as possible.

Tiger Force Security Services— Protecting People and IP

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Whether guarding VIPs and buildings, patrolling events, or installing alarms, a security company's mission can be summarized in one word: protect. For one security company in India, that also meant taking measures to protect their brand and reputation.

In January 2004, Colonel K.K. Nanda (a veteran of the Indian Army) and his son, Aditya Nanda, formed a security company called Tiger Force Security Services ("Tiger Force"). What started as a single office in New Delhi with 35 employees has grown its presence to four other states in India, currently employing more than 1500 personnel. Their past and present client list includes several big-name companies, including LG Electronics, Sheraton Hotels & Resorts, Daikin, and Honda. Colonel Nanda proudly highlights that "most of our clients have continued with our services . . . ranging up to 15 years at a stretch as against the normal trend of one to two years."



According to Colonel Nanda, Aditya Nanda, the distinctive company logo (pictured here) was inspired by the fact that "all commanders are code named as 'Tigers' in the Armed Forces" and "[the] tiger itself is a symbol of strength and power." Their company name and logo have both been in use since the company began its operations in 2004.

While tigers are endangered, security companies in India with "Tiger" in their names are abundant. Sometime in 2016, Colonel Nanda began receiving phone calls from both job seekers and potential clients who were confusing Tiger Force with other similarly named security companies, many of which also incorporated a tiger face design in their logos. In particular, they were being confused with a company going by the phonetically similar name "TIGER 4 Security."

Following this uptick of consumer confusion, Colonel Nanda decided it was finally time to file trademark applications for TIGER FORCE SECURITY SERVICES and the Tiger Force logo. However, the road toward registration was not a smooth one.

Refusals had been issued against their applications, citing earlier-filed trademarks that were deemed too similar to theirs. In order to overcome these refusals, the Nandas had to provide documentation dating back to the inception of Tiger Force, proving that their use began in January 2004. "We had to prove our claim by providing a number of documents and registration certificates with other government agencies, falling back to documents like bills, contract agreements with clients, display[s] of our logo in our correspondence, brochures, etc."

Thanks to the professional services of their legal counsel (and their own diligent record-keeping), TIGER FORCE SECURITY SERVICES (App. No. 4027682) and the Tiger Force logo (App. No. 3959515) are now registered with the Indian Trade Marks Registry.

According to Colonel Nanda, “The immediate benefit we notice post our registration [is] that efforts by other companies to copy us or use our name indirectly has dwindled down. Also, it has given us a great sense of satisfaction and additional confidence in the ownership of our name & logo, and we get a sense of pride.”

When asked what their advice would be to small businesses who are hesitant about pursuing brand protection, Colonel Nanda and Aditya Nanda warn against thinking that one’s brand is immune to imitation by competitors. Especially as a business grows and thrives, other parties could try to take advantage of the goodwill and reputation associated with a certain name and/or logo.

In some jurisdictions trademark rights vest in the first person to use the mark and in others the rights vest in the first person to file an application for the mark with the trademark office. Fortunately for the Nandas, India is a first-to-use jurisdiction. After providing the Indian Trade Marks Registry with substantial evidence of their earlier use, they were able to register their mark. In other jurisdictions that recognize first-to-file rights, businesses that hesitate to protect their brand may be out of luck and forced to rebrand, abandoning the valuable goodwill they’ve worked so hard to build.

When it comes to business security, don’t forget to consider the security and protection of your own brand, too.

An Entrepreneur’s Journey to Protect IP: Tealosophy

For small business owners, trademarks are often an essential element that enables them to grow their business. Just ask Ines Berton, founder, president, and CEO of Tealosophy, an Argentinian tea maker who leveraged her marks to stay afloat and continue to expand her brand during the COVID-19 pandemic.

Ms. Berton grew up in Buenos Aires in a home where intellectual property (IP) was a frequent topic at the dinner table. Her father, grandfather, and two brothers work in the field, and the value of protecting one’s brand was instilled in her early.

Trained as a perfumer in the South of France, she moved to New York City to follow her passion for painting. While working at a museum, she spent much of her free time at the tea shop downstairs.

After the owner invited Ms. Berton to create her own tea blends, she followed her creative instincts, mixed with a bit of entrepreneurial spirit, and began to pursue tea making as a career.

The budding entrepreneur founded her company, Tealosophy, out of her home in Buenos Aires in 2001. After just six months, Ms. Berton opened her first store in the small neighborhood of Recoleta. Then, one year later, she opened a tea processing plant and an office.

Ms. Berton creates her own unique tea blends, using authentic ingredients from around the world, including vanilla from Madagascar, spices from Burma, and red fruits from Patagonia. She has blended

teas for the Dalai Lama and the Queen and King of Spain, as well as for many other famous people and well-known brands.

As Ms. Berton's company was expanding and Tealosophy was becoming known outside of Argentina, Ms. Berton knew that she had to protect the brand in other countries. While a huge challenge to protect the trademark in various countries, she was able to register her Tealosophy trademark in 19 jurisdictions around the world, including the European Union and the United States.

"Your creativity and vision are your biggest capital, so being protected and feeling protected is necessary," she declared.

Tealosophy's expansion has included opening three stores in Buenos Aires. She also sells tea to more than 400 hotels and restaurants and supplies corporate gifts for well-known companies, including American Express, Chanel, Citibank, Hermes, HSBC, Lexus, and Mercedes Benz.

She has won several awards for her endeavors, including receiving an award in 2010, for Innovation at Salon International de l'alimentation (SIAL), a food processing industry trade fair in Paris, France.

When the COVID-19 pandemic hit in March 2020, Ms. Berton's customer base naturally shrunk as hotels and restaurants worldwide closed their doors. She knew she needed to adapt to the new reality to ensure that Tealosophy stayed afloat.

First, Ms. Berton upgraded her e-commerce strategy and began developing new products, including "tea as a hug in a cup" and corporate gifts such as tea boxes. In addition, she designed virtual experiences for many companies, including team-building activities in which employees worked together to create the perfect tea blend. Tealosophy's e-commerce grew 2,700 percent during 2021, and she hopes it will keep growing.

Today, her three stores remain open, and she is working on opening another new store in Phoenix, Arizona, USA. Ms. Berton also does private labeling for her teas.

Looking to the future, she plans to expand her business in other areas, such as green tea travel-sized soaps for hotels and a line of tea syrups for bartenders. She has also branched out into music, in collaboration with Warner Music, to produce a CD "Tealosophy, music for a tea generation."

Ms. Berton's philosophy is reflective of a true entrepreneur: "If we are going to dream, we might as well dream big," she said.

Special thanks to INTA's Public Information Committee, which produced these articles. Although every effort has been made to verify their accuracy, readers are urged to check independently on matters of specific concern or interest.

About the International Trademark Association

The International Trademark Association (INTA) is a global association of brand owners and professionals dedicated to supporting trademarks and complementary intellectual property (IP) to foster consumer trust, economic growth, and innovation, and committed to building a better society through brands. Members include nearly 6,000 organizations, representing more than 33,500 individuals (trademark owners, professionals, and academics) from 181 countries, who benefit from the Association's global trademark resources, policy development, education and training, and international network. Founded in 1878, INTA is headquartered in New York City, with offices in Beijing, Brussels, Santiago, Singapore, and the Washington, D.C., Metro Area, and representatives in Amman and New Delhi. For more information, visit inta.org.



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