

Cognate's Blockchain Based System enables Businesses to Timestamp, Permanently Record and Monitor Trademark Use and Protect their Rights of Ownership



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CEOCFO: Mr. Collen, what is the idea behind Cognate?

Mr. Collen: Trademark owners need to be able to prove their trademarks use in order to protect and enforce their trademark rights. The current systems for proving your trademark use are really complicated and costly, especially if you go through a government trademark registration process. Companies can also choose to keep and maintain their own records of trademark use – records can be something like an invoice, advertisement, or promotional material – but using this method makes it hard to unequivocally prove that your trademark was in use at a particular time or in a particular location. It's also difficult to keep track of these physical and digital records – they're not always easily accessible and admissible in a court of law.

Cognate helps companies prove and protect their trademark rights by creating time-stamped, permanent records of trademark use. To do that, we use something called blockchain technology. The decentralized and cryptographic nature of the blockchain enables us to create a time-stamped and permanent records of someone's trademark use at a certain time or in a certain location.

CEOCFO: What does someone have to show to prove that a trademark is actually in use? What do they have to provide other than saying, "We did it; here it is?"

Mr. Collen: There are many things that prove trademark use. Proof can range from a screenshot showing something for sale on a website, or an invoice, or a bill of sale, or an advertising campaign. There are a variety of things that have been accepted to prove "actual use" of a trademark. We take those proof files and log them within the blockchain-based system, along with other relevant information about the use of our customer's trademark.

CEOCFO: How do we know these trademarks are going to be universally accepted? What is the standard of proof?

Mr. Collen: The courts have accepted many things to prove use over the course of time. We are not making any warranties that what is submitted to us is legally valid proof. We are making a record of specimens that people are submitting to us, which they think prove their trademark use. If someone submits something to us, that they think proves their use at a certain time or a certain location, we make a record of that. We are not counseling them saying, "You should upload this as opposed to that," because we are not a law firm. We are not offering any legal advice. However, trademark owners can easily find what has been accepted to prove use in the past, and we help people make really strong, indisputable records of what they think proves their rights.

CEOCFO: *Would you tell us about the technology behind the system? Where were the challenges in having it work the way it should?*

Mr. Collen: Blockchain is a relatively new technology – only a few years old. A blockchain is a decentralized digital ledger of transactions. However, instead of one centralized authority like the government or a company keeping a master record of these transactions within the system, the records are distributed amongst the users of the system and cryptography algorithms ensure that all the users are keeping matching records. The distributed system makes a much fairer and secure method for keeping records. Therefore, there is really no way to forge or change a past transaction. We use that technology to make a record of trademark uses. As I mentioned, proving use is really crucial for enforcing and protecting trademark rights. There are many technological challenges involved in adopting the technology to be able to work the way we wanted it to for the business goal of helping people prove their trademark use. Therefore, we had to come up with a couple of pretty clever solutions for being able to get these proof documents on the blockchain.

CEOCFO: *Is blockchain generally accepted so that people would feel comfortable using this method or are people not digging that deep when they are looking at what you offer?*

Mr. Collen: Many times people do not dig that deep because – even without the blockchain – it’s helpful to have a centralized, third party repository to manage and track trademark use. As I mentioned, courts have accepted a whole array of proof specimens for proving trademark use. Recently, there have been several states that have passed legislation recognizing the validity of blockchain-based records. We hope several states will follow suit soon. However, we do not think that is required in order for our records to be accepted in court to prove trademark use. That is because what we are doing is creating a record as of a certain date and time and we are confident that if worst comes to worst we can have an expert witness testify on behalf of our client to explain to the judge how this technology works and why records created within this system can never be changed or altered, which is why it makes a very strong record of trademark rights.

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CEOCFO: *Is cost a factor for many of your clients? How do you compare with the more traditional methods?*

Mr. Collen: Cost is definitely a factor. If you consider a startup or a small business who is budget constrained and is trying to operate very lean and make use of every dollar, it may not be efficient for them to file federal trademark protection for their trademark, which would cost hundreds of dollars – or thousands if you hire an attorney. If they have more than one trademark obviously that will add up pretty quickly. Therefore, we make these blockchain-based records for \$39.95 a year, which is obviously a much more affordable thing to do. If people have any reservations or want to file federal trademark protections in the future, we help them lock in their trademark rights as of a certain date and then they can file federal protection down the road, in which case they would still be able to prove their trademark use for that federal trademark filing. If you consider large corporations, which may have portfolios of hundreds or thousands of trademarks, it is just not cost effective or an efficient use of time for them to file for federal trademark protection for all of those marks. Therefore, it has implications, both for startups and small business as well as bigger Fortune 500-type companies.

CEOCFO: *Your site indicates Cognate can also monitor a trademark. Would you tell us about service?*

Mr. Collen: Making a record of your rights is really half the battle. Once you have a trademark that you are using you have to monitor and enforce your trademark rights, otherwise in the eyes of the law (and Trademark Office) you are not protecting your brand as a trademark and that potentially gives a “license” to other people and companies to use your mark. If other people are using your mark and you do not try and stop them you can lose the right to protect that mark. Therefore, it is crucial to be able to know who is using your mark and where they are using it. Our monitoring service looks at places like the U.S. Patent and Trademark Office, ecommerce websites, domain names, performs a specialized web search; anywhere where someone might be using or infringing on your mark without your knowledge or permission. We can send an alert so that you can remedy that issue, hopefully before it comes too expensive or complicated to solve.

CEOCFO: *How would someone find Cognate? How would they even know where to look?*

Mr. Collen: That is a good question. We have many partners that we work with; partners who are helping, or dealing with companies that are at, or near, their point of formation, which is when they start thinking about things like protecting their trademark rights. We work with accelerator programs, domain name registrars – places where people are coming up with names and just starting to use them. They can also come to our website. We have a lot of great content and resources on

there for people who are trying to learn about how to protect their trademarks and what steps they can take to make sure that they are well protected.

CEOCFO: *Are your customers primarily in the US? What is the reach today and where do you see it as you are going forward?*

Mr. Collen: We initially started out as a U.S.-based service, focusing only on “common law” trademark rights, which are the rights that a company gets just by using a mark – no registration with the government is required to own common law rights – but only some countries follow that system, like the United States, the United Kingdom and India. Many other countries use the “*first to file*” system, which means that the first person to file for federal trademark protection for that mark in that country is the owner of that trademark. By limiting ourselves to common law we were obviously limiting ourselves to operating in common law countries. However, we have since realized and heard from many trademark attorneys and international companies that it is very useful to be able to prove your trademark rights, unequivocally, at a given point in time or in a certain location, even in a country that operates under “civil law” or *first to file*. We very recently started an initiative to be a more global company. It has been a success so far. About thirty or forty percent of the new registrations that we have had over the last two months have been from outside the U.S.

CEOCFO: *Are you seeking additional partners, funding or investment as you spread the word? What is the business picture for you today?*

Mr. Collen: As I mentioned, we are very partnership-focused, so we are always looking for new partners to either help spread the word about Cognate, or act as resellers of our services. We have formed a lot of partnerships that have been mutually beneficial for us, and the partner company. In terms of fundraising, we will open another round within the next month, which is always a bit of a positive and a negative. That is because more funding means that we can do more things for our customers, add more features, approach more partners and improve the product at a faster rate, but it obviously takes away from the time that we can spend on actually growing the business and working on improving the product and the business itself. However, it is always worth it to be able to grow quicker.

CEOCFO: *Have others tried a similar system? Are there competitors in either the blockchain or cyber realm?*

Mr. Collen: Not as far as we know. We are not aware of anyone else that has a common law or trademark use registry, especially a blockchain based one. There are certainly business information companies that keep records of business names, of different businesses that are operating throughout the United States or even the world, but they are not focused on the relevant aspect of those business names as trademarks. There certainly are other data sources out there, but we are not really aware of anyone else who is providing the same services that we are.

CEOCFO: *Would a large company typically use your service often? Do you have people that would do a onetime useage? What is your model?*

Mr. Collen: Initially, we were thinking that maybe a onetime model would make sense, but the more we thought about it and the more we talked to our customers, the more we realized that it should be a yearly subscription. That is because to enforce and protect your trademark rights, a company not only has to prove that they have been using the mark in a certain way at a certain time in a certain industry, they also have to be able to prove that they have consistently used the mark over time. If you start using a trademark as of a certain date and then you have a conflict five years later, you need to be able to prove that not only have you been using the mark for five years, but that you have used it consistently over the past five years, to be able to enforce and protect your rights. So we want people to be interacting with our service at least once a year to show continuing proof that that mark is still being used in the way that they originally described to us. In terms of customer size, as I briefly touched on before, both large and small companies need to be able to prove their trademark use. Large companies have portfolios of hundreds, or thousands of trademarks they use around the world. If you think about a small business, let us say they start out as a restaurant and they prove to us that they are using their trademark in conjunction with their restaurant. Then, let us say, five months down the road that they want to sell tee shirts at the restaurant too. In the U.S. Patent and Trademark Office, you would need to file a separate trademark application and provide proof to show that you are using the trademark in a new way. That would be a whole separate filing to your original trademark, which would cost hundreds or thousands of dollars, depending on whether or not you use an attorney and the process takes, on average, about ten months. The mark is being used in a new “classification” of goods, which is in this case, clothing. That would require a separate proof document. Users can easily come to Cognate and add that second proof document to their original record. Cognate is much faster, more cost efficient and flexible, and enables companies to have this comprehensive timeline of how and where you started using your trademark, and then building upon that as your company and your business continues to grow and evolve.

CEOCFO: Are people becoming more aware of the situation and the problems or are people still not facing or not recognizing it? How do you help educate?

Mr. Collen: Education is definitely a big part of what we do. Especially, in the United States and other common law countries, many people are not aware that they own trademark rights, despite the fact that they have not registered their trademark with the Patent and Trademark Office. Therefore, helping people understand what their rights are is definitely big part of what we do. As I mentioned, we have some good resources up on our website. We do also try to partner with organizations that are helping startups or small businesses who may not have ever thought about a trademark or have any awareness of what trademark law says. We go in and we give seminars and talks to help people understand what their rights are and how they can best protect them, so there are no surprises down the road.

CEOCFO: Why is Cognate in important company and important concept?

Mr. Collen: The world economy is something like seventy eight trillion dollars and almost all of that business is done under trademarks. However, most people do not have an affordable way to enforce or prove their trademark rights, because the current system is just not set up to be flexible or used at scale. The biggest companies can file trademark protections for most of their “most important” business names, but not all of them, and startups and small businesses do not have resources that the big companies do. Therefore, we want to create a more democratic and accessible blockchain-based system, affordable for companies with portfolios of 10,000 trademarks, or a portfolio of one.

