



The FindLaw Guide to How to Register a Trademark

The FindLaw Guide to How to Register a Trademark

A trademark is a word, name, symbol or device that is used to indicate the source of a particular product and to distinguish that product from others. In this guide, we discuss how you can obtain and register a trademark over your goods.

Table of Contents

- Introduction
- Should You Register Your Mark?
- Eligibility to Register a Trademark with the USPTO
- Applying for a Federal Trademark
- What Happens If Your Application is Rejected
- Should I Contact an Attorney?

Introduction

Trademarks prevent competitors from taking advantage of your goodwill and effort by passing off their products as yours. Trademarks may be registered with the U.S. Patent and Trademark Office (USPTO), with specific states, or not registered at all. If you are thinking about registering your trademark or need help in the trademark process, FindLaw and its directory of attorneys may be of assistance.

Should You Register Your Mark?

You do not have to register your trademark to have ownership rights over your mark. However, owning a federal trademark registration can have several advantages.

For example, by registering the trademark, you give notice to the public of your claim of ownership over the mark. You also create a legal presumption of ownership over the trademark and may have exclusive right to use the mark in a geographic area.

In addition, by registering a trademark, you force yourself to do a trademark search and can ensure that another company has not already taken the mark. This will save you time and money later if someone else already owns the mark and you are forced to rebrand.

Eligibility to Register a Trademark with the USPTO

In order to register a trademark and receive federal protection through the USPTO, a trademark must be used in “interstate commerce.” In other words, the mark must be for a product or service that either does business in more than one state or affects commerce in more than one state. Offering services or products on the Internet can qualify as affecting interstate commerce, as people in other states and countries can purchase the goods.

In addition, a trademark is only eligible for protection if it is not the same as or too similar to another trademark for a similar service or product. You should do a search for existing trademarks on the USPTO site as well as searching for the same or similar trademarks through other resources.

Finally, a trademark can only be registered if it is distinctive. So generic names (“beds”) and descriptive names (“soft beds”) usually are not eligible for protection. Read more about [qualifying trademark names](#).

Applying for a Federal Trademark

The application for federal protection is fairly straightforward, though it can take anywhere from a year to several years to be processed.



Find a Trademark Attorney Near You



Learn More: [Registering a Trademark, Top 10 Reasons to Register Your Trademark, Enforcing Trademark Rights](#)

FindLaw®

Follow us on  

Generally, the “minimum requirements” to submit a trademark application are that you have to submit your: (1) name; (2) name and address for correspondence; (3) a clear drawing of the mark (can be by hand); (4) a listing of the goods and/or services on which the mark will be used; (5) a filing fee for at least one class of goods or services (there is assistance regarding this on the USPTO site).

The more detailed your application, the better. Other elements such as a description of the mark, samples of how the mark is or will be used, etc., may be included, but if you meet the “minimum requirements” your application can at least be processed and not returned as “informal”.

If your application is approved, you will receive a notice that your trademark is federally registered and you will have to file an “Affidavit of Use” (simply a statement with evidence that the trademark is being used in commerce) between the fifth and sixth year after registration. You will also have to file another Affidavit of Use every 10 years before the renewal period expires.

Read more about the [trademark application process](#).

What Happens If Your Application is Rejected

If your trademark application is rejected, you will receive a rejection form telling you what was wrong with your application and how much time you have to respond. If you don't respond on time, the PTO will conclude that you have abandoned the application and you will have to start over.

Generally, problems relating to the form of the application, such as how precisely you have described the mark, or whether your drawings are adequate, will be pointed out by the examining lawyer. You may be able to fill out a revised application with the necessary changes to proceed with your application.

However, if your application is rejected for a substantive reason, such as a determination that your mark is confusingly similar to somebody else's, you may want to consult a trademark lawyer before responding. Read more about [what happens after you file your trademark application](#).

STOP

Should I Talk to an Attorney?

If you are thinking about registering a trademark, you may want to consult an attorney to discuss the benefits of registering and also where you should register – either on the federal level or just locally. Also, you may want to talk to an attorney if you applied for a trademark and have been rejected. A rejection may either be for substantive reasons or for a minor error. An attorney can advise you on your options and what steps to take next.

Find a trademark lawyer near you with [Findlaw's directory of attorneys](#).

For More Information

Regarding filing for a patent, please visit our website at <http://www.findlaw.com> or <http://smallbusiness.findlaw.com/intellectual-property/trademarks/>

Send Us Your Feedback

We're listening! Send us your feedback [here](#).

Disclaimer: The information you obtain in this publication is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation.

[Disclaimer](#) | [Terms](#) | [Privacy](#)



Find a Trademark Attorney Near You



Learn More: [Registering a Trademark, Top 10 Reasons to Register Your Trademark, Enforcing Trademark Rights](#)

FindLaw®

Follow us on

FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

BLOGS – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

FINDLAW ANSWERS – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

NEWS & NEWSLETTERS – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

FIND A LAWYER – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



DO-IT-YOURSELF FORMS & CONTRACTS – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

FINDLAW VIDEO – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

#1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday