

Complete Guide to Trademarking Your Brand — Before Someone Else Does

What Business Owners Need to Know Before and After Registration

Your brand may be your most valuable asset — are you protecting it?

DISCLAIMER This guide is for general informational purposes only and does not constitute legal advice. Every situation is unique. Please consult a qualified attorney for guidance specific to your circumstances.

WHAT IS A TRADEMARK?

A trademark is any word, name, symbol, logo, slogan, or combination thereof that identifies the source of goods or services and distinguishes them from others in the marketplace. Trademarks are a form of intellectual property — and a federally registered trademark is one of the most powerful legal protections a business can have.

WHY REGISTRATION MATTERS

Using a name in commerce gives you some common law rights in your geographic area — but federal registration with the USPTO provides significantly stronger protections:

- Nationwide legal presumption of ownership and exclusive right to use the mark
- Ability to sue in federal court for infringement
- Right to use the ® symbol
- Ability to block infringing goods at U.S. Customs
- Public notice to others that the mark is taken
- Basis for obtaining trademark rights in foreign countries

Common Misconception:

Registering your LLC or corporation name with the state does NOT give you trademark rights. A business registration and a trademark are entirely different legal protections.



HOW STRONG IS YOUR MARK?

Trademark law places marks on a spectrum of strength — and stronger marks receive broader protection:

- Fanciful marks (invented words like Xerox or Kodak) — strongest protection
- Arbitrary marks (common words applied to unrelated goods, like Apple for computers) — strong
- Suggestive marks (hint at a quality without describing it directly) — good protection
- Descriptive marks — weak; often cannot be registered without acquired distinctiveness
- Generic marks (the common name for the product itself) — never protectable

Where your mark falls on this spectrum is one of the first things a trademark attorney will assess — and it directly affects your registration strategy and long-term rights.

THE REGISTRATION PROCESS

- Conduct a comprehensive clearance search — USPTO database, common law, and state records
- Identify the correct trademark classes (there are 45 international classes of goods and services)
- File the application with the USPTO — Intent-to-Use (not yet in commerce) or Use-Based
- Respond to any Office Actions issued by the USPTO examining attorney
- Publication for opposition — third parties have 30 days to challenge
- Registration issued (typically 12–18 months for straightforward applications)

Timeline: 12 to 24+ months. Registration is not automatic — approximately 70% of applications receive at least one Office Action requiring a legal response.

AFTER REGISTRATION: YOUR ONGOING OBLIGATIONS

- Use the ® symbol consistently on all registered marks
- File a Declaration of Use (Section 8) between years 5 and 6 after registration
- File a renewal between years 9 and 10, and every 10 years thereafter
- Actively monitor for infringement — the USPTO will not police your mark for you
- Take timely action against infringers; failure to act can result in loss of rights

WHEN TO ACT

PROTECT PROACTIVELY	RESPOND URGENTLY
<ul style="list-style-type: none"> ✓ You've invested in marketing and brand recognition ✓ You operate in multiple states or plan to expand 	<ul style="list-style-type: none"> — A competitor is using a similar name in your market — You've received a cease-and-desist letter



<ul style="list-style-type: none">✓ You have a unique name, logo, or slogan✓ You're building a business to sell or franchise	<ul style="list-style-type: none">— Someone has already registered a confusingly similar mark— You're expanding internationally
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INTERNATIONAL TRADEMARK CONSIDERATIONS

U.S. trademark rights do not extend beyond U.S. borders. If you sell internationally or plan to, you need trademark protection in each relevant country. The Madrid Protocol allows a streamlined process for filing in multiple countries from a single application — but strategy matters significantly.

Don't wait until someone else takes your name.
Kristen Weiss Legal conducts comprehensive clearance searches, develops trademark strategies, and handles the entire registration process.

[Schedule a complimentary consultation](#) with Kristen Weiss, Esq..

www.kwlegal.co | (954) 780-6898 | @kwlegal.co | info@kwlegal.co