

## Frequently Asked **TRADEMARK** Questions

**Q: What is a trademark?**

**A:** A trademark is most often a word, phrase or symbol that identifies goods and services to the public. It may include sounds, colors, shapes or other elements. It may include the distinctive presentation in which a product is “dressed up”, i.e. packaging, labeling, product design and configuration.

**Q: What should I be aware of in selecting a trademark?**

**A:** You should pick new ones carefully. Generally, the more unique the mark and the less descriptive it is to your product or service, the higher the level of protection afforded. If you select a more unique mark, the less likely a competitor will use the same or similar mark and the easier it will be for you to protect your mark. For example, the mark “Toby” is a stronger mark than “Quickclean” for cleaning services. The name “Toby” does not describe cleaning services, while “Quickclean” does.

**Q: Do I have to register my trademark?**

**A:** No, however registering your mark at the state or federal level has several advantages which become vital if your mark is infringed or used by another.

**Q: How do I protect my trademark?**

**A:** You can register your marks to protect them. You can also enforce trademark rights by challenging other parties who infringe or dilute your trademarks. Most businesses neglect these steps.

**Q: How can I register my trademark?**

**A:** Trademarks can be registered with individual states, with the U.S. Patent and Trademark Office or the foreign trademark offices. The benefits and protections vary, and an analysis of the use of your mark is recommended before filing. Your trademark may qualify for foreign registration either directly with a foreign state or through the U.S. trademark office via the Madrid Protocol.

**Q: Do I need to conduct a trademark search before filing my application?**

**A:** Although a search is not required, this office recommends that a comprehensive search be undertaken before any mark is submitted for registration. A search helps to determine if a mark is available for use or already registered to another owner. A search may provide guidance in modifying your trademark if a conflict is discovered.

**Q: How long does it take to register a trademark with U.S. Patent and Trademark Office?**

**A:** Generally, our office can conduct a trademark search and prepare and file an application within a few weeks. We can also prepare an emergency filing.

However, once submitted to the federal trademark office, it is difficult to predict how long it will take for an application to mature into a registration due to the many factors that can affect the process. The total time for an application to be processed may be anywhere from nine months to several years, depending on the basis for filing and the legal issues that may arise during the examination. And, not all applications are ultimately approved for registration.

**Q: When can I begin using the ® symbol with my trademark?**

**A:** The federal registration symbol ® may be used once the mark is actually registered with the U.S. Patent and Trademark Office. Even through an application is pending, this registration symbol may not be used before the mark has actually become registered. However, the symbol TM should be used with non-registered trademarks and the symbol SM should be used with non-registered service marks.

**Q: How long does federal registration last?**

**A:** Rights in a federally registered trademark can last indefinitely if the owner continues to use the mark on or in connection with the good and services in the registration and timely files all necessary maintenance documentation.

**Q: Can the ownership of a trademark be assigned or transferred from one person to another?**

**A:** Yes. A registered mark, or a mark for which an application to register has been filed, is assignable under certain conditions. Written assignments may be recorded in the U.S. Patent and Trademark Office.

**Q: How do I prevent others from selling items?**

**A:** Counterfeiting is big business. You should consider recording your trademark registration with the U.S. Customs & Border Protection. Make sure to implement quality control and security measures. Sometimes extra goods are manufactured and shipped out the back door. Make sure to inspect manufacturing sites on a regular basis. Make sure to approve any advertising and packaging. If you license your brand, make sure you have a licensing agreement in place. Sometimes overseas sales of licensed goods are wrongfully diverted back into the U.S. to compete with your legitimate U.S. goods. Initiate a U.S. and global IP protection plan. We can help with all these issues.

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