



## Trademarks Protect Your Business but Not Required by Law

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The use of trademark symbols is not actually required by law, but doing so is beneficial. In fact, the <sup>TM</sup> and <sup>SM</sup> symbols do not have any legal significance, but instead are informal ways of telling the world that you are claiming ownership of trademark rights in a word, phrase, and/or logo. Trademark symbols exist to serve notice to the public that the mark preceding the symbol is a trademark. Notice may serve to deter others from using the mark, but can also provide evidentiary benefits in any potential infringement suits.

U.S. Trademark law (The “Lanham Act” of 1946) makes it unlawful to use a trademark (slogan, design-logo, or business/product name) to sell goods or services if the mark is confusingly similar to another business’ previously-trademarked slogan, design-logo or name.

Applying for a trademark is surprisingly tricky due to its multi-stage procedure; almost 75% of all Trademark Applications are rejected at least once by the United States Patent and Trademark Office (USPTO) before they are ultimately either Abandoned or Allowed-&-Registered in The USPTO General Registry of Trademarks.

From this U.S. Federal Registry, you can enforce your Trademark against knockoff copycats creating a “likelihood of confusion” in the marketplace. You can also secure licensing (royalties) agreements, assign (sell) your trademark to a larger competitor, and even have the ITC order U.S. Customs and Border Protection to seize foreign shipments of phony products at U.S. ports.

Before you meet with your trademark attorney, best to bring:

- Your business name (optionally an S-Corp or LLC filed in Sacramento);
- Some quick search results from

the USPTO T.E.S.S. system’s basic search function. If your name or logo is already taken, think of a novel (substantially different) variation that will pass;

- The date you began using your mark in interstate commerce;
- The date you began internally using your mark, for example with your manufacturer, vendor, supplier, or your logo designer-illustrator;
- A list of all the goods or services you sell with the mark (and logical future extensions thereof);
- A drawing or screenshot of the mark (logo-design);
- At least one “specimen in [interstate] commerce.”

You must ultimately submit at least one specimen of your mark to the USPTO

as it is used in the marketplace. Internal advertising materials are not acceptable, nor are packing materials or invoices. The USPTO typically accepts only proof of the product “on the shelf” showing the mark-logo directly on the product or its packaging, or on a working website (e.g. Amazon or Etsy) with a functioning “click to pay now” icon.

When ap-

plying for a trademark, you must decide if you want to register a simple “word mark” or if you want to register your logo-design. Since the USPTO application fee is the same for any single mark in a single “class of goods and services,” you get the most value by registering a composite mark comprising both your words and your logo.

An enforceable USPTO TRADEMARK REGISTRATION CERTIFICATE looks like the image in this article and (with payment of nominal maintenance fees), lives forever.

