



LEGAL
PROGRAM

TRADEMARK OVERVIEW



Start
Small
Think
Big

WHAT IS A TRADEMARK



A trademark identifies your business as the source of a good or service and distinguishes it from other businesses. Trademarks include:

WORDS, PHRASES OR SLOGANS

Start Small Think Big

STYLIZED WORDS OR PHRASES

Start
Small
Think
Big

SYMBOLS (SUCH AS LOGO)



COMBINATIONS OF WORDS & SYMBOLS



TIP: You may use the symbol “TM” (™) for goods and “SM” (SM) for services next to your unregistered trademark, but you may not use the registered trademark symbol (®) until the mark is registered.



How Do I Choose My Trademark?

- The more distinctive a trademark is, the easier it is to protect. If you choose a unique term (such as Barbie), it will be easier to protect than a descriptive or generic term (such as Play-Doh or John’s Bookstore).
- You should be reasonably sure that the mark you want to use is not confusingly similar to a mark that someone else is already using for a similar product or service. To conduct a preliminary search, start with an internet search engine, such as Google. You can supplement your search by using the U.S. government’s database of federally registered and applied-for trademarks, commonly known as “TESS.” For instructions and a link to TESS, visit: <https://www.uspto.gov/trademarks/search>



SHOULD I REGISTER MY TRADEMARK



You get some legal protection just by using your trademark to sell or market a product or service. You can protect your trademark in two ways:

1.

COMMON LAW TRADEMARK PROTECTION

As soon as you begin using your trademark in business, you have some rights as an owner of the trademark, even without registering the trademark, if you can show that you used your mark **first** in a commercial manner and have continued such use.

PROS:

This type of trademark protection costs nothing and lasts as long as you're using the trademark.

CONS:

The protection extends **only** to the geographic area where you use your mark. So, if your business is in New York, you will not be able to enforce your trademark rights against a business in Florida.

TIP: You should keep records showing your earliest uses of your mark (with dates). For example, dated customer invoices, brochures, and/or website screenshots showing the trademarked product or service for sale. These records may be needed later to prove that you used the trademark before another party.

2.

TRADEMARK REGISTRATION

If you decide to register your mark, filing with the United States Patent and Trademark Office (USPTO) can give you nationwide protections.

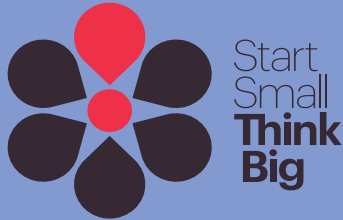
PROS:

If you successfully register your mark, no other business can use the mark in connection with your listed goods/services anywhere in the United States. Other advantages include: the right to receive potentially higher damages in a lawsuit and a public record of your trademark registration.

CONS:

It can be expensive! The initial federal registration fee is \$250-\$350 **per trademark**, and there's a periodic cost to keep it current. Plus, to protect your trademark, you may have to sue the person infringing on your mark, and that is a long, expensive process. For more information on federal registration costs, go to: <https://www.uspto.gov/trademarks/basics/how-much-does-it-cost>

In summary: New small businesses may not need to register their trademarks right away, especially if only offering services or products in a single state. If you opt not to register your trademark now, you can always do it later. However, registration may be advantageous for businesses planning on expanding nationally or globally.



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