



**THE COMPLETE**

**GUIDE TO**

**REGISTERED**

**TRADEMARKS**



**KISS**  
Patent

By Dr. D'vorah Graeser



# Welcome to The Complete Guide to Registered Trademarks!

**We're glad you're here!** Before we dive into the information-rich world of trademarks, we'd like to start you off with a little background into the history of KISSPatent.

We, like you, are a team of innovators and entrepreneurs who believe in the **power of providing Intellectual Property protection** to the *brands* and *ideas* that will **shape our future**. My name is D'vorah Graeser, and with over 23 years working in the IP field, I know how important it is to have proper protection when it comes to protecting your brand and your company's profits.

Our team is comprised of the hardest working and most dedicated IP experts the market has to offer. Together with **licensed patent attorneys**, we work tirelessly to make sure that our clients are receiving the best IP protection solutions their businesses need and deserve.

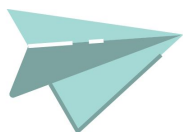
KISSPatent provides custom [IP protection packages](#) to company owners and entrepreneurs who are looking for an **affordable** option to ensure their brand or idea is **fully protected**. We also have a variety of learning materials and Ebooks available through our [Resource Center](#).

In this guide, we'll explore everything you need to know about registering a trademark, from **learning what a trademark is and why it is so important** to **filing a trademark application** and **common mistakes to avoid!**

Here at KISSPatent, we believe in the power of an idea, after all, the future belongs to innovators and entrepreneurs. So, let's not waste any more time and get started!



Dr. D'vorah Graeser  
Founder & CEO  
**KISSPatent | Innovative Solutions**



## **Table of Contents**

### **Chapter 1**

What a Trademark is and Why You Need One

### **Chapter 2**

What You Need to Know Before Filing a Trademark

### **Chapter 3**

How to File a Trademark

### **Chapter 4**

After Filing Process and Potential Issues that May Arise

### **Chapter 5**

Your Personal Trademark Assessment Toolkit

### **Trademarks in Review**



## Chapter 1

# What a Trademark is and Why You Need One

## What is a Trademark?

A *trademark* is a **word, phrase, symbol, design**, or a **combination** of all of the above that **identifies and distinguishes the source of goods** from one party to all other parties.

A *service mark* is a type of trademark that identifies and distinguishes the source of a service rather than the goods.

In other words, getting a trademark on your business will help you to **identify, distinguish**, and therefore **protect your brand name** from your competitors.

## What Cannot Be Trademarked?

Usually, people confuse trademarks with patents or copyrights. Patents and copyrights protect different types of intellectual property.

**Copyrights** protect original **artistic** or **literary** works whereas **patents** protect **inventions** or **unique ideas**.

A **trademark**, on the other hand, protects **brand names** and **logos** used on goods and services.

For example, if you invent a new kind of software, you would apply for a *patent* to protect the invention itself. You would also apply to register a *trademark* to protect the brand name of your software, and you might register *copyright* to protect the software code itself, or the unique commercials promoting the software.

## Why Do You Need a Trademark?

If you are selling a unique product or service or are operating a unique business, you should consider registering your trademark for your brand.

By **registering your trademark** with the *United States Patent and Trademark Office (USPTO)*, you get several **benefits**:

- ✓ You can use your brand **exclusively** nationwide, without concern that your competitors might use it as well;
- ✓ You have the **right** to use the federal registration symbol "®";
- ✓ You will have the ability to bring an **action to court** if someone uses your brand name **without your approval**.

A registered trademark is a *stress-free* approach for anyone who operates under a serious brand name.

Though common-law **protects** every business owner and their brands to some extent, common law trademarks do have location-limitations. If you want to protect your brand name in your state, or even nationwide, you need to file for a trademark.

Having a trademark has further indirect business benefits and is beneficial for the **long-term success** of any business with a tangible brand.

**Getting a trademark is a simple, inexpensive, and straightforward process.**

## What Happens if You Don't Have a Trademark?

The most important issue you can face when not owning a trademark being your competitors **legally using your brand name**, which can harm your current and future business.

With a trademark, you can bring legal action to those who misuse your brand name, such as using it without your approval or copying your brand name.

Apart from trademark infringement options, you can also grow your business with a *registered mark*. This makes it **easier to import goods into the US**, and you can use the registered trademark as a basis to **obtain registration in foreign countries** if needed.

The question is not what happens when you don't have a trademark on your brand. The question is:

**If the process of obtaining a trademark is easy, straightforward, and inexpensive, why not treat it as part of your business plan?**

Getting a mark on your brand should have the same importance as incorporating your company.



## Frequently Asked Questions

### When can I use the registration ® symbol?

The registration notice ® can only be used for **registered trademarks**. Unregistered trademarks **cannot** use the ®.

### What is the difference between ™ and ®?

The ™ symbol is used for **unregistered trademarks** (i.e., common law trademarks). The registration notice ® can only be used for **registered trademarks**.

### What is the difference between ™ and ℠?

Both symbols ™ and ℠ are used for **unregistered trademarks** (i.e., common law trademarks). The symbol ™ is typically used for *goods*. The symbol ℠ is used for *services*.



## Glossary

### Service Mark

A service mark is a **word, phrase, symbol, logo, design**, or a **combination thereof**, that identifies and distinguishes the source (i.e., origin) of the **service** of one party from those of others.

### Trademark

A trademark is a **word, phrase, symbol, logo, design**, or a **combination thereof**, that identifies and distinguishes the source (i.e., origin) of the **goods** of one party from those of others.

### USPTO

USPTO is an abbreviation for the **United States Patent and Trademark Office**.

### Mark

A mark is a shortened form of the word **trademark** or **service mark**.



## Chapter 2

# What You Need to Know Before Filing a Trademark

### Can Your Brand Name Get a Trademark?

There are several scenarios in which you cannot get a trademark on your brand. **Not every mark is registrable, nor is every mark legally protectable.** This is mainly because the mark might not be capable of serving the basis for a legal claim by the owner who is seeking it.

The most common refusal of registration is when you want to trademark a brand name that is **already** registered by others. In this case, you will get a refusal based on "**likelihood of confusion**".

This means that your trademark and the registered mark are similar enough that average consumers are likely to confuse the origin of the goods and/or services for your trademark and the registered mark. Actual confusion is not required for a "likelihood of confusion" refusal.

Other grounds for the refusal can be the use of an *individual's name*, a *surname*, an *offensive or disparaging word*, *geographically descriptive origin of goods and/or services*, or a *foreign term* that translates to a generic term.

To accurately assess your brand for a possible registered trademark, it is vital to do a **specific trademark search**. The search can help you to find out if others registered a similar brand name before, or your registration has any *potential flaws* built-in.

### How to do a Trademark Search

To ensure you can register your brand name as a trademark with the USPTO, you first need to do a **trademark search**. The search will reveal potential problems, such as the *likelihood of confusion* or a *pending-application* mark issue. The search could save the expense of applying for a mark in which you will likely not receive a registration.

The USPTO offers a search system known as **TESS (Trademark Electronic Search System)**, which you can use to do trademark searches. On TESS, you can search for possible brand names and marks, which are *already filed* or in a *trademark pending* status.

Using TESS is an excellent way to search for trademarks since TESS is connected to the same database that USPTO uses to conduct its searches - however, it is useful to search outside of TESS for unregistered marks, such as doing a Google search.

Using search engines like Google, or domain name registrars like GoDaddy, will give you an idea of who has a brand name that is similar to or the same as yours.



## Frequently Asked Questions

### Can I do trademark searches on my own?

Yes, you can conduct your own trademark search, which is a good starting point. However, it is best to hire a professional if you do not know what you are doing because you might miss **important** results. Missing important results or not conducting a proper analysis of your search results might affect your ability to register your trademark with the USPTO.

### If I do “a simple internet search” on my brand name, what would be the best tools to use?

There isn't one tool that is best for conducting a simple internet search for your brand name. Using search engines, such as *Google* or *Bing*, and searching online retailers (e.g., *Amazon*, *eBay*) helps uncover brand names that are the same or similar to yours.

However, searching the USPTO's trademark database - **Trademark Electronic Search System (TESS)** - is one of the most effective tools for determining your chances of obtaining a registered trademark with the USPTO.



## Glossary

### TESS

Trademark Electronic Search System, the official search platform of the USPTO that helps you to **search for trademarks that are already registered**.

### Likelihood-of-confusion

It is a part of proving trademark infringement. It means that the public is **likely to confuse** your mark with *another* registered mark(s).

### Pending application mark

A trademark application **being reviewed** by the *United States Patent and Trademark Office* for registration.





## Chapter 3

# How to File a Trademark

### Essential Information on Filing a Trademark

**Filing a trademark is easy** - you only need to gather *two* types of information in order to file properly.

The first section requested is **basic administration information**: your *name, address*, and any information basically describing who the *owner of the mark* will be.

The **owner of the mark** is the person or entity (legal entity, such as an LLC or corporation) who controls the nature and quality of the goods and/or services identified by the mark. **You don't need to be a U.S. citizen to apply for and obtain a federal trademark registration.**

The second section is the actual **description of the trademark**. Here, you will describe your trademark with *drawings* and an *explanation of your goods and/or services*. Let's delve in a little deeper and talk about the drawings.

**There are two types of drawings: standard character and special form.**

#### Standard Character

The **standard character** drawing is the name you want to protect, described in a written format: *words, letters, or numbers*.

The standard character protects the **wording itself** and provides the **broadest protection** because the protection is not dependent on *fonts, styles, sizes, or colors*. Meaning that you can **change** the fonts, styles, sizes, or colors of a registered trademark **without having to apply** for another registration.

#### Special Form Drawing

If you want to protect a specific *design* or a special *style*, such as a logo or a designed tagline, you have the second drawing option: **the special form drawing**. With this drawing, you'll need to design the unique logo or design element and upload it with your trademark application.

After the drawings are defined, you'll have to **specify** the goods and/or services that your mark would represent. **Goods are products**, such as a specific type of pizza. **Services are activities** for the benefit of someone else, such as a pizzeria that provides pizza products.

A *clear description* of your goods and/or services is essential when filing a trademark - since the marked brand will represent the very specific **services** and/or **goods** you perform or develop.

Once your application is filed, you **cannot** broaden the description of the goods or services, you can only *clarify* or *delete* goods or services from your application.

So, for example, if you only applied for trademark protection on T-shirts, you will not be able to add pants to your application after filing. Thus, deciding on your long term business objectives **before** you file for a brand trademark is essential.

When filing your trademark application, you also have to select whether you are currently using your trademark or are intending to use it in the future without currently using it. If you are currently using your trademark, you will need to submit a proper specimen in your application. A **specimen** is evidence of the actual use of your trademark in the marketplace, such as a picture of your logo affixed to your product.

If you haven't started using your trademark but intend to use it after filing your application, you will need to submit a proper specimen towards the end of the registration process.

The USPTO will **not** register your trademark without a proper specimen. Of course, exceptions **do** apply when your trademark application originates outside of the United States.

## How to File Your Trademark Application

In today's digital world, you can file a trademark *online* - however, there are many options and different types of applications that you can choose from.

Let's start with the different types of filing options that the USPTO provides, such as **TEAS Plus**, **TEAS RF**, and **TEAS Regular** application.

- ✓ *TEAS Regular* is the most expensive option, but it has the most **flexible** application process - you can even do it by way of a paper application if you prefer.
- ✓ *TEAS RF*, or Reduced Fee, comes with a **lower** cost compared to the Regular, but it requires online communication with the USPTO from your end.
- ✓ *TEAS Plus* has the *lowest* fee, but it has the most requirements - everything is fixed in the process.

We always recommend filing with *TEAS Plus* because you can **reduce the filing fee costs**, in addition to being aware of the full requirements with the help of a trademark attorney.

No matter what filing application you choose, you will need to provide some important information when you file, such as the following:

- ✓ The **owner** of the mark (i.e., applicant);
- ✓ **Name and address** for correspondence;

- ✓ The **description** of the mark, goods/services description and its international class;
- ✓ USPTO filing **fee**;
- ✓ **Filing basis**, such as 1(a), or use-in-commerce application, or 1(b), or intent-to-use application;
- ✓ And **specimen** for use-in-commerce applications.

The USPTO application form will prompt you to provide the necessary information when filling out your application. Thus, **it isn't necessary that you remember everything** that you will need. However, prior to filing your application, it helps to **gather all the information** together.



## Glossary

### Word Mark

A word mark (standard character mark) is comprised of **word(s), letter(s), number(s)** or any **combination** thereof, with **no** design element or stylization and **no** claim for any particular font, style, size, or color.

### Standard Character Mark

A standard character mark (word mark) is comprised of **word(s), letter(s), number(s)**, or any **combination** thereof, with **no** design element or stylization and **no** claim to any particular font, style, size, or color.

### Special Form Mark

Special Form (**Stylized and/or Design**) is comprised of **stylized word(s), letter(s), number(s)**, and/or **number(s)**, and/or a **design element**.

### TEAS PLUS

TEAS **PLUS** is a filing option of TEAS.

### TEAS RF

TEAS **RF** (TEAS Reduced Fee) is a filing option of TEAS.

### TEAS Regular

TEAS **Regular** is a filing option of TEAS.

### TEAS

**TEAS** is an abbreviation for Trademark Electronic Application System.

### Statement of Use

A Statement of Use is a filing of a specimen to show the actual use of the trademark. The Statement of Use occurs **after** the Notice of Allowance for intent-to-use applications.

### Specimen

A specimen is a **real-world example** of how you are using your trademark in connection with the goods or services you are providing to the public. A specimen is more than a photocopy or digital drawing of your trademark.

### Intent-to-Use Application

An intent-to-use application (Section 1(b) application) is a trademark application submitted to the United States Patent and Trademark Office (USPTO) that declares that the applicant has a bona fide intent to use the trademark in the United States and that the trademark is currently not being used in commerce.

### Declaration of Use

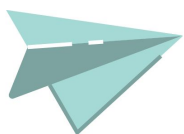
A Declaration of Use is the filing of a specimen to show the **actual use** of the trademark. The Declaration of Use occurs **after** registration.

### Class

Class is a shortened form of **International Class**.

### International Class

An international class is a number that belongs to a classification system for grouping together certain goods and services. Classes **1-34 covers goods**, and classes **35-42 covers services**.



## How to File/Fees

APPLICATION REQUIREMENTS	TEAS PLUS	TEAS RF	TEAS REGULAR
Filing fee per class of goods/services	\$225	\$275	\$400
Must provide an email address and agree to receive email communication from USPTO about your application	Yes	Yes	No
Must file additional application-related submissions online, including responses to office actions	Yes	Yes	No
Must select your goods/services listing from the USPTO Trademark Identification (ID) Manual, and your selection must accurately identify your goods/services	Yes	No	No
Must pay the filing fee upfront per class for all classes listed in application	Yes	No	No
If any of the situations listed below apply to your application, you must provide the relevant additional statements when you file your application <ol style="list-style-type: none"> <li>1. The same mark has already been registered with the USPTO by the applicant, but the names of the owners are not identical.</li> <li>2. The mark includes color.</li> <li>3. The mark includes a design or stylized font.</li> <li>4. The mark includes non-English words.</li> <li>5. The mark includes non-Latin characters.</li> <li>6. The mark includes the name or portrait of a living person.</li> <li>7. The mark is currently in use and the applicant needs to limit use to a specific geographic area and identify the other concurrent users.</li> </ol>	Yes	No	No

Table reproduced from <https://www.uspto.gov/trademarks-application-process/filing-online/initial-application-forms>



## Frequently Asked Questions

### What is a specimen?

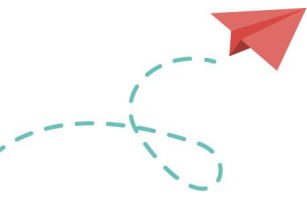
**A specimen is actual evidence of how you are using your trademark in the marketplace.** An example of actual evidence is a *photograph* of your trademark affixed to your *product or packaging*.

### How long does it take for my trademark to register?

The USPTO typically registers a trademark within **8 to 14 months**. Registration can take longer if there are complications with the trademark application.

### What is the scope of protection for my registered trademark?

By registering your trademark with the USPTO, **you receive trademark protection in all 50 states.**



## Chapter 4

# After Filing Process and Potential Issues that May Arise

### After filing

Now that you have filed for a trademark, there are a couple of things that can happen. The first question always asked is: **what is the turnaround time? When will you get an approved trademark?**

It typically takes the USPTO around **8 to 14 months** to register a trademark, **longer** if issues arise.

If there are issues with your trademark application, you will get an **official Office Action** from the USPTO - which means the USPTO Examining Attorney has found something *wrong* with your application or has questions regarding it.

If you receive an Office Action, **you must reply within 6 months**. If you fail to reply within the 6 month period, the USPTO will **abandon** (i.e., cancel) your trademark application.

If no issues arise, or all of them are resolved within the time limit, your trademark application gets **approved for publication**. This means that your application will get **officially published** on the USPTO's website in their *Official Gazette*.

In all cases, we recommend **authorizing the USPTO to communicate with you via email**, and you **check back regularly** every **2-3 months** on your application on the USPTO's website.

Once you get the mark you will need to file a **maintenance document** a few years later, which signifies that you still want to retain *ownership* of the mark.

**An office action is a letter from the USPTO, stating that your application contains an issue or issues that must be corrected before the USPTO will register your trademark.**

You have **six months** to respond to an office action. Failing to respond within the six months will result in the USPTO **abandoning** (i.e., canceling) your application.

If your response to the first Office Action (i.e., non-final office action) **did not** overcome the issue or issues raised, the USPTO will give you a *second* opportunity by issuing a **Final Office Action**.

If you are *unsuccessful* in overcoming the issue or issues in the Final Office Action, the USPTO will **abandon** your application.

An office action may raise issues that are **easy** to overcome, such as a *disclaimer* - which means that you don't claim a right in a certain word or words, thus allowing the public to use that word or words. Or issues that are very **difficult** to overcome, such as a *likelihood of confusion refusal* - which requires performing legal analysis and making legal arguments.

## How can a trademark attorney help you?

**Filing for a trademark**, or even a simple trademark search, can be *overwhelming and complicated* if you aren't familiar with the registration steps or legal terminology used.

Our attorneys are specialized in **Intellectual Property Protection** and can help move you through registration with little to no difficulty.

Our attorneys **prepare** and **file** your trademark registration application according to *USPTO's strict requirements*, ensuring that your mark **won't** be rejected due to common filing errors.

Even the **simplest of mistakes**, such as an accidental misspelling of the owner's name, can cost valuable **time** and, more importantly, **money**.

Our Trademark attorneys assist in making sure that your mark is **properly and fully** protected for all future use, including taking protective measures to **stop or oppose** potential trademark violations.

**Investing in proper trademark protection with our qualified attorneys is an important step in protecting your brand now and in the future.**



## Frequently Asked Questions

### Why should I hire a trademark attorney? Can I do this myself?

Although many people have been successful in obtaining trademark registration without a trademark attorney, we **don't** recommend applying for trademark registration with the USPTO alone because the trademark process is a legal proceeding that may become complicated.

The benefits of hiring a trademark attorney are that the attorney will be able to **identify potential issues** before filing that may prevent registration (thus saving you money), **make legal arguments** if issues arise with your trademark application, and **monitor your application**.

### Now that I have a registered trademark, what happens next?

After registration, you are allowed to use the registration notice ® on your trademark for the *goods/services* listed in your registration.



**Also, five years after the registration date, the USPTO requires that you provide evidence of continued trademark use and pay a maintenance fee.**

**Now that I have a registered trademark, can I use it on any product or for any service?**

Your trademark registration applies **only** to the *goods* and *services* listed in the application. Thus, any good or service **not** listed in the registration is **not** protected by a registered trademark.



## Chapter 5

# Your Personal Trademark Assessment Toolkit

### How to assess your trademark

Now that you know the basics of filing, let's get to work on registering your first trademark. As you have learned, there can be **several issues** when filing for a trademark - your first step should be **lowering the risk with a simple trademark search**.

It's best if you start the assessment, with a simple internet search, to make sure that you don't end up filing for something that is **already** used by a competitor.

**A simple internet search can't substitute a proper trademark search, but it's a good start.**

Once you are a bit more sure that you will be the first to register that trademark, the next step is **filling out our questionnaire**. We will ask you questions that will help to assess your trademark - making sure that when you file, you will get **quick approval** on your brand.

The questionnaire is **extensive**, so we would suggest taking the time to fill it out appropriately.

**We collect your responses and evaluate them.**

We will provide you proper **unparalleled feedback** via a consultation call with our trademark attorney. There, you can discuss the possible **next steps** for your trademark.

### Our Survey To Help You Assess

Ready to take the survey? Click [here](#) if you are ready to begin your trademark assessment survey!

### Moving Forward

To move forward, we'll need to **evaluate** your individual assessment, which can take up to **48 hours**. We'll provide **specific feedback** on the assessment through a trademark consultation, while you can schedule [here](#).



## Trademarks in Review

### Successfully Obtaining a Registered Trademark for your Brand

Getting a trademark registered on your brand is an **important step** in protecting your **business** and **future profits**. First, it's important that you understand *what* a trademark is, *if* your brand is eligible for registration, *how* to file, *what to do* after filing, and successfully *assessing* your trademark. **Let's review!**

A trademark is a **word, phrase, symbol, design**, or a **combination** of all of the above that *identifies* and *distinguishes* a source of goods from one part to all other parties. In other words, **a trademark protects your brand name from your competitors.**

**Not all brands can be trademarked for a few reasons:**

1. The brand name is *already* registered by another;
2. The use of an individual's *name, surname, an offensive or disparaging word, geographically descriptive origin of goods and/or services, or a foreign term* that translate to a generic term

In order to ensure that your brand can get a registered trademark, it's imperative to do a **specific trademark search**, that will allow you to find out if the brand name is *already* registered or there are *potential flaws* in the name you have chosen.

The next, and most important step in filing for a trademark, is doing just that: **filing the paperwork**. We'll do all the heavy lifting to file your trademark registration correctly, saving you **time** and **money** by avoiding *potential issues* with your paperwork or supporting evidence.

Finally, we've created an extensive **questionnaire** for filing a trademark, allowing us to provide you with **unparalleled feedback** via a *consultation call* with our experts.

So, are you ready to take the next step in registering for a trademark for your brand? [Get in touch](#) with a KISSPatent team member to discuss our trademark services and how we can assist you in your IP brand protection.