

TRADEMARK BASICS



What Every Small Business
Should Know Now, Not Later

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Trademark Basics

How these all differ:

- TRADEMARK
- PATENT
- COPYRIGHT
- DOMAIN NAME
- BUSINESS NAME REGISTRATION



Trademark Basics

Considerations for federal registration when selecting a mark:

- Likelihood of confusion with other marks
X-SEED for “agricultural seeds” and
EXCEED for “live plants”
- Common law rights
- What is a “cease-and-desist” letter and what should you do if you receive one?



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Importance of conducting a full and complete trademark search

- USPTO's Trademark Electronic Search System (TESS)
- Internet search for common law rights
- Should a trademark attorney be used?



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Strong marks cf. Weak Marks:

- Fanciful
XEROX, KODAK
- Arbitrary
APPLE for “computers”
- Suggestive
COPPERTONE for “sun tan lotion”



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Weak marks

- Descriptive

CREAMY for “yogurt”

- Generic

MILK for “dairy-based beverages”

ESCALATOR, ASPIRIN, ZIPPER



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Other potential grounds for refusal:

- Surname
- Geographically descriptive of origin
- Disparaging or offensive
- Foreign term that translates to descriptive/
generic term
- Individual's name
- Mere ornamental use



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Another factor in selecting a mark:

- Meaning when translated into foreign language

GERBER baby food

KFC's "Finger Lickin' Good" slogan



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Other considerations:

- Should you register your mark?
- What does the USPTO do and not do?



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Overview of trademark application process:

- Trademark Electronic Application System (TEAS)
- Fees
- Timelines
- Other USPTO resources
- How can scams be avoided?



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Considerations after a mark registers:

- What steps must be taken to keep a registration “live”?
- What are the responsibilities of the holder of a registration?



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General information:

Trademark Assistance Center

1-800-786-9199

Questions specifically about this program:

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