



## For More Information

### Good websites:

[www.uspto.gov](http://www.uspto.gov)  
[www.uiausa.org](http://www.uiausa.org)  
[www.inventorsdigest.com](http://www.inventorsdigest.com)

### Good Book:

#### TRADEMARKS

By Nolo Press®

(Good reference material, we do not endorse any material)

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**Thrasher  
Associates, LLC**

## I. TRADEMARKS ARE RIGHTS TO EXCLUSIVELY USE A WORD, SYMBOL OR SLOGAN TO IDENTIFY A GOOD OR SERVICE WITH A SOURCE OF ORIGIN.

Examples: Coca-Cola ®; Pepsi®; IHOP®; Albertson's®; Kraft®

Only a trademark that is registered with the U.S. Trademark Office is designated with an "®".  
Service Marks are a category (sub-set) of Trademarks.

Public Policy: marks are exclusive for a Good or Service *to protect the consumer*.

## II. TRADEMARKS EXIST UNDER DIFFERENT LAWS ("LEGAL JURISDICTIONS")

Common law trademarks are created in a geographic region, based on each state's common law.  
State registration of a mark is often available so that the marks use is "exclusive" throughout that state. It typically gives a presumption of rights in that state's courts.

Federal registration creates a right to national exclusivity of the use of that mark for a particular product or service.

Certain trademarks may "travel" internationally via the Bern Convention

## III. REQUIREMENTS FOR A TRADEMARK REGISTRATION (FEDERAL/ MOST STATES)

Identification: Your mark must uniquely identify a good or service that you offer commercially.

Uniqueness: The word or symbol must not be Generic or Suggestive.

Common descriptive words cannot be used. Example) "Tasty" Hamburgers.

Preference is given to "non-whimsical" words that are creative and made-up, such as "Exxon®"

Timely filing; in general, you want to file for a mark before someone else claims rights.

## IV. SEARCHES

You must start with a search before using a mark to avoid repercussions (*Tommy Hilfiger Case*)  
Searches help you and your attorney to select better trademarks; may identify unavailable marks.

## V. NOTICE

State and Common-Law use: TM

Federal Registration: "Registered" and/or ®

## VI. PROCESS

After filing, wait at least 9 months. Almost all Trademark Office Filings are "rejected" at some level.  
Next, file response(s) to rejections, sometimes called "Final" ("Final" does not mean "your done").  
A trademark, if available, typically publishes in about one year. Registration may be challenged.  
Filing certain paperwork makes a trademark "uncontestable" after five years.

Trademark must be used and renewed every 10 years or it is deemed abandoned.

A Trademark never expires as long as you are using it and keeping registration renewed.

## VII. CAVEATS

1. Trademarks are far more complicated than they appear to be. Get an attorney.
2. The "strength" of trademark, even if federally registered, varies.
3. A trademark application lives-dies based on what's filed (no amendments to the mark submitted).
4. You can lose the rights you have, and can loose rights to expand geographically. So, trademarks must be managed.
5. Choosing a good mark up front saves big in the long run.