

DFE LAW TRADEMARK PROTECTION

WHAT EVERY SMALL BUSINESS OWNER SHOULD KNOW ABOUT
PROTECTING YOUR BRAND

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What is a Trademark?

- A trademark typically protects brand names and logos used on goods and services (identifies the source of goods).
- Now you must select your mark once you determine that the type of protection you need is, in fact, trademark protection. Put much thought and care into your selection, because not every mark is registrable with the USPTO. Before filing a trademark or service mark (identifies a source of services) application, you should consider:

Whether the mark you want to register is registrable, and legally protectable.

The mark must be strong & must be able to be enforceable. Don't use generic terms (milk, escalator) or descriptive marks (creamy, soft). Stronger marks are fanciful & arbitrary examples would be Apple (iPhone), Pepsi, IBM, McDonalds, H&M

- The USPTO registers marks, they are not responsible for enforcement of the mark.

Your Mark Format

- You must identify your mark format: a standard character mark, a stylized/design mark, or a sound mark “9oclockteeparty”
- Identify clearly the precise goods and/or services to which the mark will apply, in your case sunglasses.
- Always search the USPTO database to determine whether anyone is already claiming trademark rights in wording/design that is similar and used on related goods/services through a federal registration.
- Consider whether to hire a trademark attorney, such as DFE Law to help you with these steps, as well as the overall application process.

Application Process

Prepare and submit your application

- Trademark Application
- File the application online through the Trademark Electronic Application System. The fee to pay to the USPTO is \$325 per class (determines the goods or services, ie sunglasses)
- The application fee is a processing fee & will not be refunded, even if ultimately no registration issues. All information you submit to the USPTO at any point in the application and/or registration process will become public record, including your name, phone number, e-mail address, and street address.
- Monitoring Application Status
- The entire process will be monitored through the Trademark Status and Document Retrieval (TSDR) system. The whole process should take about six months to complete.

Your Legal Rights

- Federal Trademark Registration Benefits:
- Legal presumption to use your mark throughout the United States
- Legal presumption you are the owner of the mark
- The public is on notice that you are the owner of the mark
- Listed in the USPTO database
- Listed with U.S. Customs & Border Protection
- Can bring suit in Federal Court
- Can apply for trademark protection in other countries
- Use of ® symbol

Resources

- <https://www.camba.org/programs/economicdevelopment>
- <http://www.bklynlibrary.org/calendar/meet-one-one-score-busine-central-library-info-comm-110116>
- <https://newyorkcity.score.org/>
- <http://www.nyssbdc.org/resources/Links/grants.html>
- http://www.nyssbdc.org/services/women_minority.html
- <http://www.blackenterprise.com/small-business/top-10-grants-financing-black-businesses-minority-entrepreneurs/>
- <http://www1.nyc.gov/nyc-resources/service/2479/minority-and-woman-owned-business-enterprise-mwbe-program>
- <http://www.toryburchfoundation.org/programs/capital/>

Contact Us

- Please contact us if you would like to start the process of registering your Trademark and/or if you have further questions.

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