

UNITED STATES  
PATENT AND TRADEMARK OFFICE



# Federal trademark searching: basics

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UNITED STATES  
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# Discussion topics

- Trademark basics
- Likelihood of confusion
- Comprehensive clearance searching
- Federal trademark searching
- Common search strategy
- How to find help

# USPTO restrictions

- The USPTO does not provide legal advice.
  - This program is for informational purposes only.
  - It only covers the mechanics of searching the federal register.
  - It does not cover full clearance searching.
  - It does not cover everything you need to know about federal and common law trademark rights.

Discussion topic

# Trademark basics



# Trademark basics

- Trademark
  - Identifies the source of goods and services.
  - Distinguishes them from the goods and services of another party.
  - Provides legal protection for a brand.



# Trademark basics

- Remember:
  - You are not “buying” a trademark.
  - Not every trademark is registrable.
  - Filing fees are not refundable.



Discussion topic

# Likelihood of confusion





# Likelihood of confusion

- **Concept:**
  - Avoid confusing consumers about the source of the goods and services.
- **Test:**
  - Are the trademarks confusingly **similar**?
  - and
  - Are the goods and/or services **related**?





# Likelihood of confusion refusal

- Examining attorney issues refusal if:
  - The trademark in the application is confusingly **similar** with a registered trademark.and
  - The goods and/or services in both the application and the registration are **related**.



# Likelihood of confusion example

**Your trademark**

T.MARKEY

for

shirts

**Registered trademark**

T.MARKEY

for

pants





# Likelihood of confusion example

**Your trademark**

T.MARKEY

for

shirts

**Registered trademark**

TEE MARQEE

for

pants





# Likelihood of confusion example

**Your trademark**

T.MARKEY

for

shirts

**Registered trademark**

TEE MARQEE

for

golf flags





# Knowledge check

**Your trademark**

TRAQ

for

racquet ball rackets

**Registered trademark**

TRAK

for

snow skis



Discussion topic

# **Comprehensive clearance searching**



# Comprehensive clearance searching

- Hire a private trademark attorney.
  - Search might include:
    - USPTO database of registrations and applications
    - State trademark databases
    - Business name registries
    - Foreign trademark databases
    - The internet







# Comprehensive clearance searching

- Conduct searches on your own.
  - Search might include:
    - USPTO database
      - Federally applied-for and registered trademarks
    - The internet
      - Looking for common law use by others



Discussion topic

# **Federal trademark searching: live demonstration**



# Live demonstration (basic)

You want to register:

# RABBIT

as a brand name for

## racquet ball rackets



# Live demonstration (basic)

- Access the USPTO database.

The screenshot shows the USPTO New-Trademark Search Beta website. At the top, there is a navigation bar with the USPTO logo and links for Patents, Trademarks, Fees and payment, Contact us, and MyUSPTO. Below this is a search bar with a dropdown menu set to "Search by all" and a search button. A "Help" link is visible in the top right corner. The main content area features a "Help" section with a question mark icon and a "Feedback" section with a megaphone icon. The feedback section contains an announcement stating that the site is a beta version intended for collecting feedback. At the bottom, there are links for "About the USPTO", "Search for patents", and "Search for trademarks", along with a "Receive updates from the USPTO" section with an email subscription form.

# Live demonstration (basic)


- Select “wordmark” and insert search term.

The screenshot shows the USPTO New-Trademark Search Beta website. At the top, there is a navigation bar with the USPTO logo and links for Patents, Trademarks, Fees and payment, Contact us, and MyUSPTO. Below this is a header for 'New - Trademark Search Beta' with 'Home' and 'Help' links. The main search area features a dropdown menu set to 'Wordmark' and a search input field containing the text 'rabbit'. A search button with a magnifying glass icon is to the right of the input field. Below the search bar, there is a 'Help' section with a question mark icon and a link to 'Help'. To the right of the help section is an 'Announcement' section with a speaker icon and the text: 'THIS IS NOT THE FINAL VERSION OF THE SITE. This is a beta version of a trademark search tool that we are exploring and it is intended for collecting feedback to help us further refine the search experience. Some functions are still in development and you may encounter occasional errors.' At the bottom of the page, there is a footer with links for 'About the USPTO', 'Search for patents', and 'Search for trademarks'. On the right side of the footer, there is a 'Receive updates from the USPTO' section with an email input field containing 'your@email.com' and a 'Subscribe' button. The USPTO logo is also visible in the bottom right corner of the page.

# Live demonstration (basic)

- Look for conflicting trademarks.

The screenshot shows the USPTO Trademark Search interface. The search term 'rabbit' is entered in the search bar, and the results are filtered to show 1,865 results. Two results are displayed side-by-side, both marked as 'DEAD' and 'CANCELLED'.

Wordmark	Status	Goods & services	Class	Serial	Owners
<a href="#">RABBIT RABBIT RABBIT DESIGNS</a>	DEAD CANCELLED	(CANCELLED) IC 025: [ WOMEN'S CLOTHING NAMELY, JUMPSUITS, PANTS,...	025, 042	73429552	TRAUTH, DIANE D (INDIVIDUAL; CALIFORNIA, USA)
 <a href="#">RABBIT</a>	DEAD CANCELLED	(CANCELLED) IC 009: [ CONSUMER ELECTRONICS; NAMELY, ELECTRONIC...	009	73780303	GEMINI INDUSTRIES, INC. (CORPORATION; NEW JERSEY, USA)

# Live demonstration

- Learn more about the potential conflict.

The screenshot shows the USPTO website's Trademark Status & Document Retrieval (TSDR) interface. The search results for US Serial Number 73429552 are displayed under the 'STATUS' tab. The results include the following information:

STATUS	DOCUMENTS	MAINTENANCE
Generated on: This page was generated by TSDR on 2023-09-11 12:06:39 EDT		
Mark: RABBIT RABBIT RABBIT DESIGNS		No Image exists for this case.
US Serial Number: 73429552	Application Filing Date: Jun. 10, 1983	
US Registration Number: 1390837	Registration Date: Apr. 22, 1986	
Register: Principal		
Mark Type: Trademark, Service Mark		



# Knowledge check

**Does a search of the USPTO database guarantee that your trademark is federally registrable?**

Yes

No





Discussion topic

# **Federal trademark searching: word mark searching**



# Word mark example

You want to register:

ZEBRA

as a brand name for

**t-shirts**



# Word mark example

- Common search strategy
  1. Execute dead-on search.

# Word mark example

- Search string
  - Dead-on search

CM:zebra

The **CM: field code** searches for trademarks in multiple areas of the database.

The **search term** appears in all lowercase.



# Word mark example

- Common search strategy
  1. Execute dead-on search.
  2. Execute expanded search.



# Word mark example

- Search string
  - Expanded search

CM:/.\*zebra.\*/

The “dot star” tells the system to look for an infinite number of characters.

Forward slashes on both sides of the search term tell the system you want to use advanced searching mechanics.



# Word mark example

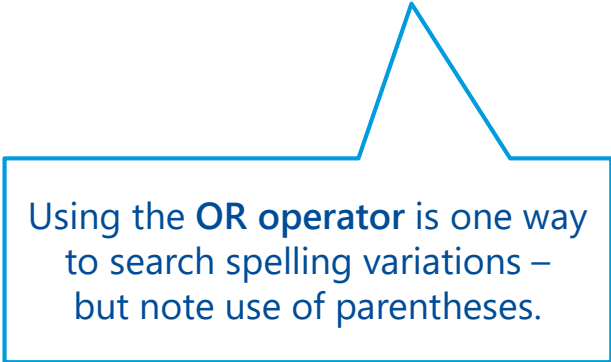
- Common search strategy
  1. Execute dead-on search.
  2. Execute expanded search.
  3. Execute alternate spelling search.



# Word mark example

- Search string
  - Alternate spelling search – option 1

CM:(/.\*zebra.\* / OR /.\*sebra.\* /)



Using the **OR operator** is one way to search spelling variations – but note use of parentheses.



# Word mark example

- Search string

- Alternate spelling search – option 2

A **number ratio** tells the system to look for that range of instances of that character.

CM:/.\*[sz]e{1,3}br.\* /

**Pattern matching** tells the system to look for one instance of one of the included characters.

Removing **final sounds** can capture variations without pattern matching.





# Knowledge check

**You want to register PEPZI for soft drinks. Which search strategy would help you find more potential cites?**

- CM:pepzi
- CM:(/.\*pepz.\* / OR /.\*peps.\* /)



# Word mark example

You want to register:

ZEBRA STAR

as a brand name for

**t-shirts**





# Word mark example

- Common search strategy
  1. Execute dead-on search.
  2. Execute expanded search.
  3. Execute alternate spelling search.
  4. Execute combined term search.



# Word mark example

- Search string
  - Dead-on search

CM:“zebra star”



# Word mark example

- Search string
  - Expanded search

CM:/.\*zebrastar.\*/



# Word mark example

- Search string
  - Alternate spelling search – option 1

CM:(/.\*zebra.\* / OR /.\*sebra.\* /)

CM:(/.\*star.\* / OR /.\*ztar.\* /)



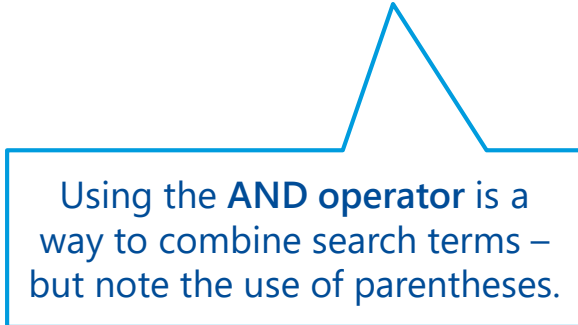




# Word mark example

- Search string
  - Combined term search – option 1

CM:(/.\*[sz]e{1,3}br.\* / AND /.\*[sz]tar.\* /)



Using the **AND** operator is a way to combine search terms – but note the use of parentheses.

# Word mark example

- Search string
  - Combined term search – option 2

CM:/.\*[sz]e{1,3}br.\* /

CM:/.\*[sz]tar.\* /

1 AND 2

Using previous search strings is a way to combine search terms – but must be in expert mode.

Discussion topic

# **Federal trademark searching: design mark searching**

# Design mark example

You want to register:



as a logo for

**t-shirts**



# Design mark example

- Common search strategy
  1. Look up the relevant design codes.
    - Use the Design Search Code Manual.

# Design Search Code Manual

**United States Patent and Trademark Office** TRADEMARKS

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Trademarks > USPTO Design Search Code Manual

## USPTO Design Search Code Manual

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### TABLE OF CATEGORIES

**01** [Celestial bodies, natural phenomena, geographical maps](#)  
This category includes objects that appear in the sky, including clouds, stars, moons, sun, planets and constellation. Additionally, designs associated with weather conditions such as rainbows, lightning, and snowflakes are found here. Maps of countries and continents are also in 01.

**02** [Human beings](#)  
This category includes representations of men, women and children regardless of the activity they are engaged in or how they are dressed. Stylized humans, those in caricature form, stick figures and parts of the human body are also in this category.

**03** [Animals](#)  
This category includes most animals, except mythological animals. Animals found here include mammals, birds, kiwi, kiwi bird, fish, reptiles and insects. Prehistoric animals, stylized animals and animals with human attributes are also coded in category 03.

# Design mark example

- Trademark:



- Design codes:
  - DC:030503 – Zebras
  - DC:010103 – Single star with five points



# Design mark example

- Common search strategy
  1. Look up the relevant design codes.
  2. Execute a design code search.





# Design mark example

- Search string
  - Design code search

DC:030503

DC:010103



# Design mark example

- Common search strategy
  1. Look up the relevant design codes.
  2. Execute a design code search.
  3. Execute a combined design code search.

# Design mark example

- Search string
  - Combined term search – option 1

DC:(030503 AND 010103)



# Design mark example

- Search string
  - Combined term search – option 2

DC:030503

DC:010103

1 AND 2

# Knowledge check

You want to register:



as a logo for

**t-shirts**



# Knowledge check

**Which search strategy would you use to perform a narrow “knock-out” search?**

- DC:010103 OR DC:030503 OR CM:organic
- DC:(010103 OR 030503) AND CM:organic
- DC:(010103 AND 030503) AND CM:organic

Discussion topic

# **Federal trademark searching: narrowing your results**

# Narrowing your results

- Search string
  - Limit by coordinated class for narrow results

CM:/.\*[sz]e{1,3}br.\* / AND CC:025

The **[cc] field code** searches coordinated classes – the identified class and those classes with goods and services that are frequently related to the identified class.







# Narrowing your results

- Search string
  - Limit by international class for narrower results

CM:/.\*[sz]e{1,3}br.\* / AND IC:(025 035 042 a b 200)



The **[ic]** field code class searches the international class only.



# Narrowing your results

- Search string
  - Limit by goods or services for narrowest results

CM:/.\*[sz]e{1,3}br.\* / AND GS:t-shirts

The **GS: field code** searches for that specific good or service only.

This is not recommended.



Discussion topic

# **Common search strategy**



# Common search strategy

1. Search for owner in ON: field.
2. Execute “dead-on” search in CM: field.
3. Execute alternate spelling searches in CM: field.
  - **Pro tip:** “Not out” your previous search to avoid looking at already viewed results.

# Common search strategy

4. Execute additional searches looking for alternative versions of the trademark.
  - Words/designs alone and together
  - Words that have similar meanings
  - Acronyms and what they stand for
  - **Pro tip:** Search for pictorial equivalents using the DC: field tag.



# Common search strategy

- Narrow if needed:
  - By coordinated class with CC: field tag.
  - By international class with IC: field tag.
    - **Pro tip:** Use the IC:(xxx 035 042 a b 200) formula.
  - By goods and services with GS: field tag.
    - **Pro tip:** Only narrow this way if absolutely necessary.

Discussion topics

# How to find help



# Caution: scam alert

- Beware of scams.
  - [www.uspto.gov/TMFraud](http://www.uspto.gov/TMFraud)
- Beware of filing firms.
  - [www.uspto.gov/trademarks/protect/filing-firms](http://www.uspto.gov/trademarks/protect/filing-firms)
- Beware of misleading notices and offers.
  - [www.uspto.gov/TrademarkSolicitations](http://www.uspto.gov/TrademarkSolicitations)





# USPTO resources

- Website
  - [www.uspto.gov](http://www.uspto.gov)
- Trademark videos
  - [www.uspto.gov/TMvideos](http://www.uspto.gov/TMvideos)
- Trademark basics registration toolkit
  - [www.uspto.gov/TrademarkBasicsToolkit](http://www.uspto.gov/TrademarkBasicsToolkit)



# USPTO resources

- IP Identifier
  - <https://ipidentifier.uspto.gov>
- Free services and resources
  - [www.uspto.gov/FreeServices](http://www.uspto.gov/FreeServices)
- USPTO virtual assistant
  - [www.uspto.gov/trademarks/basics](http://www.uspto.gov/trademarks/basics)





# USPTO resources

- Trademark Assistance Center
  - Main support center for all trademark customers
    - Phone: 1-800-786-9199
    - Email: [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

# USPTO resources

- The USPTO does not:
  - Provide legal advice.
  - Enforce legal rights.
  - Recommend specific private attorneys.



# Legal resources

- Remember:
  - Best resource is an experienced trademark attorney.
  - Most trademark filing companies can only provide limited services.



**Questions?**



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