

UNITED STATES  
PATENT AND TRADEMARK OFFICE





# Trademark basics

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UNITED STATES  
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# Discussion topics

- Trademark fundamentals
- Benefits of federal registration
- Selecting a trademark
- Resources available

Discussion topic

# Trademark fundamentals

# What is a trademark?



# What does a trademark do?

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

# What does a trademark not do?

- Trademark
  - Does **not** mean you legally own a word or phrase.
  - Does **not** mean you can stop other people from saying a word or phrase.
  - Does **not** mean people owe you money if they say a word or phrase.



# Traditional types of marks

- Common source identifiers:
  - Brand names
  - Slogans
  - Logos

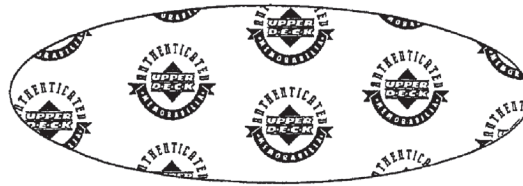
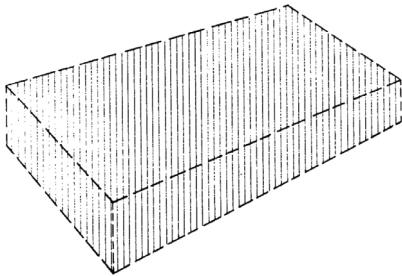
**COCA-COLA**

**IT'S THE  
REAL THING**



# Non-traditional types of marks

- Anything that functions as a source identifier might be eligible for registration.
  - Sound
  - Color
  - Scent/smell
  - Motion
  - Hologram
  - Configuration/shape



Discussion topic

# **Benefits of federal registration**

# Trademark rights

- Traditional ways of creating rights:
  - Common law
  - Federal registration

# Common law trademark rights

- Rights
  - Created when you use trademark in commerce
  - Limited to geographic area where mark is used
- Symbols
  - Optional: TM SM
  - Never: ®



# Federal registration rights

- Rights
  - Created when you federally register trademark
  - Legal presumption you own the trademark
  - Legal presumption you have the right to use the trademark in all 50 states and the U.S. territories
  - Notice to the public of your rights in the trademark



# Federal registration rights

- Rights
  - Can bring legal action concerning trademark in federal court.
  - Enables recordation of registration with U.S. Customs and Border Protection.
  - Can be used as a basis for filing in another country.



# Federal registration rights

- Symbols
  - Unnecessary: TM SM
  - Permitted: ®



Discussion topic

# Selecting a trademark

# Registrable and protectable

Two main concepts:

- Likelihood of confusion
  - Likelihood of confusion refusal
- Strength of the trademark
  - Descriptiveness refusal

# 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 example

**Your trademark**

T.MARKEY

for

shirts

**Registered trademark**

T.MARKEY

for

pants



# Knowledge check

**Your trademark**

X-SEED

for

agricultural seeds

**Registered trademark**

EXCEED

for

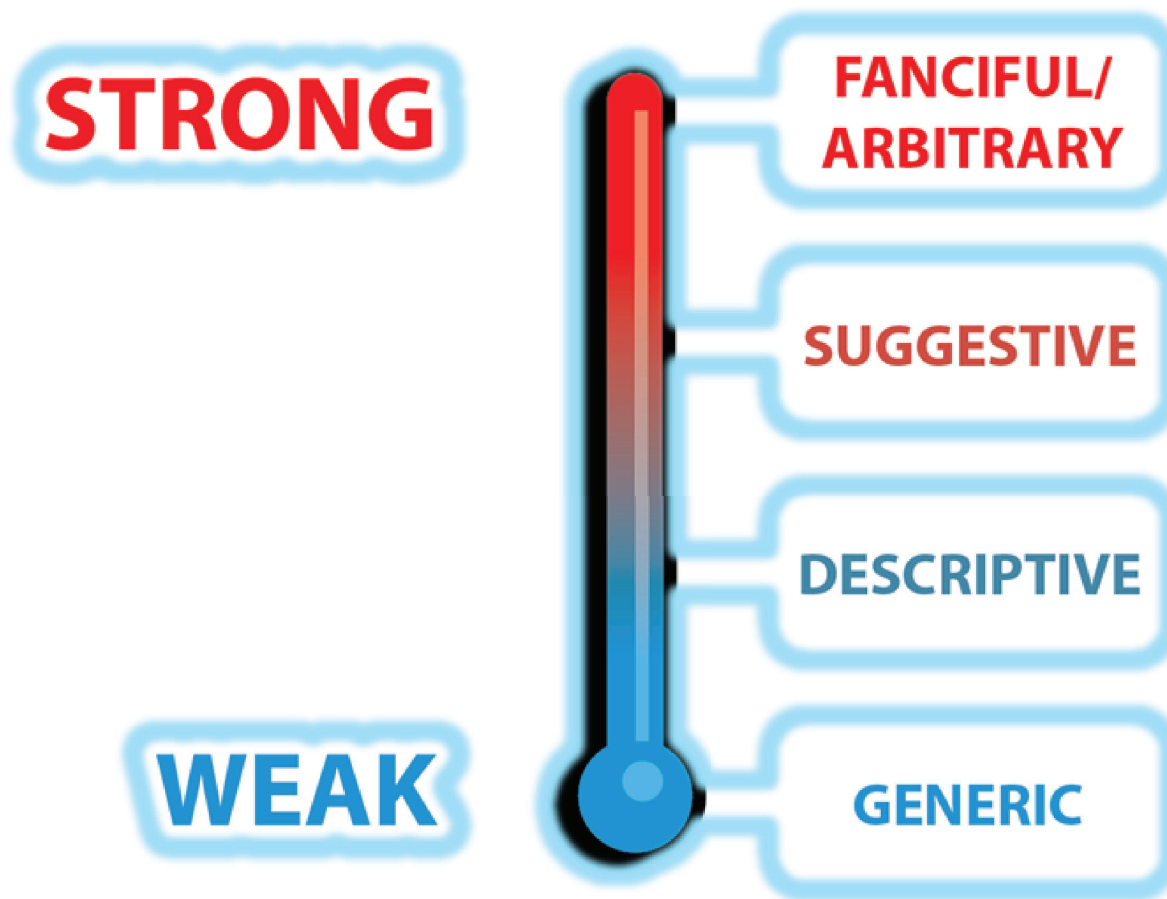
live plants



# Strength of trademark

- Concept:
  - Avoid using trademarks that fail to indicate the source of goods and services.
- Test:
  - Does the trademark **merely describe** the goods and services?

# Strength of trademark



Discussion topic

# Filing and registration



# Filing for federal registration



# Filing for federal registration

- File using the Trademark Electronic Application System (TEAS).
  - TEAS filing options
    - TEAS Plus: \$250 per international class
    - TEAS Standard: \$350 per international class
  - Total fee determined by how many classes you include in the application



# Filing for federal registration

- Application requirements
  - Clear **drawing** of the trademark
  - Listing of the **goods and services** used with the trademark
  - Application **filing basis** for each good or service
  - **Contact information** for the trademark owner
  - Filing **fee**



Discussion topic

# Resources

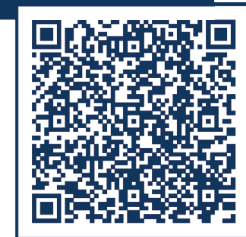
# Caution: scam alert

- 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

The screenshot shows the USPTO website header with the logo and navigation links. The main navigation bar includes 'Patents', 'Trademarks', 'IP Policy', and 'Learning and Resources'. A search bar is located in the top right. The breadcrumb trail reads 'Home > About Us > Events > Trademark Basics Boot Camp'. The main heading is 'Trademark Basics Boot Camp'. The text describes the event series, its frequency, and how to attend. A promotional graphic on the right features the 'Trademark Basics BOOT CAMP' logo and testimonials from participants.

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## Trademark Basics Boot Camp

This free USPTO event series provides a comprehensive overview of the process for federal trademark registration and maintaining a federal trademark. If you're a small business owner or entrepreneur seeking to protect your brand and product identities, Trademark Basics Boot Camp is for you.

Trademark Basics Boot Camp is offered regularly throughout the year. During each series run, we cover one module weekly for eight weeks, with each module focusing on different aspects of trademarks and the registration process, from filing and examination to post-registration requirements for keeping your registration alive. Each module concludes with a question-and-answer period where you can ask our USPTO trademark experts questions.

You can attend the entire series or just the modules that best match your interests, but you must sign up for each module to attend. If you attend all eight modules, you can request a certificate of attendance. To learn more and sign up, select an individual module from the listing below.

**Trademark Basics**  
**BOOT CAMP**

Here's what our boot camp veterans are saying:

"It's a terrific program. I may take it again as it is a wealth of knowledge."  
"Great information and very thorough explanation of the process and requirements for trademarks."  
"Fantastic program. Have already recommended it to several people."

# 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)