

# Trademark Basics

Registration Toolkit

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# 1 Learning the essentials

Do you have a **trademark**? Or is it really a **copyright**? Or a **patent**?

A trademark indicates the source of your goods or services and is how customers recognize your goods or services in the marketplace. It provides legal protection for your brand. A trademark is very different from a patented invention or a copyrighted creative work.


Read on to see how these three types of **intellectual property** differ.



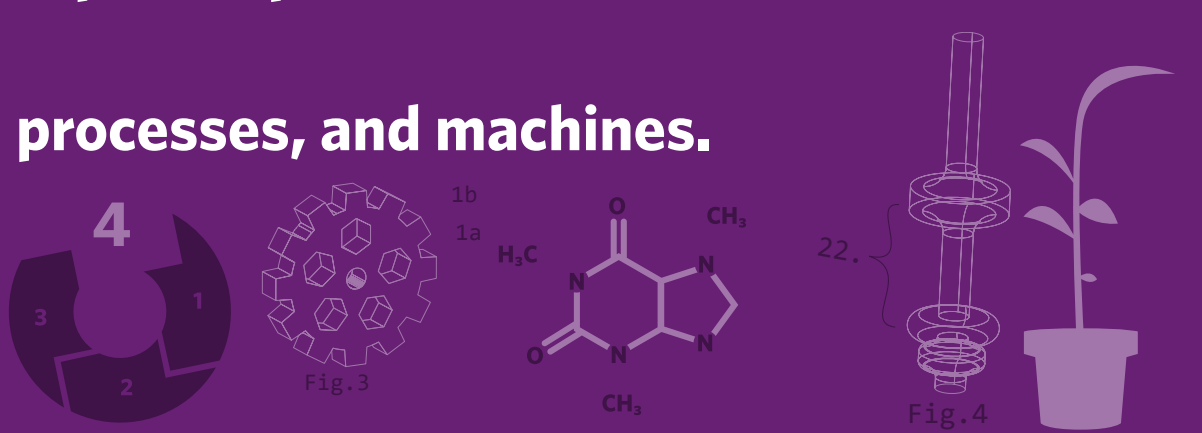
**A trademark protects brand names, slogans, logos, and other source identifiers.**



**A copyright protects original artistic works, like songs, movies, and books.**



**A patent protects new inventions, processes, and machines.**



## Trademark or brand

A **brand** is a marketing concept tied to how people feel about a product or service. Companies use different colors, images, and qualities to influence these emotions. For example, a certain brand might make you feel confident, calm, or secure. Another might make you feel eager or excited.

A trademark, on the other hand, provides legal protection for a brand. It creates enforceable rights in a brand's identity. Traditional types of trademarks include brand names, slogans, and logos:

NIKE

JUST DO IT



Non-traditional trademarks include sounds, colors, and shapes. Almost anything can be a trademark, so long as it indicates the source of products or services.

You don't need a brand to have a trademark. You simply need to use a word, symbol, or design to indicate the source of your products or services and to distinguish them from the products or services of your competitors. That makes you a **trademark owner**.

## Trademark, domain name, or trade name

In addition to owning a trademark, you might also have a domain name or a trade name or both. At first glance, the concepts seem similar, but they actually serve different functions.

A trademark indicates the source of your goods or services. Examples of trademarks include:



A **domain name** is the internet address of your website. Some people refer to it as a "Uniform Resource Locator," "URL," or "web address." Examples of domain names include payless.com, uhaul.com, and PNC.com.

A **trade name** is the name of your business. Some people refer to them as "business names," "company names," "doing business as names," "DBA names," or "fictitious names." Examples of trade names include Payless Shoesource Worldwide Inc., U-Haul International, Inc., and The PNC Financial Services Group, Inc.

Although a domain name or trade name can also be a trademark, it doesn't have to be. It all depends on how you use it. For more information, check out our flyers:

[How trademarks and domain names differ](#)

[How trademarks and trade names differ](#)

## Owning a trademark vs. federally registering a trademark

Traditional trademark rights in the United States are based on use. They're created as soon as you start using your trademark. That means you don't ever have to register your trademark. Instead, you could rely on these traditional rights. But you would miss out on significant benefits.

Use-based rights are called **common law trademark** rights. They're created under state law and can be powerful, but they're also limited. For example, if you're only using your trademark in Phoenix, your rights are limited to Phoenix. But what if you want to grow your business?

**Federally registered trademark** rights are nationwide. They provide broader protection and more powerful tools than the traditional rights you have with an unregistered trademark.

### Benefits of federal trademark registration

Although federal registration of a trademark is not mandatory, it has many advantages over common law trademark rights.



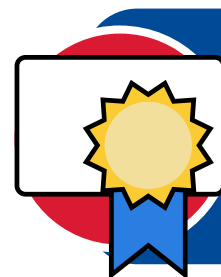
**Rights created under federal law**



**Trademark listed in the USPTO database**



**Nationwide protection**



**Legal presumption of ownership**



**May use federal registration symbol**



**May use registration as basis for foreign filing**



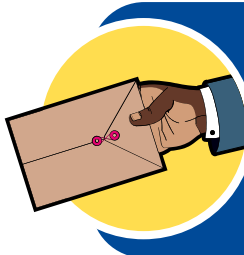
**Legal presumption of right to use**



**May record registration with U.S. Customs and Border Protection**



**Public on notice of ownership**



**May bring lawsuit regarding trademark in federal court**

## Using the trademark symbols TM, SM, and ®

Every time you use your trademark, you can use a symbol with it. The symbol lets consumers and competitors know you're claiming the trademark as yours. You can use **TM** for goods or **SM** for services even if you haven't filed an application to register your trademark.

Once you register your trademark with us, use an ® with the trademark. You may use the registration symbol anywhere around the trademark, although most trademark owners use the symbol in a superscript or subscript manner to the right of the trademark. You may only use the registration symbol with the trademark for the goods or services listed in your federal trademark registration.



Here are more resources to learn the basics:

- [Trademarks Basics webpage](#)
- [Trademarks Basics Boot Camp, Module 1: Fundamentals](#)

## 2 Understanding the process



### Federal trademark registration process

The registration process typically takes 12-18 months. However, there's no guarantee your trademark will ever register, as it may be refused for various legal reasons. Learning about each stage in this complex process will help you understand why getting a trademark registration takes so long.

#### 1. Application

During this stage, you complete and file your trademark application form. As you'll see in [Section 3](#), you should conduct a clearance search before filing. See [Section 4](#) for information about how to file.

#### 2. Examination

During this stage, the assigned trademark examining attorney reviews your application to make sure it meets all legal requirements and that your trademark is registrable. You may need to correspond with the examining attorney to overcome any refusals and to comply with all requirements. See [Section 5](#) for information about moving through the process.

#### 3. Publication

If your trademark meets all the legal requirements for registrability, the examining attorney will approve the trademark for publication in the weekly online Trademark Official Gazette. Publication begins a 30-day period during which any member of the public who thinks they'll be harmed by the registration of your trademark may oppose it.

If no one opposes your trademark during the publication period, your application proceeds to the next stage of the registration process.

#### 4. Registration

If your trademark registers, you will receive a certificate of registration. The process isn't over yet, however. See [Section 6](#) for information about how to keep your registration alive.

[Overview of the trademark application and registration process](#)

[Trademark Basics Boot Camp, Module 2: Registration process overview](#)

## Do I need an attorney?

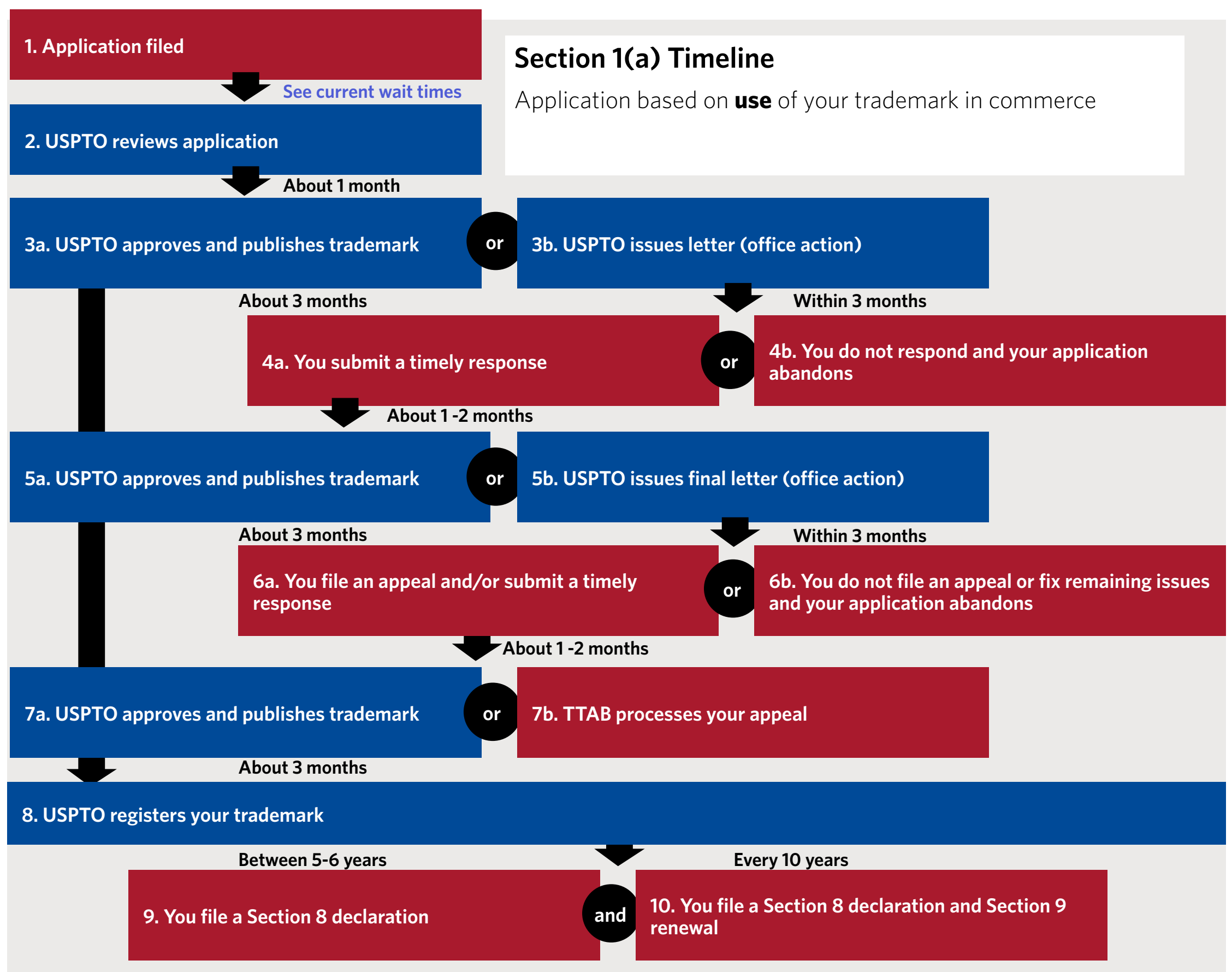
Yes, if you are **foreign-domiciled**. You must be represented at the USPTO by an attorney who is licensed to practice law in the United States.

No, if you are **domiciled in the United States** or its territories. Although you are not required to have an attorney, we strongly encourage you to hire a U.S.-licensed attorney who specializes in trademark law to guide you through the application process.

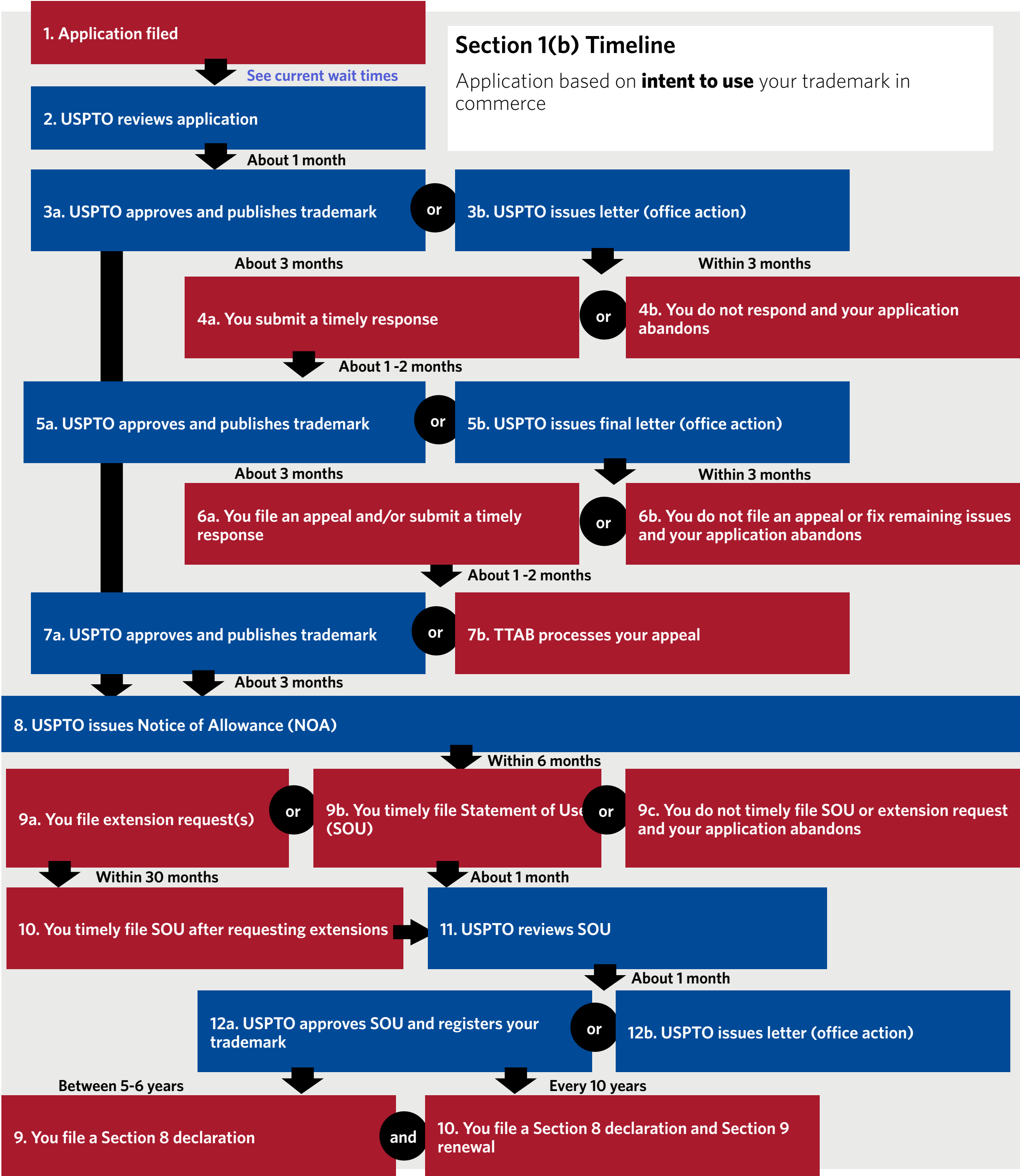
 [Legal services for the trademark registration process](#)

## Trademark timelines

Learn how long each stage takes using our [Trademark application timelines](#).







## Personal information in trademark records

The information in your trademark application is **public record**. Why? Federal law requires we maintain applications and registrations and make them available for public inspection. But we can keep some information hidden in certain limited circumstances. Educate yourself on this process.

 [Personal information in trademark records](#)

## Fraud and scams

Don't be fooled by **potential scams**. Some internet-based trademark filing companies entice you with low prices and unfounded promises. They file invalid trademark applications on your behalf and trick you into paying inflated fees. Once you've filed your application, other companies try to scare you in to purchasing unnecessary services. Learn how to protect yourself.

 [Protect against trademark scams](#)

 [Filing firms](#)

 [Spoofer calls that impersonate the USPTO](#)

# **3 Preparing to file your application**

Before you even open the online application form, make sure to do some research and prepare your materials. You'll want to learn how to avoid common application problems. You'll also want to understand the relevant filing requirements and decide which filing form option to use.

## Common problems in applications

When you apply to register your trademark, we will examine your application to see if your trademark meets the requirements for federal registration. Among other reasons, your trademark might be refused registration if it is:

- \* Likely to cause confusion with a registered or applied-for trademark for related goods or services
- \* Descriptive of your goods or services, or the generic name for them
- \* A commonly used informational phrase or slogan
- \* Primarily merely a surname.

If you learn about these issues before filing and think about whether they may apply to you, you may save yourself valuable time and money.

 [Common problems in applications](#)


## Conduct a comprehensive clearance search


Before you file, you should conduct a comprehensive **clearance search** to determine if your trademark conflicts with the rights of another owner. If it does, consider creating a new trademark.

### 1. Search USPTO database.

Search our database of registered and applied-for trademarks. Look for any trademarks that are confusingly similar to yours when used with related goods and services. You want to see if a competitor is already using a similar trademark to avoid a **likelihood of confusion**.

We also search the database during the examination process. If we find a conflicting trademark, we will not register your trademark or refund your filing fee. For example:

You use the trademark  as a brand for t-shirts. We would refuse registration if our search revealed applications or registrations for:

- \* TEE MARQEE for “hats”
- \* T.MARKEY for “handbags”
- \*  for “online retail store services featuring clothing.”

In all these cases, the trademarks are similar to yours in sound or appearance. In addition, we can show evidence that the goods and services are related because consumers are used to seeing one company provide:

- \* T-shirts and hats
- \* T-shirts and handbags
- \* T-shirts and retail clothing store services.

Since our database only contains federally registered and applied-for trademarks, you should also be aware of other conflicting trademarks.

### 2. Search for state trademark registrations and unregistered trademarks.

Search state trademark databases, the internet, and other sources to see if another party is already using a similar trademark. A trademark doesn't need to be federally registered to cause likelihood of confusion and future legal troubles. It's your responsibility to search for conflicting trademarks.

 [Why search for similar trademarks?](#)

 [Comprehensive clearance searching](#)

 [Search our trademark database](#)

 [Trademark Basics Boot Camp, Module 3: Searching](#)

## Application pre-filing checklist

Use this checklist after conducting a clearance search and before beginning the online application form.

### 1. Determine your trademark drawing format.

Choose which version of your trademark you want to register by deciding on a [drawing](#) format.

#### Standard character drawing

- \* Used to register words, letters, and slogans without stylization or design.
- \* Protects the wording itself without limiting the trademark to a specific font style, size, or color.
- \* Provides broader protection than a special form drawing.

#### Special form drawing

- \* Used to register trademarks that are stylized, include color, or have a design.
- \* If the trademark consists of both words and a design, the drawing must depict both the words and the design combined as one image.
- \* Save a JPG image of your trademark to your computer before filing.

### 2. Determine your filing basis.

#### Section 1(a) - Use-in-commerce filing basis

- \* Use in commerce means using your trademark in selling or transporting your goods across state lines or in providing services to customers who live outside your state.
- \* Save a PDF or JPG image of your [specimen](#) to your computer before filing. A specimen is evidence of how you actually use the trademark in commerce with your goods or services.

#### Section 1(b) - Intent-to-use filing basis

- \* Intent to use means you haven't started using your trademark in commerce yet, but you have a bona fide intent to do so within the next four years.
- \* Before we will register your trademark, you must:
  - Use the trademark in commerce with all of your identified goods and/or services.
  - File an additional form that includes a specimen and an additional fee.

### 3. Determine your goods and/or services.

- \* Prepare a list of goods and services that you use (or have a bona fide intent to use) with your mark.
- \* The USPTO's Trademark ID Manual lists acceptable identifications of goods and services.
- \* Use the manual to find entries that accurately describe your goods and/or services.
- \* Inaccurate and unacceptable identifications will result in a refusal to register your trademark.

#### 4. Estimate your filing fee.

You must file your application through the online Trademark Center system. The base application has a standard fee of \$350 per class of goods and services, but your price may vary, depending on how complete or customized your application is.

#### 5. Create a myUSPTO account.

An identity-verified USPTO.gov account is required to file an application and submit other trademark documents to the USPTO. This helps us deter bad actors who make fraudulent trademark filings and scam our customers.

#### 6. File your application.

To file your application, use Trademark Center.

The system includes a mobile-friendly design, a guided user interface, prompts to complete commonly omitted information, and transparent application costs that update as you go.

- [Trademark application pre-filing checklist](#)
- [Application requirements](#)
- [Drawings and specimens as application requirements](#)
- [Trademark ID Manual](#)
- [Trademark fee information](#)
- [MyUSPTO account](#)
- [Trademark Basics Boot Camp, Module 4: Application requirements](#)

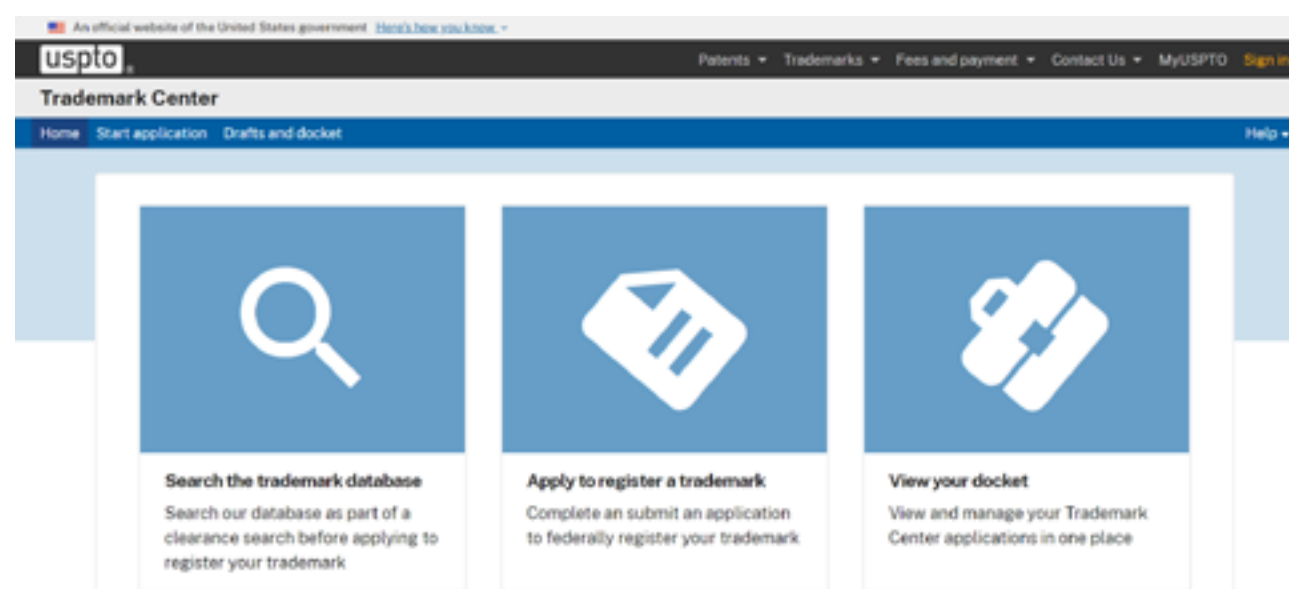
## 4 Filing your application

Once you've done your research and gathered all your materials, it's time to submit your application through Trademark Center.

The system will guide you through the application and includes helpful information along the way.

You can also attend live training sessions and watch recorded how-to videos.

- [Trademark Center](#)
- [Trademark Basics Boot Camp, Module 5: Application filing walk-through](#)



# 5 Moving through the process

## Application status

You'll receive a **serial number** in your filing receipt. You can use the serial number to track the status of your application in the "My drafts and docket" section of Trademark Center, or by using the [Trademark Status and Document Retrieval \(TSDR\) system](#). You can view, print, and download any documents in your file and see if you have any outstanding deadlines to respond to.



The "Awaiting examination" icon indicates we received your application, but haven't yet assigned it to a trademark examining attorney.

### [Checking status](#)

## Examination

After we receive your application, we assign it to a trademark examining attorney who conducts a full legal review. The attorney will let you know if you must address any issues. This is a common part of the process, and many of the issues are fixable. Your application can proceed to registration if you successfully resolve all issues.



The "Under examination" icon indicates we assigned your application to a trademark examining attorney.

### [Examination of application](#)

### [Responding to office actions](#)

### [Trademark Basics Boot Camp, Module 6: Responding to an office action](#)

## Publication

If the examining attorney determines your application meets all the legal requirements for registration on the Principal Register, the examining attorney will approve your trademark for publication in our weekly online Trademark Official Gazette. Your trademark hasn't yet registered.

Publication begins a 30-day period during which any member of the public who thinks they'll be harmed by the registration of your trademark may oppose it. They may file a Notice of Opposition, which starts a legal proceeding with the Trademark Trial and Appeal Board (TTAB) about your trademark.

If no one opposes your trademark during the publication period, your application proceeds to the next stage of the registration process. It still hasn't registered.

It can take three to four months from the time your trademark publishes to when you receive official notification that your trademark has either registered or moved to the next stage. If your application is based on use in commerce, then your trademark will register. If your application is based on an intent to use the trademark, we will issue a **Notice of Allowance**. That means you must submit a **Statement of Use (SOU)** by the deadline. Once you submit an acceptable SOU, your trademark will register.



Look for the “Published for opposition” icon. It indicates we have published your trademark in the Trademark Official Gazette.

[Approval for publication](#)

## Registration



If your trademark registers, we’ll update TSDR with this information. You’ll see a registration notification in the prosecution history and the “Issued and active” icon. Use TSDR to download a copy of your registration certificate.

[Receiving your registration](#)

[Trademark Status & Document Retrieval \(TSDR\)](#)

# 6 Keeping your registration alive

Congratulations! You received a trademark **registration** from the USPTO.

While federal trademark registration is an achievement, it is not the end of the process. You must file documents, submit specimens, and pay fees to keep your registration alive. Specifically, you must:

- \* Continue to use your trademark in interstate commerce.
- \* File your registration maintenance documents with us and pay the required fees, at the required times.
- \* Keep your correspondence information updated.

If you don’t, the USPTO must cancel your registration. So remember to file those documents on time and keep your registration alive.



[Maintaining your federal registration](#)

[Registration maintenance, correction, and renewal forms](#)

[Change of address or representation form](#)

[Trademark Basics Boot Camp, Module 7: Keeping your registration alive](#)

## Prefer to learn from a live presenter?

Trademark Basics Boot Camp is free and 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.



**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."



## Resource quick reference

Resource name and URL	Description
<b>Trademark basics</b> <a href="http://www.uspto.gov/TrademarkBasics">www.uspto.gov/TrademarkBasics</a>	An overview of trademark basics and how to enhance your rights through federal registration.
<b>Trademark basics booklet</b> <a href="http://www.uspto.gov/TrademarkBasicsPDF">www.uspto.gov/TrademarkBasicsPDF</a>	A downloadable booklet of what you need to know before, during, and after filing an application.
<b>Trademark basics videos</b> <a href="http://www.uspto.gov/TMvideos">www.uspto.gov/TMvideos</a>	Videos of what you need to know before, during, and after filing an application.
<b>Trademark process overview</b> <a href="http://www.uspto.gov/trademarks/basics/trademark-process">www.uspto.gov/trademarks/basics/trademark-process</a>	A six-step overview of the federal trademark registration application and maintenance process.
<b>Trademark timelines</b> <a href="http://www.uspto.gov/TrademarkTimelines">www.uspto.gov/TrademarkTimelines</a>	Graphics that show the steps and time frames for processing a trademark application and maintaining a trademark registration.
<b>Trademark Search</b> <a href="http://www.uspto.gov/SearchTrademarks">www.uspto.gov/SearchTrademarks</a>	Search the USPTO's online database of applied-for and registered trademarks before filing.
<b>Trademark ID Manual</b> <a href="http://www.uspto.gov/TrademarkID">www.uspto.gov/TrademarkID</a>	Search the USPTO's online database of acceptable identifications of goods and services.
<b>Trademark Center</b> <a href="http://www.uspto.gov/trademarks/apply">www.uspto.gov/trademarks/apply</a>	Use the USPTO's online application system to file for federal trademark registration.
<b>Trademark Status and Document Retrieval system (TSDR)</b> <a href="https://tsdr.uspto.gov">https://tsdr.uspto.gov</a>	Check the status of your application or registration and view, print, and download any document in your file.

