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PATENT AND TRADEMARK OFFICE



# Federal trademark searching: Overview

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# Federal trademark searching: Overview

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  - This session is being recorded.
  - The slides will be emailed after the presentation.
  - Captioning is available.
  - Post your questions to the Q&A box.

# Discussion topics

- Comprehensive clearance searching
- Likelihood of confusion
- Search system fundamentals
- 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

# **Comprehensive clearance searching**



# Comprehensive clearance searching

- **Concept:**
  - Determine whether your trademark conflicts with the rights of a trademark owner who filed before you.
- **Potential benefits:**
  - Avoid a likelihood of confusion refusal from the USPTO.
  - Avoid an opposition proceeding at the USPTO.
  - Avoid a trademark infringement lawsuit.





# 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

# 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



Discussion topic

# **Search system fundamentals**






# Search system fundamentals

- Reasons to use the search system
  - Conduct a clearance search before applying to register your trademark.
  - Research how the USPTO treated similar marks.
  - Research marks owned by a particular owner.
  - Check the status of your application or registration.



# Search system fundamentals


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# Search system fundamentals

- Two ways to use the system
  - Dropdown searches
  - Field tag searches
- Two ways to adjust your options
  - Basic mode
  - Expert mode

# Search system fundamentals

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- ☒ Dead 4
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Class 009, 035, 041, 042, 045	Class 009, 035, 041, 042, 045
Serial 90865893	Serial 90866032
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Wordmark	Serial	Status	Class	Goods & services	Owners
USPTO	90865893	LIVE REGISTERED	009, 035, 041, 042, 045	IC 009: Downloadable documents in the field of intellectual property...	United States Patent and Trademark Office, U.S. Department of Commerce (agency of the United States government; USA)
uspto	90866032	LIVE REGISTERED	009, 035, 041, 042, 045	IC 009: Downloadable documents in the field of intellectual property...	United States Patent and Trademark Office, U.S. Department of Commerce (agency of the United States government; USA)
USPTO EXAMWARE	78186670	DEAD ABANDONED	009	(ABANDONED) IC. 009: Interactive pre-recorded CD-ROM consisting of	

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



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2		<a href="#">USPTO</a>	009, 035, 041, 042, 045	90866032	<span>LIVE</span> <span>REGISTERED</span>
3		<a href="#">USPTO EXAMWARE</a>	009	78186670	<span>DEAD</span> <span>ABANDONED</span>
4		<a href="#">USPTO EXAMINERS</a>	042	77350830	<span>DEAD</span> <span>ABANDONED</span>
5		<a href="#">PROFESSOR KAYTON'S USPTO</a>	009	78186808	<span>DEAD</span> <span>ABANDONED</span>
6		<a href="#">WEIRDO FOR LIFE WWW.WEIRDOFORLIFE...</a>	025	77613523	<span>DEAD</span> <span>ABANDONED</span>

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# Search system fundamentals




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- ☐ Wordmark (Z-A)
- ☐ Class (0-9)
- ☐ Class (9-0)
- ☐ Serial (0-9)
- ☐ Serial (9-0)

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# Search system fundamentals

- **Dropdown searches**
  - Good for exact match, single-term trademark searches
  - Don't allow for "exact phrase" trademark searches
- **Benefits of field tag searches**
  - Good for complex, multiple-term trademark searches
  - Allow for "exact phrase" trademark searches
  - Good for alternate spelling searches

Discussion topic

# **Federal trademark searching: Dropdown searching**

# Dropdown searching - basic


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- Registration number
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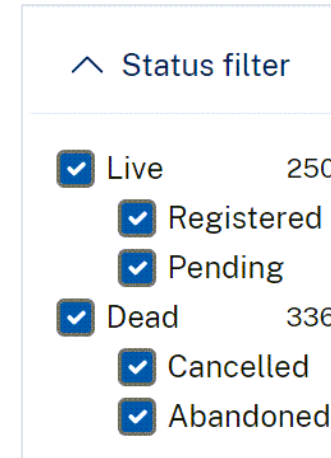
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# Dropdown searching - basic

- Filtering by live/dead



The screenshot shows a 'Status filter' dropdown menu with the following options and counts:

Status	Count
<input checked="" type="checkbox"/> Live	250
<input checked="" type="checkbox"/> Registered	
<input checked="" type="checkbox"/> Pending	
<input checked="" type="checkbox"/> Dead	336
<input checked="" type="checkbox"/> Cancelled	
<input checked="" type="checkbox"/> Abandoned	

# Dropdown searching - expert


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# Dropdown searching - expert

- Filtering by live/dead

^ Status filter

<input checked="" type="checkbox"/>	Live	250
	<input checked="" type="checkbox"/> Registered	
	<input checked="" type="checkbox"/> Pending	
<input checked="" type="checkbox"/>	Dead	336
	<input checked="" type="checkbox"/> Cancelled	
	<input checked="" type="checkbox"/> Abandoned	



# Dropdown searching - expert

- Filtering by live/dead
- Filtering by class
  - Coordinated class

Class filter


☒ Coordinated

<input type="checkbox"/> 1	<input type="checkbox"/> 2
<input type="checkbox"/> 3	<input type="checkbox"/> 4
<input type="checkbox"/> 5	<input type="checkbox"/> 6
<input type="checkbox"/> 7	<input type="checkbox"/> 8
<input checked="" type="checkbox"/> 9	<input type="checkbox"/> 10
<input type="checkbox"/> 11	<input type="checkbox"/> 12
<input type="checkbox"/> 13	<input type="checkbox"/> 14
<input type="checkbox"/> 15	<input checked="" type="checkbox"/> 16
<input type="checkbox"/> 17	<input type="checkbox"/> 18
<input type="checkbox"/> 19	<input checked="" type="checkbox"/> 20
<input type="checkbox"/> 21	<input type="checkbox"/> 22
<input type="checkbox"/> 23	<input type="checkbox"/> 24
<input checked="" type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input checked="" type="checkbox"/> 28
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<input type="checkbox"/> 31	<input type="checkbox"/> 32
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<input type="checkbox"/> 37	<input type="checkbox"/> 38
<input type="checkbox"/> 39	<input type="checkbox"/> 40
<input checked="" type="checkbox"/> 41	<input checked="" type="checkbox"/> 42
<input type="checkbox"/> 43	<input type="checkbox"/> 44
<input type="checkbox"/> 45	<input checked="" type="checkbox"/> A
<input checked="" type="checkbox"/> B	<input checked="" type="checkbox"/> 200



# Dropdown searching - expert

- Filtering by live/dead
- Filtering by class
  - Coordinated class
  - International class
    - Consider 035, 042, a, b, and 200

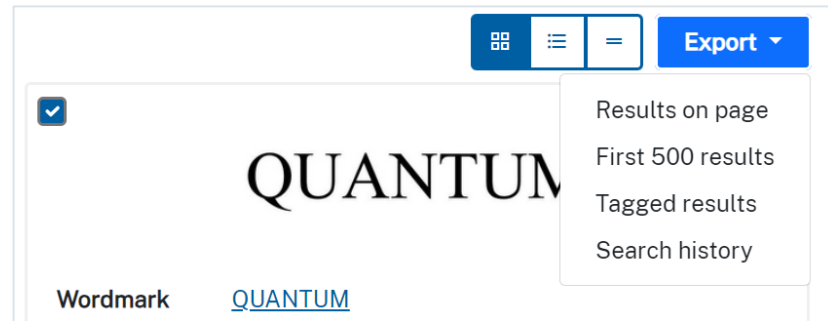
 Class filter

☐ Coordinated

<input type="checkbox"/> 1	<input type="checkbox"/> 2
<input type="checkbox"/> 3	<input type="checkbox"/> 4
<input type="checkbox"/> 5	<input type="checkbox"/> 6
<input type="checkbox"/> 7	<input type="checkbox"/> 8
<input type="checkbox"/> 9	<input type="checkbox"/> 10
<input type="checkbox"/> 11	<input type="checkbox"/> 12
<input type="checkbox"/> 13	<input type="checkbox"/> 14
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<input checked="" type="checkbox"/> 35	<input type="checkbox"/> 36
<input type="checkbox"/> 37	<input type="checkbox"/> 38
<input type="checkbox"/> 39	<input type="checkbox"/> 40
<input type="checkbox"/> 41	<input checked="" type="checkbox"/> 42
<input type="checkbox"/> 43	<input type="checkbox"/> 44
<input type="checkbox"/> 45	<input checked="" type="checkbox"/> A
<input checked="" type="checkbox"/> B	<input checked="" type="checkbox"/> 200

# Dropdown searching - expert

- Filtering by live/dead
- Filtering by class
- Tagging
  - Export to Excel spreadsheet



# Dropdown hypothetical

You want to register:

**ZEBRA**

as a brand name for

**t-shirts**



Discussion topic

# **Federal trademark searching: Field tag searching**



# Field tag searching

- Tips for search construction
  - Field tags precede the search term.
  - Field tags must be in all caps.
  - Field tags must be followed by a colon.
  - Search terms must be in lowercase.

**CM:trademark**





# Field tag hypothetical

You want to register:

**ZEBRA STAR**

as a brand name for

**t-shirts**



# Field tag hypothetical

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



# Field tag hypothetical

- Search string
  - Dead-on search

CM:"zebra star"

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

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

Use **quotation marks** to search for exact phrases or multiple-term marks.





# Field tag hypothetical

- Search string
  - Dead-on search

CM:"zebra star" AND LD:true

The **LD: field code** searches whether the result is "live" or "dead."

The **AND** operator tells the system to provide combined results – but note the use of uppercase.



# Field tag hypothetical

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



# Field tag hypothetical

- Search string
  - Expanded search

CM:\*zebrastar\* AND LD:true

The **asterisk** tells the system to look for an infinite number of characters.



# Field tag hypothetical

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



# Field tag hypothetical

- Search string
  - Alternate spelling search

Removing **final sounds** and adding an **asterisk** can capture variations in spelling at the ends of words.

CM:(\*zebr\* OR \*sebr\*)

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



# Field tag hypothetical

- Search string
  - Combined term search – option 1

CM:(\*zebr\* OR \*sebr\*) AND CM:(\*star\* OR \*ztar\*) AND LD:true

Use the **OR operator** to search spelling variations – but note use of parentheses.

Remember to use a **field tag** in front of each search term when combining terms.



# Field tag hypothetical

- Search string
  - Combined term search – option 2

CM:\*zebr\*

CM:\*star\*

1 AND 2

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

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



# USPTO resources

- Website
  - [www.uspto.gov](http://www.uspto.gov)
- Trademark search
  - [www.uspto.gov/trademarks/search](http://www.uspto.gov/trademarks/search)
- Trademark search help
  - <https://tmsearch.uspto.gov/help>





# 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.







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