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Trademark basics boot camp: Searching

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Trademark basics boot camp

- Reminders:
 - 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

- 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

You want to register:


TRAQ

as a brand name for

racquet ball rackets




Live demonstration



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Are you filing electronically through TEAS?



[Trademarks](#) > Trademark Electronic Search System (TESS)

Welcome to the **Trademark Electronic Search System (TESS)**. This search engine allows you to search the USPTO's database of registered trademarks and prior pending applications to find marks that may prevent registration due to a **likelihood of confusion** refusal.

WARNING: Before conducting your search, you must understand the following: (1) what the database includes; (2) how to construct a complete search; and (3) how to interpret the search results. Click [TESS TIPS](#) for detailed information on these and other important search topics.

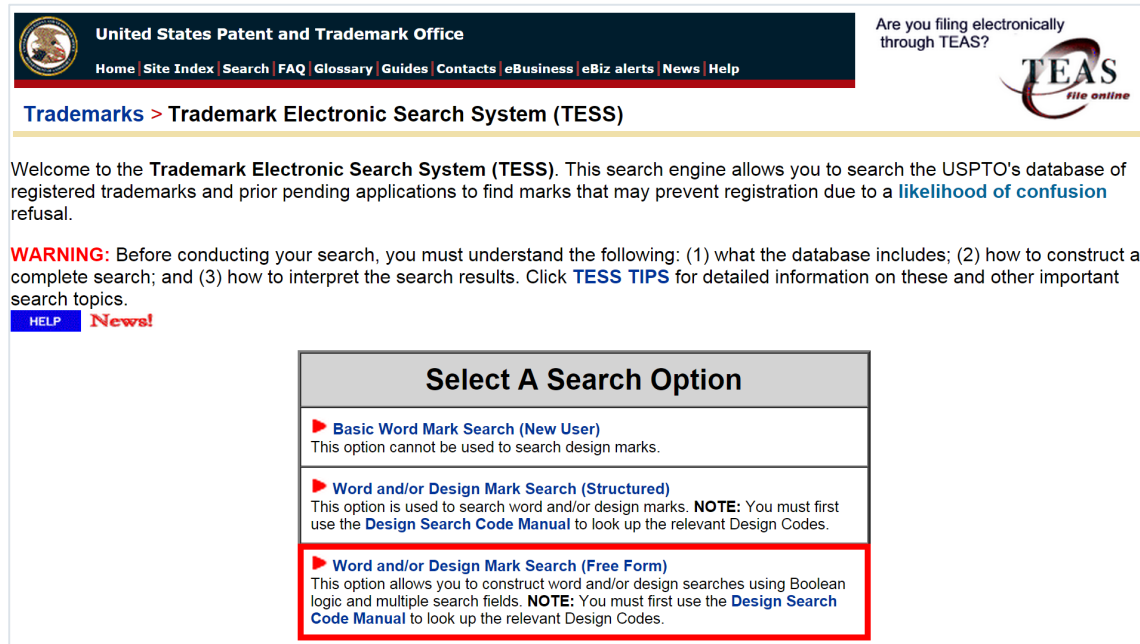
[HELP](#) [News!](#)

Select A Search Option

- ▶ [Basic Word Mark Search \(New User\)](#)
This option cannot be used to search design marks.
- ▶ [Word and/or Design Mark Search \(Structured\)](#)
This option is used to search word and/or design marks. **NOTE:** You must first use the [Design Search Code Manual](#) to look up the relevant Design Codes.
- ▶ [Word and/or Design Mark Search \(Free Form\)](#)
This option allows you to construct word and/or design searches using Boolean logic and multiple search fields. **NOTE:** You must first use the [Design Search Code Manual](#) to look up the relevant Design Codes.

Live demonstration

- Access the USPTO database.



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Are you filing electronically through TEAS?

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[HELP](#) [News!](#)

Select A Search Option

- ▶ **Basic Word Mark Search (New User)**
This option cannot be used to search design marks.
- ▶ **Word and/or Design Mark Search (Structured)**
This option is used to search word and/or design marks. **NOTE:** You must first use the [Design Search Code Manual](#) to look up the relevant Design Codes.
- ▶ **Word and/or Design Mark Search (Free Form)**
This option allows you to construct word and/or design searches using Boolean logic and multiple search fields. **NOTE:** You must first use the [Design Search Code Manual](#) to look up the relevant Design Codes.

Live demonstration

- Enter your search term and field code.

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Trademarks > Trademark Electronic Search System (TESS)

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WARNING: AFTER SEARCHING THE USPTO DATABASE, EVEN IF YOU THINK THE RESULTS ARE "O.K.," DO NOT ASSUME THAT YOUR MARK CAN BE REGISTERED AT THE USPTO. AFTER YOU FILE AN APPLICATION, THE USPTO MUST DO ITS OWN SEARCH AND OTHER REVIEW, AND MIGHT REFUSE TO REGISTER YOUR MARK.

View Search History:

Records Returned: 100 Plurals: Yes [Quick Tips](#)

Search Term: [comb]

Please logout when you are done to release system resources allocated for you.

US Trademark Field Codes

Code & Name	Code & Name	Code & Name
[AD] Abandonment Date	[IC] International Class	[RD] Registration Date
[AF] Affidavits	[IR] International Registration Number	[RE] Renewals
[AR] Assignment Recorded	[LD] Live/Dead	[RG] Register
[AT] Attorney of Record	[MD] Mark Drawing Code	[RN] Registration Number
[BI] Basic Index	[MI] Mark Index	[SF] Section 44 Indicator
[CB] Current Basis	[MN] Mark Non-Punctuated	[SD] Single Design Code
[CC] Coordinated Class	[MP] Mark Punctuated/Word Mark	[SN] Serial Number
[CD] Cancellation Date	[OB] Original Filing Basis	[SO] Serial - Other Formats
[CR] Change in Registration	[OD] Other Data	[ST] Standard Characters Claimed
[DC] Design Search Code	[ON] Owner Name	[SR] Date Amended to Current Register
[DD] Design Description	[OW] Owner Name and Address	[TC] Trademark Search Facility Classification Code(limited to 8-28-07 through 1-31-11)
[DE] Description of Mark	[PD] Priority Date	[TD] Total Designs
[DM] Decimal Mark	[PF] Physical Filing Date	[TF] Distinctiveness Limitation Statement
[DS] Disclaimer	[PO] Published for Opposition	[TI] Translation Index
[FD] Filing Date	[PM] Pseudo Mark	[TL] Translation
[FM] Full Mark	[PI] Pseudo Mark Index	[TM] Type of Mark
[GS] Goods and Services	[PR] Prior Registrations	[UD] Update/Load Date
		[US] US Class

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Live demonstration

- Look for conflicting trademarks.

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Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: 17545 Record(s) found (This page: 1 ~ 50)

Refine Search (track)[COMB]


Current Search: S1: (track)[COMB] docs: 17545 occ: 25825

Export displayed results (1 ~ 50)

Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead	Class(es)
1	98036301	STAINTRAC	TSDR	LIVE	
2	98000141	DUCTRACK	TSDR	LIVE	
3	98077465	SPORTS TRACK COMPANY	TSDR	LIVE	
4	98077453	SPORTS TRACK COMPANY	TSDR	LIVE	
5	98034113	TRACKHOUSE MOTORPLEX	TSDR	LIVE	
6	98071845	ACTIVE TRACK	TSDR	LIVE	
7	98033973	TRAX	TSDR	LIVE	
8	98032959	TOUCHLESSTRACK	TSDR	LIVE	
9	98030719	HRT DRIVERDEVELOPMENT	TSDR	LIVE	
10	98030647	HRT	TSDR	LIVE	
11	98029955	GAGETRAK	TSDR	LIVE	
12	98022622	FTS	TSDR	LIVE	
13	98071313	TILLY TRACKS	TSDR	LIVE	
14	98027683	ON TRACK COLLEGE COACHING LLC	TSDR	LIVE	
15	98026440	TRACKMEET	TSDR	LIVE	
16	98024949	TRACKMAN	TSDR	LIVE	
17	98024214	TRACKSIGHT	TSDR	LIVE	
18	98023571	TRACMAX	TSDR	LIVE	
19	98068125	AMERICAN TRACK SUPPLY	TSDR	LIVE	

Live demonstration

- Research potential conflicts.

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Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR Jump to record: **Record 3 out of 17545**

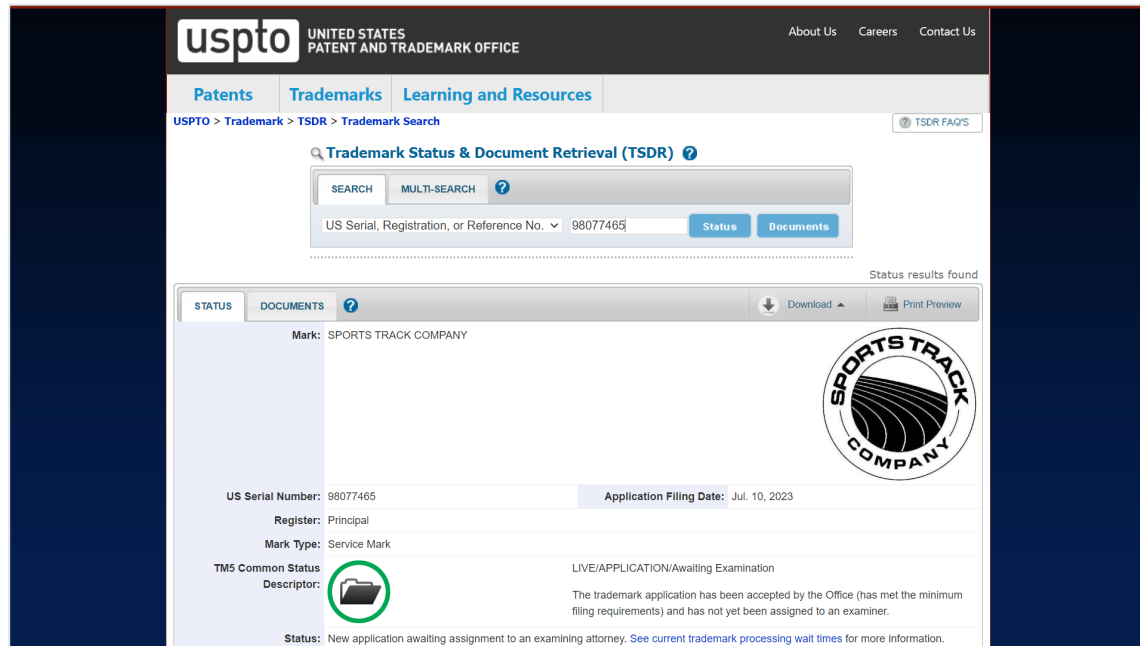
TSDR ASSIGN Status TTAB Status *(Use the "Back" button of the Internet Browser to return to TESS)*





Word Mark SPORTS TRACK COMPANY
Goods and Services IC 037. US 100 103 106. G & S: Outdoor sports surfaces construction namely, running tracks and playing fields made of polyurethane and latex solution. FIRST USE: 20230308. FIRST USE IN COMMERCE: 20230308
Mark Drawing Code (0) UNKNOWN
Serial Number 98077465
Filing Date July 10, 2023
Current Basis 1A
Original Filing Basis 1A
Owner (APPLICANT) Sports Turf Company, Inc. CORPORATION GEORGIA 1487 Blackdirt Road Whitesburg GEORGIA 30185
Attorney of Record Aly Z. Dossa
Description of Mark Color is not claimed as a feature of the mark. The mark consists of a thinly outlined circle with the words SPORTS TRACK following along the inside of the top curve, and the word COMPANY following along the inside of the bottom of the circle; the words are in stylized font, with two lines filling in the space between the words "SPORTS TRACK" and "COMPANY"; there is a smaller thinly outlined circle at the center, encompassing the image of the curve of a running track with the inside of the seven lanes filled in.
Type of Mark SERVICE MARK
Register PRINCIPAL

Live demonstration

- Learn more about the potential conflict.



The screenshot displays the USPTO website's Trademark Status & Document Retrieval (TSDR) interface. At the top, the USPTO logo and 'UNITED STATES PATENT AND TRADEMARK OFFICE' are visible, along with navigation links for 'About Us', 'Careers', and 'Contact Us'. Below this, there are tabs for 'Patents', 'Trademarks', and 'Learning and Resources'. The breadcrumb trail indicates the user is in 'USPTO > Trademark > TSDR > Trademark Search'. A search bar is present with 'SEARCH' and 'MULTI-SEARCH' options, and a dropdown menu for 'US Serial, Registration, or Reference No.' with the value '98077465' entered. 'Status' and 'Documents' buttons are next to the search bar. Below the search bar, the text 'Status results found' is displayed. A table with two tabs, 'STATUS' and 'DOCUMENTS', shows the search results. The 'STATUS' tab is active, displaying the following information:

STATUS	DOCUMENTS
Mark: SPORTS TRACK COMPANY	
US Serial Number: 98077465	Application Filing Date: Jul. 10, 2023
Register: Principal	
Mark Type: Service Mark	
TMS Common Status Descriptor: 	LIVE/APPLICATION/Awaiting Examination
	The trademark application has been accepted by the Office (has met the minimum filing requirements) and has not yet been assigned to an examiner.
Status: New application awaiting assignment to an examining attorney. See current trademark processing wait times for more information.	



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.
 - CAT: "cat"
 - LOVE: "love"
 - FLEX: "flex"

Word mark example

- Search string
 - Dead-on search

The **[comb]** field code searches for trademarks.

The **[ld]** field code searches whether the result is "live" or "dead."

"zebra"[comb] not dead[ld]

Quotation marks focus on exactly what's inside.

Boolean connectors tell TESS what to do next.



Word mark example

- Common search strategy
 1. Execute dead-on search.
 2. Execute expanded search.
 - CAT: *cat*
 - LOVE: *love*
 - FLEX: *flex*



Word mark example

- Search string
 - Expanded search

zebra[comb] not dead[lid]



Asterisks search infinitely to that side of the mark.



Word mark example

- Common search strategy

1. Execute dead-on search.

2. Execute expanded search.

3. Execute alternate spelling search.

- CAT: cat; kat; qat; ckat; kcat; cqat; qcat; kqat; qkat

- LOVE: love; luve; luv; lov; luhv; luuve; luuuve; luuuhv

- FLEX: flex; phlex; flecks; fleqs; fflexx; phlehccz

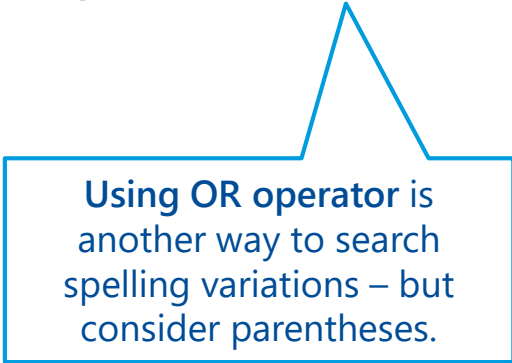




Word mark example

- Search string
 - Alternate spelling search – option 1

(*zebra* or *sebra*)[comb] not dead[lid]



Using OR operator is another way to search spelling variations – but consider parentheses.

Word mark example

- Search string

- Alternate spelling search – option 2

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

{"sz"}{"e" 1:3}br[comb] not dead[lid]

Pattern matching tells TESS to look for an instance of one of those 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?

- "pepzi"[comb]
- (*pepz* or *peps*)[comb]



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

"zebra star"[comb] not dead[lid]



Word mark example

- Search string
 - Expanded search

zebrastar[comb] not dead[lid]



Word mark example

- Search string
 - Alternate spelling search – option 1

(*zebra* or *sebra*)[comb] not dead[lld]

{"sz"}tar[comb] not dead[lld]



Word mark example

- Search string
 - Alternate spelling search – option 2

`*{"sz"}{"e"1:3}br*[comb] not dead[lid]`

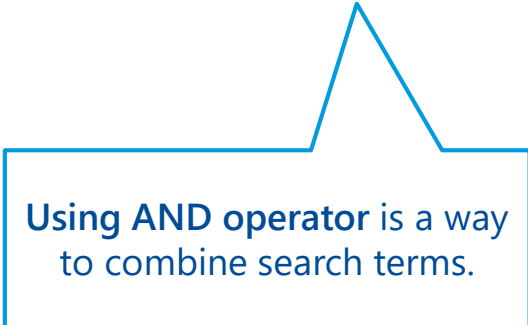
`*{"sz"}tar*[comb] not dead[lid]`



Word mark example

- Search string
 - Combined term search – option 1

`((*zebra* or *sebra*) and *{"sz"}tar*)[comb] not dead[lid]`



Using AND operator is a way to combine search terms.

Word mark example

- Search string
 - Combined term search – option 2

{"sz"}{"e"1:3}br[comb] not dead[lid]

{"sz"}tar[comb] not dead[lid]

S1 and S2

Using previous search strings is a way to combine search terms.

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

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USPTO Design Search Code Manual

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GENERAL GUIDELINES	ALPHABETICAL INDEX
DESIGN SEARCH CODE	

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:
 - 030503[dc] – Zebras
 - 010103[dc] – 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

030503[dc] not dead[lld]

010103[dc] not dead[lld]



Do not use periods between the numbers in the design codes.



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.



Filtering your results

- Search string
 - Combined term search – option 1

`(030503 and 010103)[dc] not dead[ld]`



Design mark example

- Search string
 - Combined term search – option 2

030503[dc] not dead[lid]

010103[dc] not dead[lid]

S1 and S2

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?

- 010103[dc] or 030503[dc] or “organic”[comb]
- (010103[dc] or 030503[dc]) and “organic”[comb]
- (010103 and 030503)[dc] and “organic”[comb]

Discussion topic

Federal trademark searching: Narrowing your results

Narrowing your results

- Search string
 - Limit by coordinated class for narrow results

(*zebra* or *sebra*)[comb] not dead[lid]
and "025"[cc]

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

(*zebra* or *sebra*)[comb] not dead[ld]
and ("025" "035" "042" a b 200)[ic]



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

Narrowing your results

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

(*zebra* or *sebra*)[comb] not dead[ld]
and ("t-shirts")[gs]

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 [comb] field.
3. Execute alternate spelling searches in [comb] 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 (“xxx” a b 200)[ic] 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
- Beware of filing firms.
 - www.uspto.gov/trademarks/protect/filing-firms
- Beware of misleading notices and offers.
 - www.uspto.gov/TrademarkSolicitations



USPTO resources

- Website
 - www.uspto.gov
- Trademark videos
 - www.uspto.gov/TMvideos
- Trademark basics registration toolkit
 - www.uspto.gov/TrademarkBasicsToolkit



USPTO resources

- IP Identifier
 - <https://ipidentifier.uspto.gov>
- Free services and resources
 - www.uspto.gov/FreeServices
- USPTO virtual assistant
 - 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

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?

