

For small businesses, there is much to consider when it comes to [intellectual property](#). Our guide on **trademark** and **copyright** will help you learn more about these types of **intellectual property**, develop a strategy for protecting your intellectual property and much more.

You can also receive **free professional business advice** and free or low-cost training from [your local Small Business Development Center!](#)

Part of any successful business is the establishment of an identity through branding. Your identity helps customers recognize and distinguish your business from competitors by a word, a phrase, an image, or even a color. The goal is to build and protect your identity by registering the business **trademark** with the United States Patent and Trademark Office (USPTO).

## **Trademark**

A **trademark** refers to a symbol, word, or words that are legally registered and established as representing a company or product identity. Furthermore, as part of a company's intellectual property, **trademarks** are "recognizable signs, designs, or expressions" which identify the organization's goods or services in order to distinguish them from others. The **trademark** owner can be an individual, a business organization, or any legal entity. It is important for any small business to [register](#) the company name, product name and logo to legally secure and protect their position in the marketplace. The goal is to build brand reputation by registering the business trademark, like the golden arches of McDonald's, to be quickly recognized by consumers and distinguish it from competitors. In addition to being part of the brand strategy, there is [legal protection](#) for the unauthorized use of a trademark, identified by the circled R or TM.

## **Protecting Trademarks**

Not all states offer trademark registration, therefore if the business product is sold across state lines, the business owner will either register in that second state if there is trademark office or move to the higher federal level of trademark protection. It is a generally expected practice to register trademarks under the federal level agency of the [USPTO](#). If a business decides to forego trademark registration, the owners' [legal protection](#) may be limited to the geographic area where you operate. A business can rely on [common law rights](#) with extensive history and documentation. Starting over with a new business name and product

names could be more expensive than the cost of conducting a trademark search and the [cost](#) of obtaining a trademark at the beginning stages of business formation. As part of an entrepreneur's due diligence is to secure your trademarked name on [social media channels](#) and to monitor these for possible infringement.

When [applying](#) for a trademark, there are several [steps](#) to consider. The first of which is searching the USPTO Trademark Electronic Search System [database](#), a warning appears notifying the researcher of the most recent update of the database given the growth with new filings daily.

Business trademark registrations are longstanding with the evidence that they are still being used. In order to keep trademarks [active](#), there are maintenance documents and fees owed at scheduled times. A maintenance document must be filed after the trademark has been filed for 5 years. The trademark reapplication process will be required if a business owner does not pay the trademark fees nor file maintenance documents as [prescribed](#) by the USPTO. Intellectual Property Trademark attorneys can assist with the filing of the documents. There are also recognized [law school clinics](#) who can assist throughout the United States.

Additional Intellectual Property Attorney listings are available from:

- [American Bar Association](#)
- [State Bar Associations](#)
- [Martindale-Hubbell](#)

## Copyright

As technology and entertainment industries grow and develop, a small business may be entering the need for copyright protection. Whereas the USPTO is an agency of the U.S. Department of Commerce, The [United States Copyright Office](#) is a part of the Library of Congress. The [distinction](#) between the two is in the content of intellectual property each protects. Copyrights do not protect names, slogans, or logos as **trademarks** are in place for that domain. A registered copyright [protects](#) other business assets such as authorship of books, poetry, novels and virtual arts such as artwork and illustrations, photographs but also performing arts such as music compositions and lyrics, motion pictures, computer software and architectural works. The Copyright Office provides information to register your work through their [Registration Portal](#). Much like with trademarks, [fees](#) are associated with registration and other services to protect these pieces of intellectual properties.

The creator of these works is considered to be its author and may file for copyright registration. Copyright [protection](#), for work created on or after January 1, 1978, has a term of life of the author plus seventy years after the author's death. If more than one author, the term lasts for seventy years after the last surviving author's death.

A [copyright registration](#) provides the individual creator with exclusive rights and legal protection upon litigation. Copyright owners may pursue monetary damages and attorney fees if there is a lawsuit.

## **Logos and Trademark**

It is agreed that trademark registration includes distinguished signs and designs for business distinction; however, a **logo** is a unique design or symbol used to establish brand identity. Logos are a type of trademark and can acquire trademark protection. Logos are meant to be distinctive and not cause confusion with similar brand designs. Think of the iconic check mark swoosh, which is among today's most globally [valuable brands](#), and on seeing the logo alone one knows the company is Nike.

The art and detail of logos are searched using a particular design manual in the Trademark "TESS" Trademark Electronic Search System database. A preliminary search of the database can be conducted to search for comparable logo designs with the hopes that one has indeed created a unique design to trademark. While the logo may be trademarked, it may also qualify for [copyright protection](#), which prevents the design from unauthorized copy.

The trademark, copyright and logo distinctions protect the creative works of an organization. These are important to a small business providing legal justification and remedy when infringement occurs. Professional legal representation is needed for submitting a "cease and desist" letter to a competitor who may be using the same logo or a similar one. If the activity persists then action may be brought against them in federal court.

Whereas trademark and copyright protect the creative elements and brand of an organization, patents protect the ideas and inventions of an organization. Combined, they form the [intellectual property](#) of a business that are critical in protecting from unauthorized use and mitigates against reputation risk. Following proper due diligence and filing with the respective federal agency, the protections provided offer legal and financial remedy to the filing company against [intellectual property infringement](#).

## **Additional Resources**

Already in business or thinking about starting your own small business? Check out our various [small business resources](#):

- View our small business help topics here: [Small Business Information Center](#)
- View our business reports here: [Small Business Snapshots](#)
- View our industry-specific research here: [Market Research Links](#)
- View our small business cybersecurity resources here: [Cybersecurity](#)
- View our pandemic business resources here: [COVID-19 Publications](#)

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