

# WHAT IS A TRADEMARK?

*To Protect Your Trademark and Receive the Maximum Benefit from Its Use, It Is Advisable to Register the Trademark with the Federal Government*





A trademark or a service mark is a word, name, symbol or device that can be useful to identify a particular company or brand. The purpose of the trademark is to make it easier for sellers and consumers to distinguish among the different sources of goods and services that are available for purchase.

A trademark is eligible for certain legal protections. To protect your trademark and receive the maximum benefit from its use, it is advisable to register the trademark with the federal government. An experienced attorney can assist you with the registration of a trademark so you can best protect the intellectual property that belongs to you or to your organization.

## TRADEMARKS AS INTELLECTUAL PROPERTY

The [United States Patent and Trademark Office](#) has a searchable database of registered trademarks within the United States. Each trademark must be distinct and unique in order to avoid confusion among different brands. An individual or organization may not register a trademark if there is an existing live registration for the same or a confusingly similar mark.



A trademark may be a symbol, such as the McDonald's golden arches or the apple with a bite taken out of it that is registered to Apple computers. However, other things besides just distinctive marks can be trademarked. A name, such as Coco Chanel or Ralph Lauren, can be trademarked. A catch phrase such as "Just Do It," can

be registered and in fact was registered, by Nike. A mascot or a famous figure, such as a sports team mascot or the Geico Gecko, can be trademarked, as can song lyrics.

Once a trademark is registered, the owner has exclusive rights to the identifying word, name, symbol or device. The trademark owner is the only one

who can use the intellectual property and the only one who can make a profit off of its use. The trademark owner can, however, license the mark such as when a sports team allows a clothing company to create and sell jerseys with the name of the team or players on it.

If a trademark is used by someone other than the registered owner, the owner can take legal action to stop the behavior. The trademark owner could obtain an injunction to stop the mark from being misused. The trademark owner could also sue for monetary damages or losses caused by the unauthorized use of the brand name, word, symbol or device.



Registering a trademark can make it easier to defend your ownership interest in your intellectual property, since federal registration makes clear that you or your organization is the sole owner of the identifying mark, word or symbol. However, registering a trademark is not necessarily always required to obtain an injunction or legal compensation for misuse of the brand. If you have an identifying symbol for your business and a rival company misappropriates that symbol, you could still use the legal system to protect it as long as you can prove that the symbol belongs to your organization.

## THE IMPORTANCE OF TRADEMARKS

The [International Trademark Association](#) lists multiple reasons why trademarks are important within the business world and within the global economy.

Trademarks are important because:

- Trademarks protect consumers, who can use the mark to identify trusted brands and make informed, confident and safe purchasing choices. For example, a person who eats at McDonald's anywhere in the world will know the type of food that he is going to receive while a person who buys an Apple computer can always identify it as a computer made by one of the top companies worldwide.
- Trademarks promote global economic growth.
- Trademarks and other types of intellectual property can help to foster competition and encourage innovation.

Investments in global branding were valued at around half-a-trillion dollars in 2011, according to studies conducted by the World Intellectual Property Organization (WIPO).

## TRADEMARKING YOUR INTELLECTUAL PROPERTY

If you or your organization has an identifying symbol, word, name, or other similar device, you should strongly consider trademarking it to protect your



company's brand and to ensure your intellectual property retains its value.

The United States Patent and Trademark Office indicates that the majority of applicants for intellectual property protection “use private trademark attorneys for legal advice regarding use

of their trademark, filing an application, and the likelihood of success in the registration process.” Not every application for a trademark is approved and you need to ensure that you describe your goods and services effectively and prepare for a potential refusal. The use of an attorney is recommended to help avoid potential problems that could result in a failure of your mark to be registered.

## About the Author

Lotzar Law Firm, P.C. was founded in 2005, and serves clients throughout the U.S. We pride ourselves on the level of service we provide our clients and are determined to see each project through to positive results.

In addition to bringing a legal expertise to the table, we offer clients sound ideas and invaluable advice that enhances their business. One of our greatest attributes is our ability to approach projects from a business-owner perspective. Rather than narrowing in on the setbacks of a challenge and informing clients of what stands in the way, we prefer to seek innovative ways to transcend issues and create a better path for clients. With an unparalleled savvy in developing modern methods of financing, we can present you with viable and efficient options.

Our diversified portfolio of clients is comprised of entrepreneurs, real estate developers, contractors and property managers. We also do business with numerous nonprofit clients including Chicanos Por La Causa, Inc.; Tiempo, Inc.; and The Industrial Development Authority of the City of Tucson, Arizona.

We work in a team-based environment, supported by a skilled and caring staff, eager to answer your questions and provide you with consistent access to your team. Whether your needs are small or large in scope, we look forward to working with you.

Lotzar Law Firm, P.C.  
7150 East Camelback Road, Suite 455  
Scottsdale, AZ 85251  
Phone: (480) 905-0300  
Fax: (480) 905-0321  
Email: [info@lotzar.com](mailto:info@lotzar.com)  
Website: [www.lotzar.com](http://www.lotzar.com)