



IS YOUR BRAND NAME TRADEMARK READY?



Before you invest in packaging, marketing, or even just a trademark application, it is best to know whether your brand name is legally strong and protectable. Filing a trademark too early can cost you time, money, and momentum. This guide will help you assess whether your brand name is ready for the next step.

STEP 1: Is your brand a trademark? In order to qualify as a trademark, it must be a “source identifier.”

- It appears on your packaging, website, marketing, or sales materials
- It's not just a tagline or slogan—it's the core name of your business or product
- You're using it “in commerce,” or are planning to soon

BONUS TIP → Assess not only your brand name, but also your logo, taglines and individual product names

STEP 2: The distinctiveness test. A strong trademark stands out in the marketplace and passes USPTO scrutiny. Check that your brand name meets the following criteria:

- It's not a generic name for your product/service (e.g., “Bread” for a bakery or “Creamy” for yogurt)
- It's not merely descriptive (e.g., “Fast Tax Help” for tax prep)
- It's not just geographic or a surname (e.g., “Austin Apparel” or “Jones Law Group”)
- It's suggestive, arbitrary, or made-up (e.g., “Lyft,” “Blue Apron,” or “Kodak”)

BONUS TIP → The stronger your brand name, the easier it is to register, defend, and monetize over time. Don't just settle on a name that sounds good - try for one that is unique and strong.

STEP 3: The conflict check. Avoiding “likelihood of confusion” is critical to avoid applications rejections. Have you done any of the following?

- Googled your brand name and checked for similar names in your industry?
- Searched the USPTO trademark database for registered or pending marks?
- Considered similar-sounding names, not just exact matches?
- Had a professional clearance search done (recommended before filing)?

BONUS TIP → Search the USPTO at search.uspto.gov

STEP 4: Filing preparation. If your name passes Steps 1–3, you may be ready to file! Let's just check these final items.

- You've identified the right class(es) of goods and services
- You're ready to file under "Use in Commerce" or "Intent to Use"
- You've gathered acceptable "specimens" for "Use in Commerce" applications

BONUS TIP → For "intent-to-use" trademarks, no specimen will be needed at application, but you will need to submit one prior to registration

STEP 5: Assessment. Tally up your check marks and see how ready you are.

- 12–14 checks: You're likely ready to protect your brand.
- 10–11 checks: You're close, but a trademark attorney can help you tighten things up.
- Under 10 checks: Let's refine your brand before filing - this will save you time and money.

Want to Know for Sure? Book a Free 15-Minute Trademark Strategy Call with Stemer Intellectual Property by emailing us at info@stemerlaw.com or calling 303.928.1094. Let's talk about your brand name, your business, and set you up for long term success.