

# TRADEMARKS

A trademark is any word, phrase, shape, design, color, sound or even smell that identifies and distinguishes one party's goods or services from those of others.

A service mark is similar to a trademark, except a service mark identifies and distinguishes the source of a service rather than a product. Both trademarks and service marks are often referred to as Trademarks.

To be valuable, a trademark must be distinctive. Trademarks vary in the amount of legal protection that the courts give them with the most distinctive being the most protected. Marks fall into several categories (listed below from most to least protected)

**fanciful** - a term created solely for the purpose of being a trademark (such as Exxon)

**arbitrary** - a term that neither suggests nor describes any ingredient, quality, or characteristic of a product (such as Apple, for computers);

**suggestive** - a term that indirectly suggest something about the product or service (LinkSys, which is used for a brand for networking equipment)

**descriptive** - a mark that describes some element of the goods or services (for example, Kentucky Fried Chicken). Descriptive marks can only be federally registered when they develop what's called a "secondary meaning" (which means that when people use the term, they associate it with a particular business).

Generic terms (for example, "car") cannot be trademarks

Trademark rights can last indefinitely if the owner continues to use the mark. The term of a federal trademark registration is 10 years, with an unlimited number of 10-year renewal terms available.

\* For further information see <http://www.uspto.gov/web/offices/tac/doc/basic/>

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# SEARCHING FOR EXISTING TRADEMARKS

Go to the **USPTO Website** at [www.uspto.gov](http://www.uspto.gov).

Click on "Trademarks" in the left column

Select no. 2 "Search the Trademark databases."

Select the Boolean" search form.

In the "search term" box enter the trademark you wish to use, using quotation marks around a phrase.

Click on the "submit query" box

If you have a design in your trademark you will need to search the Design Code Manual for the design code and then search for designs similar to yours

## Results

If there are no trademarks with this name in the database you will see "Sorry, no results were found for your query."

Try alternate spellings of words in your mark.

To see if anything is similar try without quotation marks

If there are any trademarks like the one you are searching a list will appear. You may click on individual trademarks to see the complete database entry.

[ Dead trademarks are no longer Federally registered trademarks, however keep in mind that they may still be in use. You may click on the TARR button to see the complete history of trademarks. Live trademarks are still in use and protected by Trademark Law. ]

**For your trademark to be granted** it must not be confusingly similar to another mark selling the same goods or services.

**Search state trademarks** through Georgia Secretary of State's office at <http://www.sos.state.ga.us/corporations/trademarks.htm>

**Search for other State Trademarks at :**

<http://smallbusiness.findlaw.com/trademark/trademark-registration/state-trademark-info-links.html>

## Filing an application for a Trademark

At [www.uspto.gov](http://www.uspto.gov) under "Trademarks" click on "File"

Under "forms" click on "apply for a new Mark"

Click on "Trademark/Service mark Application, Principal Register"

Use the interactive form wizard TEAS to complete the application.

The TEAS Plus form has stricter requirements, but costs less.

# ® TESS Quick Reference Guide

## (Trademark Electronic Search System)

### Access

Path from [www.uspto.gov](http://www.uspto.gov) homepage:  
Trademarks > Search Trademarks

### Content

TESS contains more than 4 million active (live) federally registered trademarks, pending trademarks, and dead trademarks. The TESS database does not contain any information on state, foreign, or common law trademarks. Information on applications and registrations that were inactive prior to 1984 are generally not available on TESS. TESS is updated daily Tuesdays through Saturdays.

### Search Operators

The operators are listed below in order of precedence for search execution:

#### ADJ#, NEAR#: (highest precedence)

The search terms occur adjacent to each other (ADJ) or in the same sentence (NEAR) within the specified number of words (#).

**WITH:** The search terms occur in the same sentence.

**SAME:** The search terms occur in the same paragraph.

#### AND, NOT:

**AND:** Records retrieved will contain each of the search terms specified.

**NOT:** Records retrieved will not include the search term following the NOT operator.

#### OR: (lowest precedence)


**OR:** Records retrieved will contain at least one of the search terms specified.

### Truncation

- Asterisk (\*) Recommended for the Basic Index [BI] and Translation Index [TI] search fields. The \* symbol matches zero or more continuous characters. Use the \$ or ? truncation operators for internal truncation searches.
- Dollar Sign (\$) Recommended for search fields other than the Basic Index [BI] field. The \$ matches zero or more continuous characters.
- Question Mark (?) Matches a single non-blank character.



## Field Codes

This is an alphabetical list of the most commonly searched fields in TESS. For a complete list of fields or for additional help please click the TESS Help button: 

### Basic Index [BI]

The Basic Index field contains the word mark and pseudo mark information indexed for optimal searching efficiency. This field (along with the [TI] field) uses a special \* truncation operator for more efficient left and/or right truncation searches.

### Coordinated Class [CC]

Search the Coordinated Class field to retrieve marks from International Classes related to a specific International Class. The Coordinated Class Table was designed to automatically include related International Classes in the search results when the primary International Class is searched.

### Design Search Code [DC]

This field contains a six-digit code used to identify design elements that comprise a mark that contain a design (drawing). A mark may have more than one design code associated with it. Design search codes are defined in the Design Search Code Manual:

<http://tess2.uspto.gov/tmdb/dscm/>

### Filing Date [FD]

This field contains the date when a complete application was received by the USPTO in the format YYYYMMDD. The \$ (unlimited) and ? (single character) truncation can be used.

### Goods and Services [GS]

This field contains a written description identifying the nature of the goods and/or services as set forth in the application or registration. See Acceptable Identification of Goods and Services Manual: <http://tess2.uspto.gov/netathtml/tidm.html>

### International Class [IC]

This field identifies the class(es) assigned to a mark under the International Classification of Goods and Services (Nice Agreement) based upon the goods or services on which the mark is used. TIP: Enter a numeric international class in quotes with leading zeros, if necessary. See Section 6.1 of the Trademark Rules of Practice for the full names of the International Classes: <http://www.uspto.gov/web/offices/tac/tmlaw2.html>

### Owner Name [ON]

This field contains the name of the individual or organization having controlling interest in the use of the mark.

### Registration Date [RD]

This field contains the date on which a mark was registered by the USPTO. This field applies only to registered marks; pending marks will have a registration date of 0. Dates are stored in the format YYYYMMDD. The \$ (unlimited) and ? (single character) truncation operators can be used.

### Registration Number [RN]

This field contains the unique number assigned to applications that have received approval for registration. To search this field, use the seven-digit registration number (with leading zeros if not seven digits).

### Serial Number [SN]

This field contains the unique identification number assigned by the USPTO to trademark applications that have received a filing date. Search for a specific record by entering its full 8-digit serial number.



# PATENT & TRADEMARK WEBSITES

Georgia Tech Patent and Trademark Depository Library  
<http://www.library.gatech.edu>

United States Patent and Trademark Office  
<http://www.uspto.gov>

European Patent Office – search and print worldwide patent  
<http://ep.espacenet.com>

CAMBIA – an international non-profit institute based in Australia, offers *Patent Lens* for searching granted US, Australian, and European patents and US, WIPO/PCT, and Australian applications simultaneously.  
<http://www.patentlens.net/daisy/patentlens/patentlens.html>

U.S. Copyright Office  
<http://www.loc.gov/copyright>

Georgia Office of the Secretary of State – Trademarks Database  
<http://www.sos.state.ga.us/corporations/marksearch.htm>

Inventors Association of Georgia  
<http://www.georgiainventors.com>

Download / Print Patents - Free PDF  
<http://www.pat2pdf.org>

Attorney Information  
<http://www.martindale.com>

Thomas Register of Corporations –  
<http://thomasregister.com>

State Trademarks Database  
<http://smallbusiness.findlaw.com/trademark/trademark-registration/state-trademark-info-links.html>

Georgia Galileo Database – useful for searching non-patent literature  
<http://www.galileo.usg.edu>