



# Protecting Your Brand Name

Although brands and brand names sometimes run their course, it's vital to stay vigilant about protecting your brand name, according to Marc Hershon, creative director at branding company Lexicon, which specializes in naming. If you don't take precautions to protect your brand name, you run the risk of your brand becoming genericized, like the Escalator or Aspirin, both brand names at one time.

What can you do to try to protect your brand name? Follow these strategies:

## Choose a Unique Name

The first step in protecting your brand name is ensuring that you've chosen a name that hasn't already been claimed by others, either online or offline. According to CNN Money, picking the strongest possible trademark at the outset can help you defend your brand name down the road. Very descriptive, specific names can be defended more easily than broader ones; the strongest trademarks are unique or even fanciful. Made-up words like "Exxon" or "Kodak" are the easiest trademarks to protect, according to Oliver Herzfeld, chief legal officer for The Beanstalk Group, a New York-based brand licensing consultancy.

## Check to See If Your Name Has Been Trademarked

If you select a name that someone else has already trademarked, it can lead another company to accuse you of trademark infringement. The Small Business Association (SBA) recommends using the Trademark Search Tool on the U.S. Patent and Trademark Office's (USPTO's) website to see whether your desired name (or a similar name) has been trademarked. You can also do a simple web search to check whether anyone is using a certain name online.

## Register Your Business Name

Whether or not your brand name and business name are the same, it's important to register your business name. This involves a process where a business owner registers a "Doing Business As (DBA)" name or trade

name. While registering your business name is not the same as incorporation and it doesn't provide trademark protection, it does ensure that your state government knows you are doing business under a name other than the legal name of your partnership, corporation, or personal name.

## Apply for Trademark Protection

Since your brand name is one of your most valuable business assets, you should protect it by trademarking it. A trademark protects names, words, symbols, and logos that distinguish goods or services. It's not expensive to receive this protection; you can file for a trademark for under \$300. Unlike patents, trademarks can be renewed forever (as long as they are used in commerce). You can register for a trademark online by using the USPTO's Trademark Electronic Application System. Learn more about registering a trademark on a reputable do-it-yourself legal site like Nolo or LegalZoom. It can be a little tricky, however, so it may be well worth it to retain an attorney to help you with the process.

## Use, Defend, Renew

Once you've registered your trademark, it's just the beginning of defending your brand name. To retain your trademark rights, you also must use your trademark, protect it from would-be infringers, and remember to renew it. To avoid becoming like "cellophane" or "crockpot"—former trademarks whose use became generic, leading to loss of protection—be sure to police your brand name once you have it.

### Sources:

#### U.S. Small Business Administration

<http://www.sba.gov/community/blogs/community-blogs/business-law-advisor/how-choose-claim-and-protect-your-business-name>

#### CNN Money

<http://smallbusiness.blogs.cnnmoney.cnn.com/2009/05/13/trademarks-101-how-to-protect-your-good-name/>