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Trademark Prosecution: How Do You Register A Trademark?

[Kristie Prinz](#)**Q.** How do I register a trademark? I have a business which caters food to commercial vessels.-- *Anonymous***A.**

The process for registering a trademark with the United States Patent and Trademark Office ( USPTO ) typically takes from one to two years and consists of five steps:

- Search, where you conduct a search for currently registered marks in order to confirm that your mark is not already in use, and also search for marks that are in use but not registered;
- Preparation of Application, where you file either an "intent to use" application if the mark is going to be used in the future or a "use in commerce" application if the mark is already in use;
- Examination, where a trademark examiner is assigned to the application and performs a procedural and legal review, which includes but is not limited to checking the application for completeness, evaluating the registerability of the mark, and determining whether your mark is likely to be confused with a similar mark that has a superior claim to yours;
- Publication in the Office Gazette, which enables members of the public to file an opposition and contest the validity of the mark; and
- Registration, where the registration certificate will be issued to the new owner of the trademark registration.

Although hiring an attorney is not required to register a trademark with the USPTO, and a number of services are now offered online which can assist you with the process including the USPTO s Trademark Electronic Application System ( TEAS ) which is the USPTO s preferred filing method, my recommendation is that you consult with an attorney specializing in trademark prosecution. Such an attorney will be able to advise you on your overall strategy for prosecuting marks in order to ensure that your portfolio is fully protected and will also be able to conduct the appropriate searches to ensure that your mark will not infringe on any third party s marks.

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The primary risk with doing your own trademark prosecution work is that you will neglect to protect certain marks in your portfolio or that you will conduct an incomplete search and fail to uncover certain third party marks upon which your mark may infringe. Also, you may overlook third party marks, which potentially could become the subject of legal disputes with you or your business.

You should keep in mind that, in addition to USPTO registration, trademark registration is also offered by individual states. Both state and federal registration may be advisable in some circumstances, where it is desirable to have a record of your mark on file at both the state and federal level. In the alternative, if funds are limited initially, you may want to start with a state registration and then postpone the federal filing until you have more cash on hand to pursue the federal filing process.

For additional information, I recommend that you check out the [USPTO website](#) which provides an excellent summary about the trademark registration process, the fees required to register a trademark, the TEAS, and other matters related to the registration process that you may find helpful to read about prior to initiating the registration process. For more information on state registrations, you should check out the website materials for businesses in your home state and/or state of incorporation.

-- Kristie Prinz

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