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Own Your Name Before Someone Else Does

By Askia Jones · November 13, 2026 · About an 11-minute read

A plain-language guide to protecting your business name across your state filing, a federal trademark, your domain and your social handles, including how to search, what a trademark costs and the scams to avoid.

You picked the name, formed the LLC and built a following. Then a cease-and-desist letter arrives, or someone else is selling under a name almost like yours, or the .com you wanted is parked with a "make an offer" page.

Many owners assume that registering a company with the state means they own the name. It doesn't, at least not the way most people think. Your name lives in several separate systems, and each one protects something different.

Below: how those systems differ, how to search, what a federal trademark costs today, and a checklist you can work through this week.

Three registrations that are not the same thing

The U.S. Small Business Administration (SBA) describes four ways to register a business name and says each is "legally independent": 1

• Entity name (your LLC or corporation name). This is how your state identifies your business. The SBA says it protects the name at a state level, and most states won't register a name someone else already holds. It does not give you nationwide rights to the brand. 1

• DBA ("doing business as"). Also called a trade name or assumed name. The SBA says registering one doesn't provide legal protection by itself, though your state or city may require it. 1

• Trademark. A trademark protects a brand name used with specific goods or services. Federal registration with the U.S. Patent and Trademark Office (USPTO) can protect it at the national level. 1, 2

• Domain name. Your web address. Once registered, no one else can use it while you hold it, but you must renew it regularly. 1

So when people search "trademark vs. LLC name," the short answer is this: your LLC filing tells the state who you are. A trademark tells the market who stands behind a product or service. Different jobs, different offices.

Note also what a trademark is not. The USPTO says a trademark doesn't give you rights to a word in general, only to how it is used with your particular goods or services. 2 That is why Dove soap and Dove ice cream bars can coexist, as can Delta faucets and Delta air travel. 3

Common-law rights vs. federal registration

You become a trademark owner as soon as you start using your mark with your goods or services. But the USPTO says those "common-law" rights are limited to the geographic area where you actually do business. 2, 4 If you sell in Atlanta and someone in Phoenix uses a similar name, your unregistered rights may not reach them.

A federal registration creates rights throughout the United States and its territories. The USPTO lists other benefits: public notice in its database, a legal presumption that you own the mark, the right to sue in federal court, a basis for protection abroad, the option to record it with U.S. Customs and Border Protection to block infringing imports, and use of the ® symbol. 4

State trademark registration is a middle option, but it creates rights in that state only. 4 And the USPTO is not an enforcement agency; even with a registration, policing your mark is up to you. 4

™ vs. ®

You can use ™ (goods) or SM (services) any time to claim a mark, even before you file. Use ® only after the USPTO registers your mark, and only for the goods or services listed in the registration. 2

The ® matters for more than looks. Under federal law, a registrant who doesn't give notice of registration, such as by using the ®, can't recover profits or damages in an infringement suit unless the defendant had actual notice of the registration. 5

Search before you spend: how to search a trademark

The USPTO says one of the most common reasons applications are rejected is a "likelihood of confusion" with a mark already registered. 6 Marks don't need to be identical to conflict. They can be similar in sound, appearance or meaning, and the question also depends on whether the goods or services are related. 3 The USPTO's examining attorney checks only the federal database; searching state records and the internet is your responsibility. 6

A solid search covers four places:

1. The USPTO Trademark Search system (tmsearch.uspto.gov), free, covering federally registered and pending marks. Search exact spellings, sound-alikes and related goods, not just your exact name. 7, 8

2. State records. The USPTO links to trademark registration information for all 50 states, Washington, D.C., and Puerto Rico. Check your secretary of state's business-name database too. 8, 9

3. The web and domains. The USPTO recommends searching the internet for common-law use and checking domain registrations. 8 ICANN's free Lookup tool lets you look up a domain's registrar and registration data. 10

4. Social platforms. There is no government registry of handles. Search each platform your customers use for your name and close variations.

For a deeper search, the USPTO suggests a screening service or an experienced U.S.-licensed attorney, who can also interpret the results. 8

Pick a name that can be protected

The USPTO ranks marks from strong to weak: 11

Type	What it means	USPTO example	Registrable?
Fanciful	An invented word	Exxon® for petroleum	Strongest
Arbitrary	A real word unrelated to the product	Apple® for computers	Strong
Suggestive	Hints at a quality without stating it	Coppertone® for suntan products	Strong
Descriptive	Directly describes the product	"Creamy" for yogurt	Only in certain cases, such as after long use builds distinctiveness
Generic	The common name of the product	"Bagel shop" for a bagel shop	Never

Owners often want a name that says exactly what they sell. The USPTO calls that a "common misconception": names that merely describe your goods or services are weak, while creative and unique ones are easier to protect. 2, 11 A descriptive name can still work as a business name. It just won't give you much to stop a competitor with a similar one.

How the USPTO application works

Here are the basics, in plain terms.

Classes. Goods and services are sorted into 45 international classes: 1 through 34 for goods, 35 through 45 for services. Clothing is Class 25; restaurants are Class 43; beauty services fall in Class 44. The USPTO

charges per class, so a clothing brand that also offers custom T-shirt printing would pay for two. 12 Use clear, specific descriptions; the USPTO's ID Manual has preapproved wording. 12

Filing basis. The two most common are: 13

• Use in commerce: you're already using the mark across state lines, such as selling to out-of-state customers. You'll give the dates of first use and submit a specimen.

• Intent to use: you have a genuine plan to use the mark but haven't started. You can apply now, but the mark won't register until you prove use and file the required form, which carries another fee. 13, 14

Specimens and drawings. A specimen shows the mark as customers actually see it: a label or tag on a product, or an ad or website screenshot for a service (with the URL and access date). A "drawing" shows what the mark is. The USPTO says a standard character drawing (text only, no styling) generally gives the broadest protection, and each application covers one version of a mark. 15

Timing. The USPTO says registration usually takes 12 to 18 months, with no guarantee your mark will register. 16

How much does a trademark cost?

These are the USPTO's own electronic filing fees on its current fee schedule, which matches the fee rule in federal regulations: 14, 17

USPTO fee	Amount
Base application, per class	$350
Surcharge for missing required information, per class	$100
Free-form goods/services description instead of the ID Manual, per class	$200
Each extra 1,000 characters of free-form description, per class	$200
Statement of use or amendment to allege use (intent-to-use filers), per class	$150
Six-month extension to file a statement of use, per class	$125
Section 8 declaration of use, per class	$325

USPTO fee	Amount
Section 9 renewal, per class	$325

So a single-class application that uses preapproved ID Manual wording and is complete starts at $350 in government fees. An intent-to-use filer adds at least $150 per class to prove use later. Upkeep follows: a declaration of use is due between the fifth and sixth year after registration, and every 10 years the USPTO says you'll pay $650 per class for the declaration plus renewal. 18, 19 Attorney fees, if you hire one, come on top. 20

Check current fees: USPTO fees change. Confirm amounts on the USPTO fee schedule before you file.

Who needs an attorney?

U.S.-based applicants don't have to hire one, though the USPTO strongly encourages it, and its staff can't give legal advice. 21 Applicants whose domicile is outside the United States and its territories must be represented by a U.S.-licensed attorney under federal rules. 20, 22 The USPTO also warns that trademark filing companies are not law firms and that it doesn't endorse them. 20

Watch for scams

Scammers exploit the public information in trademark filings, and new filers are a favorite target. The USPTO's warnings include: 23

• USPTO employees will never ask for personal or payment information by phone, email or text, and won't ask for payment by wire transfer, gift cards or cash.

• Real USPTO emails end in @uspto.gov; its websites are USPTO.gov and my.USPTO.gov.

• Names like "Patent and Trademark Bureau" or "Trademark Renewal Service" are not the USPTO. Misleading notices often use words like "United States," "Trademark," "Office" or "Agency."

• Official communications are always posted in the USPTO's Trademark Status and Document Retrieval (TSDR) system. If it isn't there, it isn't official.

When in doubt, call the USPTO's Trademark Assistance Center at 1-800-786-9199. 23

Domains, cybersquatting and handles

You don't own a domain; you hold it for the period you registered it, typically one to ten years, and must renew it. 24 ICANN policy requires registrars to send renewal reminders about one month and one week before expiration, so keep your contact and payment details current, and consider auto-renewal. 24 If a registration lapses for good, the name can become available for someone else to register. 24

If someone registers a domain to trade on your brand, ICANN's Uniform Domain-Name Dispute-Resolution Policy (UDRP), which all registrars must follow, offers a faster route than court for abusive registrations. 25 To win, a trademark owner must prove all three: 26

1. the domain is identical or confusingly similar to a mark in which you have rights;

2. the holder has no rights or legitimate interests in it; and

3. it was registered and is being used in bad faith, such as to sell it to you or to divert customers.

The only remedies are cancellation of the domain or transfer to you. 26 Federal law also lets mark owners sue someone who registers or uses a confusingly similar domain with a bad-faith intent to profit. 27 Both paths are easier when your rights are clear, which is another reason to register.

Social platforms make their own rules. YouTube, for example, says it reviews trademark complaints and removes content in clear cases of infringement, but encourages owners to contact the creator first. 28 Claim your name on the platforms that matter before you need to argue about it.

Why this matters for Black-owned businesses

There is evidence that Black entrepreneurs face gaps in the trademark system. A study published in the Southern California Law Review used census name data to estimate the race of applicants on more than one million U.S. trademark applications filed by individuals from 1986 to 2018. 29 It found Black applicants were underrepresented relative to their share of the population, though the gap narrowed from 39% below parity in 1986 to 27% below in 2018. Applications likely filed by Black individuals were less likely to use a lawyer (44% vs. 49% for white applicants), and although raw registration rates were close (about 45% for Black applicants vs. 46% for white applicants), the authors found Black and Hispanic applicants less likely to secure a registration. 29 The study estimated race from names and covered individual filers, not companies.

Free and low-cost help exists. Through the USPTO's Law School Clinic Certification Program, supervised law students file and prosecute trademark applications for clients. Participants include Howard University School of Law (D.C., Maryland and Virginia clients), North Carolina Central University School of Law (clients nationwide) and Southern University Law Center (Louisiana); acceptance is at each school's discretion. 30 The USPTO's Pro Bono Program covers patents, not trademarks. 31 For trademarks, the USPTO points to these clinics, the American Bar Association's list of pro bono resources and the International Trademark

Association's Pro Bono Clearinghouse, which matches applicants who have financial need with volunteer attorneys. 20, 32

An illustrative example

Illustrative example. The business, the owner and the brand names below are fictional, created for this article. Any resemblance to a real business or mark is unintended. Fees are the USPTO's as of November 15, 2026.

Tasha makes whipped body butter in her kitchen and sells it at markets under the name "Pure Whipped Shea." She has an LLC under that name. When she decides to sell online nationwide, she runs a search and learns three things: the name is descriptive, so it would be hard to register; a seller in another state already uses a similar name; and the matching .com is taken.

She rebrands to an invented word, "Zuvella." She searches the USPTO database for the name and sound-alikes in cosmetics, checks state records and the web, registers the open domain with auto-renewal, claims the handle on the platforms her customers use, files a DBA and puts ™ on her labels.

Because the new jars aren't selling yet, she files on an intent-to-use basis in Class 3, using ID Manual wording: $350. When sales begin across state lines, she files a statement of use with a photo of her label as the specimen: $150. Total government fees: $500, before any attorney costs. She deletes an urgent "renewal" letter from an official-sounding "trademark office" after checking TSDR and finding nothing there. Only when the registration issues does she switch to ®.

Name protection checklist

Step	Where	Why it matters
Choose a strong name	Strong-to-weak spectrum above	Fanciful, arbitrary and suggestive names are easier to protect
Search federally	USPTO Trademark Search (tmsearch.uspto.gov)	Finds registered and pending marks that could block you
Search states and the web	USPTO state links; secretary of state; search engines	Catches common-law and state rights the USPTO won't flag
Check domains	ICANN Lookup (lookup.icann.org)	Shows whether the domain is registered
Check social handles	Each platform you use	No central registry; first come, first served

Step	Where	Why it matters
Form or update your entity and DBA	Your state and local offices	Legally required in many cases; protection is state-level
Secure the domain	An ICANN-accredited registrar	Turn on auto-renewal and keep contact details current
Claim your handles	Each platform	Consistency helps customers find the real you
Use ™ or ▒ now	Labels, website, packaging	Signals your claim before registration
File with the USPTO	USPTO Trademark Center	Nationwide rights; $350 per class base fee (check current fees)
Switch to ® only after registration	Everywhere the mark appears	Notice of registration supports recovering damages
Watch for scams	TSDR; @uspto.gov emails only	Fake notices target new filers
Calendar maintenance	Years 5 to 6, then every 10 years	Missed filings cancel the registration

Own it early

Your name gathers reputation every time you deliver. Protecting it costs far less before a conflict than after one. Search first, choose a name that can be protected, lock down your domain and handles, and file when you're ready to grow beyond your corner of the map.

This article is general information, not legal advice. Trademark law is fact-specific, and fees and rules change. Before you file, or if you get a demand letter, consider talking with a U.S.-licensed trademark attorney or one of the free clinics above.

Follow BlackRefer Insights for more practical, sourced guides for Black business owners. And if you know a Black-owned business that belongs in the BlackRefer directory, refer it.

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Fees and program details in this article were current as of November 15, 2026. Check the USPTO fee schedule and each program's page for the latest.

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