

Print Resources for Trademark or Copyright Research

Patent, Copyright & Trademark: an Intellectual Property Desk Reference.

Stephen Elias and Richard Stim, Nolo Press
Dewey Decimal No.: **R 346.048 E1**

The Copyright Handbook: How to Protect & Use Written Works.

Stephen Fishman, Nolo Press
Dewey Decimal No.: **R 346.0482 Fi**

Trademark: Legal Care for Your Business & Product Name

Stephen Elias, Nolo Press
Dewey Decimal No.: **R 346.0488 E1**

Internet Resources For Trademark and Copyright Research

TRADEMARKS — USPTO Internet Webpages:

 <http://www.uspto.gov/trademarks/index.jsp>
Trademark Search Database. NOTE: Click on the "SEARCH trademarks" link.

 <http://www.uspto.gov/main/howtofees.htm>
List of current trademark fees and methods of payments

 <http://www.uspto.gov/web/offices/tac/doc/basic/>
Basic Facts About Trademarks.

COPYRIGHT — Copyright Office Internet Webpages:

 <http://www.copyright.gov/records>
Copyright Search Database.

 <http://www.copyright.gov/docs/fees.html>
List of current copyright fees

 <http://www.copyright.gov/help/faq/>
Frequently Asked Questions About Copyright



Federal Documents Section Reference Assistance

The Federal Document Section staff will assist patent searchers by providing instructions in the use of various patent search tools available in the section. Only preliminary patent and trademark searches can be conducted with the resources located at the Federal Documents Section. The section staff is not qualified to give legal advice of any kind, including interpreting laws and regulations; performing searches for users; or offering opinions about the search strategy effectiveness. No conclusions should be inferred concerning the validity of any patent, design or trademark from any assistance provided by the library staff.

Anyone wishing further assistance will be directed to a list of registered patent attorneys and agents who have specialized knowledge and experience in conducting patent or trademark searches. This roster contains current information filed with the U.S. Patent and Trademark Office. Not all attorneys and agents listed on this roster will service new public clients.

REVISED: February 2010

A Guide to Trademark & Copyright Resources



Federal Depository
Library Program



HAWAII STATE LIBRARY

Federal Documents Section

478 South King Street
Honolulu, HI 96813-2994

Reference Desk Phone : (808) 586-3477
Internet Home Page: <http://www.hspls.org/feddocs>

Trademarks and Service Marks Facts

What is a Trademark - What is a Service Mark?

A *Trademark* is a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.

A *Service Mark* is the same as a trademark, except that it identifies and distinguishes the source of a service rather than a product. Throughout this handout, the terms "trademark" and "mark" refer to both trademarks and service marks.

Registration of a mark is not required to establish your rights of that mark. However, owning a federal trademark registration on the Principal Register provides several advantages. These advantages include:

- Constructive notice to the public of the registrant's claim of ownership of the mark;
- A legal presumption of the registrant's ownership of the mark and the registrant's exclusive right to use the mark nationwide on or in connection with the goods or services listed in the registration;
- The ability to bring an action concerning the mark in federal court;
- The use of the U.S. registration as a basis to obtain registration in foreign countries; and
- The ability to file the registration record with the U.S. Customs Service to prevent importation of infringing foreign copies.

What is the difference between TM or SM and ®?

Any time you claim rights in a mark, you may use the "TM" (trademark) or "SM" (service mark) designation to alert the public to your claim. However, you may use the federal registration symbol "®" only after the USPTO actually registers a mark, and not while an application is pending. Also, you may use the registration symbol with the mark only on or in connection with the goods and/or services listed in the federal trademark registration.

PLEASE NOTE: Several foreign countries use the letter R enclosed within a circle to indicate that a mark is registered in that country.

Copyright Facts

What is a Copyright?

Copyright is a form of protection provided to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. The owner of a copyright has the exclusive right to do and to authorize others to do the following:

- **To reproduce** the work in copies or phonorecords;
- To prepare **derivative works** based upon the work;
- **To distribute copies or phonorecords** of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- **To perform the work publicly**, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
- **To display the copyrighted work publicly**, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work; and
- In the case of **sound recordings**, **to perform the work publicly** by means of a **digital audio transmission**.

What Works Are Protected?

Copyright protects "original works of authorship" that are fixed in a tangible form of expression. Copyrightable works include the following categories:

- literary works;
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

These categories should be viewed broadly. For example, computer programs and most "compilations" may be registered as "literary works"; maps and architectural plans may be registered as "pictorial, graphic, and sculptural works."

Copyright Secured Automatically Upon Creation:

Copyright is secured *automatically* when the work is created, and a work is "created" when it is fixed in a copy or phonorecord for the first time. "Copies" are material objects from which a work can be read or visually perceived either directly or with the aid of a machine or device, such as books, manuscripts, sheet music, film, videotape, or microfilm.

Copyright Registration:

Registration is not a condition of copyright protection, however, the copyright law provides several inducements or advantages to encourage copyright owners to register their claim. Among these advantages are the following:

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin.
- If made before or within 5 years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.
- If registration is made within 3 months after publication of the work or prior to an infringement of the work, statutory damages and attorney's fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.
- Registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies.

How Long Does Copyright Protection Endure?

Works originally created on or after January 1, 1978

A work that is created and fixed in tangible form on or after January 1, 1978 is automatically protected from the moment of its creation and is ordinarily given a term enduring for the author's life plus an additional 70 years after the author's death. For works made for hire, and for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 95 years from publication or 120 years from creation, whichever is shorter.

Popular Copyright Application Forms

PA	Performing Art	SR	Sound Recording	VA	Visual Art
SE	Serials	TX	Text	RE	Renewal

COPYRIGHT FORM COPIES ARE AVAILABLE AT THE FEDERAL DOCUMENTS SECTION

Primary Resources for Trademark Research

A reference collection of all U.S. trademarks is maintained in print, microform, and electronic formats.

- CASSIS DVD database: all registered trademarks
- *Index of Trademarks* – print: 1927 to 1992, 1994
- *Official Gazettes* – Patents & Trademarks microfilm: January 1872 to December 1991
- *Official Gazettes* – Trademarks microfiche: July 2, 1991 to present
- *Trademark Manual of Examining Procedure*
- *Design Search Code Manual*

Cassis2 DVD-ROM System For Trademark Research

CASSIS2 DVD-ROM Workstation for Trademark Searching:

The CASSIS2 computer includes the DVD-ROM format of the entire patent and trademark collection for dedicated searching. Other search aids are also available to use for a more complete search. Ask the Librarian for more information about CASSIS2.