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Choosing a Name for Your Business or Product





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What is it?

Naming your business or product is an important marketing decision. The name you choose will position your business or product in people's minds, affect the image you project, and have a major impact on your success.

Your corporation must have a unique name easily distinguished from other businesses in your state. This protects your company. If your business is successful, you don't want another company benefitting from your hard-won reputation. A thorough name search will ensure that the business or product name you've chosen is available for use and won't have to be changed later. Although you cannot trademark the name of your business, you can trademark your product name. Your product's good name is one of your most valuable assets. You can protect your product name by registering your trademark with the U.S. Patent and Trademark Office (PTO) in Washington, D.C.

Choosing a name for your business

Brainstorm for possibilities

Naming your new business is one of the most exciting activities you'll undertake. Take your time in choosing a name (i.e., don't settle on the first one that comes to mind). Canvass the market. Search the web. Ask friends for suggestions. Try out names on strangers who don't know your business concept. Consult your marketing advisors. Public relations firms and advertising agencies often assist in developing names. Consider requesting a bid from a company that specializes in naming. Develop a list of names and rank them. It's best to give yourself several options in case the name you choose is already in use.

Consider the following criteria

- Create a name that's straightforward and descriptive of the product. Choose a name that reaches out to prospects with information about the products you offer and their benefits. If the name you use is not descriptive, you may miss your target market.
- Make the name distinctive, memorable, and appealing. A successful business name evokes an emotional response or conveys an image that attracts the attention of potential customers.
- Carefully consider the use of your surname. If yours is a local business, your standing in the community could be affected if the business fails. Consider whether using your surname will help or hinder your financing efforts. Venture capitalists, for example, may be averse to investing in companies named for a founder, preferring instead to build value in a corporate business and product name.
- Avoid complicated or obscure names; be cautious with humor. If your name doesn't clearly indicate what your product is, you'll need to spend a lot of marketing dollars communicating that message. Don't thwart your marketing efforts with a joke that is poorly received, potentially offensive, or not understood by your market.
- Indicate the company's corporate status. If your company is incorporated, you must indicate that by adding the word *corporation*, *company*, or *incorporated*. Consult the secretary of state's office for information concerning the legal requirements for doing business in your state.
- When you choose your business name, also consider how it will relate to your domain name. A domain name is your business's URL (uniform resource locator), otherwise known as your Internet address. This is the string of text that typically starts with "www."

Researching the name

In general

Once you've developed a name, you need to make sure it's available. Conduct a thorough name search. It's easy to change your name now; however, once you've developed a logo, printed business cards and stationery, begun advertising, or launched your website, it can be time consuming and costly (as well as confusing to your customers) to change your chosen name if you find that it's not available. Often new businesses go through an exhaustive naming process only to discover that their desired name is



already registered with the secretary of state.

Researching and registering a corporate name

If you're incorporating your business, begin your name search by contacting the office of the secretary of state. Provide several names to search at one time, so that if your top choice is taken, you won't have to start all over again. The secretary of state's office will conduct the name search and approve your choice of name after verifying that no other corporation in the state is using it. Repeat this process in each state where you plan to do business. It can be time-consuming and costly to select a name in your home state, only to find that it's not available in another state you plan to enter. You may also find that some names are unavailable because they are in the public domain or because another business has registered a similar name as a trademark. Finding that one free name in all your target states can be a frustrating and expensive procedure.

Tip: *Inquire about the proper wording of a corporate name. Most states have laws that govern what's allowed and what's not.*

Researching and registering a sole proprietorship name

If you're establishing a sole proprietorship and you're planning to operate under a name other than your own, you must file a "Certificate of Doing Business under an Assumed Name (DBA)" with your city or county clerk. Some states also require you to publish a fictitious name statement in the local newspaper to identify who is responsible for your business. This usually involves little time or expense. The clerk will search your name and let you know if it's available and approved.

Researching and registering a domain name

Begin searching a domain name (i.e., an electronic address on the Internet) as early as possible in your naming process. There are several popular domain research and registration organizations to choose from. Once your chosen name has been confirmed available, you can register your domain for as little as about \$10 per year.

Trademarks

Distinguishes your product from another

A trademark is a word, symbol, design, combined word and design, slogan, or even a sound that distinguishes your product from another. One of your most valuable assets is the good name attached to your product. If customers seek your product by name, it could have substantial worth in goodwill if you ever decide to sell your business. Although you cannot trademark the name of your business, you can use a trademarked product name as the name for your business.

Provides exclusive rights

A trademark gives you exclusive rights to your product name. If you've coined your own name or created a unique design, your trademark may give you exclusive rights even if someone else wants to use the same name for an unrelated product. Once you've registered your name, you can use it on your product or advertising with legal recourse if it's infringed upon.

Determines legal ownership

You're not legally required to register your trademark (your previous use of the trademark determines legal ownership). However, by registering nationally and in the states where you plan to do business, you serve notice to other business owners that you claim that name.

Can be registered with Patent and Trademark Office

The most effective way to protect your product name is to register it with the U.S. Patent and Trademark Office (PTO) in Washington, D.C. Once you register a name, it's yours as long as you use it, protect it from infringement, and renew the trademark every 20 years. You'll receive a certificate verifying that you're the sole owner of that name. For a relatively modest sum, trademark registration protects your investment.

Researching and registering a trademark

National name search





If you're planning to market your product nationally, you should conduct a national name search with the PTO, which maintains a search library open to the public. The drawback to relying on a search conducted only through the PTO is that the PTO's library is incomplete. It doesn't include names that were registered at the state level, nor will it reveal trademarks that were never registered but are in common use. Although neither state nor common law trademarks take precedence over federally registered trademarks, their owners could object.

Professional search companies

Consider using the services of a trademark search company before investing in your proposed trademark. Or, you can hire a company that specializes in national name searches. There are several reasons for using a professional search company. It can perform a more extensive search than you can, and it can do it more quickly and much less expensively. This is important if you're running a search in all 50 states. More importantly, if a challenge ever arises, a court may view your position more favorably if a professional search company conducted your search. The more thorough the search, the better. For a modest sum, professional search organizations can run searches at the state and federal levels, as well as search for common law trademarks.

Attorneys specializing in intellectual property

Another option is to hire an attorney specializing in intellectual property. Look in the yellow pages under the listing for "Attorneys, Intellectual Property," or contact your state or local bar association. Seek an attorney who has experience with the type of product you're trademarking.

Tip: Plan to begin the research and registration process well in advance of setting up your company. With professional help, allow at least 12 months to register a trademark.

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