



Suzanne's Tips on Trademark Clearance

By: [Suzanne Bretz Blum](#)

Your team is charged with choosing a word, phrase or design for your company to use in connection with a new product or service. You've come up with several good options. What do you need to do to make sure there are no legal impediments to any of these options, and to evaluate which one might be the most useful in the current marketplace? You should work with counsel to perform a trademark clearance evaluation.

You want to determine whether there are any trademarks or service marks in use that are arguably confusingly similar to what you want to use. You want to avoid investing in a name, design or marketing phrase that might confuse people into thinking you are related to some other person or company that is known in connection with a similar name, design or phrase. You want to avoid it because it will get in the way of you building a full connection between your company and the mark. You also want to avoid it because the company who was using it before you for similar goods or services could sue you for trademark infringement.

In order to evaluate whether there is a confusingly similar use already active, the following searches should be run:

1. Search for the name, design or marketing phrase on the Trademark Office's database: uspto.gov. Click on "Trademarks," then "Search the Trademark Database," then scroll down to "TESS" and click on the box that says "Search Trademarks." Follow the prompts and instructions for a basic search. If there is nothing that could be considered "confusingly similar" to what you want to use, you are probably safe to move forward. If there is something that could be considered "confusingly similar," get counsel involved in the evaluation.
2. Search the secretary of state's office in the state where your primary use will be located. Check to see whether any companies with a name similar to your mark may be registered to do business in the state. If yes, investigate to see whether the goods or services of that company are in any way similar to the goods or services you intend to offer with the mark. Also, check the trademark registration for the state. Most people don't think to register their trademarks with the state, but you should check.
3. Run an internet search to see what domain names are in use that may offer similar goods or services. Also, the internet search may let you see whether the owner of a particular name or phrase is actively using it in interstate commerce.

Akron 330.535.5711	Cleveland 216.830.6830	Naples 239.591.6685	Toledo 419.931.6910	Youngstown 330.533.6195
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4. Run a check through social media – https://www.facebook.com/__name__;
https://www.twitter.com/__name__; https://www.instagram.com/__name__/.

These trademark clearance searches should be performed regularly at various levels of intensity, depending on how important the trademark will be to your future plans. Involve your counsel in the evaluation as needed. We can help you avoid mistakes, help you evaluate what marks will be the most protectable, and help you protect that mark during and after it is launched.