

How to Choose a Good Trademark



To choose a good trademark for your [trademark application](#), you need to understand the different categories of marks as classified by U.S. law. The five types of marks are: fanciful, arbitrary, suggestive, descriptive, and generic.

The types of trademarks are listed in order below from the best to worst. To build a good trademark application, you should start out right by choosing your mark from one of the top three categories.

STRONGEST: Fanciful Marks

Fanciful marks consist of one or more made up words. Examples of fanciful marks include Exxon, Kodak, and Xerox. These marks are strongest because they have no meaning at all outside of the related product or service. Thus, when a consumer uses a fanciful mark to identify the source of a product or service, there is no opportunity for confusion.

Very Strong: Arbitrary *Marks*

Arbitrary marks consist of real words that have nothing to do with the product or service. Examples of arbitrary marks include Apple (computers), Amazon (books), and Google (internet search). These marks are very strong because they have no meaning with respect to the product or service. Therefore, when the consumer connects an arbitrary mark to identify of a source of a product or service, there is little opportunity for confusion within the scope of commerce in which the mark is used.

Strong: Suggestive Marks

Suggestive marks consist of real words that have little to do with the product or service other than to suggest a quality of the company's products or services that people would look for. Examples of suggestive marks include Citibank, Playboy, and Greyhound. Consider how Greyhound has the suggestion of speed, which connotes a positive attribute of this bus service. These suggestive marks are strong because they do not use words that normally describe the product or service. Therefore, the consumer is able to make a strong connection between the mark and the product or service. Suggestive marks are popular because they often are believed to help establish a positive association between the public mind and a quality of the company.

Weak: Descriptive Marks

Descriptive marks are weak because they merely describe some portion of the goods and services being sold. It is commonly more difficult to get a descriptive mark registered with the [U.S. Patent and Trademark Office](#). Descriptive trademarks must acquire secondary meaning to have strong protection, which requires 5 years or more of use and advertising. Secondary meaning pertains to the association of the public with the particular goods or services of the mark's owner.

In some ways it is easier to market using a descriptive mark because these marks describe the product or service. But, bear in mind the difference between marketing with a trademark versus secondary meaning, wherein the consumer recognizes the source of those goods and services being marketed.

Descriptive marks are usually less valuable and afforded less protection because of the many related trademarks that already exist with similar appearance or sound. Examples of descriptive service marks include: VISION CENTER, WELLNESS VISION, and VISION REJUVENATION.

PROHIBITED: GENERIC MARKS

Generic marks are incapable of being trademarks by law. While generic words are good for domain names, they cannot function as a trademark. The term generic trademark refers to common names that the relevant purchasing public understands primarily as describing the genus [category] of goods or services being sold. Examples of such generic words would include the word COMPUTER for identifying the source of a computers or computer services, or the word book for identifying a business selling books.

If you want your domain name to be legally protectable as a trademark, do not use generic terms. Instead, the domain name must be inherently distinctive by using one of the other categories of trademarks listed above. One good strategy to consider is combining a generic domain name with a trademark used on the website as part of your brand.

Conclusion

You should file a trademark application for a mark that is in one of the first three categories for the strongest protection. In order of preference, *Fanciful*, *Arbitrary* and *Suggestive* marks are the best. Only in cases that you are willing to forfeit some level of protection or spend more on marketing should you consider a descriptive trademark. Before you make your final selection, you might want to learn more about [what is a trademark](#).