



What Can You Trademark?

Trademarks offer strong legal protections to your brand. But the scope of what encompasses your brand's identity and the limits on what you can (or cannot) trademark may differ with specific use cases.

Before we dive any deeper, [here's a helpful primer](#) if you're unclear on the distinction between and trademark and a copyright.

Speaking broadly, the purpose of a trademark is to protect a brand's distinguishing characteristics. So the answer then, is what distinguishes a brand? Turns out, a lot of things. And in many scenarios, that distinction can actually be a confluence of traits, including a word or words, plus design elements like specific typography and color schemes.

You can even trademark [sounds](#), smells and motions.

CAN YOU TRADEMARK WORDS?

The simple answer is yes. But (surprise!) the answer is far more nuanced than that. Let's examine a situation with The Ohio State University® that [garnered a lot of press](#)—its attempt to register the word "The." The U.S. Patent and Trademark Office (USPTO) denied the request.

While it's probably fair to say that the attempt to trademark what is arguably the most commonly used word in the English language was a tad optimistic, the school has been successful in registering many other trademarks, starting with its formal name, "The Ohio State University." (Notice the ® on its first use above?)

But don't get hung up on individual words when talking generally about trademarks, as there are other contributing factors to a successful request. Take the word Ohio. The state's name alone isn't trademarked—however, the way it's presented often is. For example, a unique script version of the word Ohio is trademarked by The Ohio State University, as it's closely associated with [its marching band](#).

But wait! Since there's also a distinct Ohio University®, you'll see another trademark for the word Ohio—only this time with [block letters and a snarling bobcat](#) in the foreground.

And that's just in the university/education space. There are several other registered trademarks for the word Ohio covering a gamut of other industries.

That brings us to an important note: successful trademark challenges often must fall within the same industry silo. For instance, a dairy farm may be able to hold a similar trademark as a computer company, as long as it's reasonable to believe that the two trademarks won't cause confusion in the public eye.

CAN YOU TRADEMARK COLORS?

As alluded to above, a trademark can include more than just words.

For example, The Ohio State University official school colors are Scarlet & Gray®. (In an interesting twist here, the phrase itself is a registered trademark of the university too.) Those colors are integral to the school's brand identity—so it can mount an argument against companies trying to trade on that signature palette.

Just as words often depend on the industry segment, so do colors. A good example lies with the [T-Mobile® company's argument against an AT&T® subsidiary's](#) use of a particular shade of magenta. While T-Mobile successfully challenged another mobile phone provider, the outcome may have been different if it had gone after a pizza parlor or railroad for using a similar shade.

So, even though a company may be able to trademark a color or color scheme within their industry space, it doesn't necessarily mean that it owns that color with any other degree of exclusivity.

CAN YOU TRADEMARK SHAPES AND SYMBOLS?

The topic of trademarking a symbol is perhaps a bit more straightforward than colors and words. Again, the easy answer is yes.

So, Nike® is free to trademark its Swoosh® and McDonald's® can trademark The Golden Arches®.

That's the easy answer, but (again, surprise!) it's more nuanced than that. Trademark protections on universally recognized symbols and shapes, like stars, hearts and exclamation points often hinge on the stylized treatment of the symbol itself. (Just check out the hidden d and b in the [ampersand](#) of the Dun & Bradstreet® logo for an example.)

ARE TRADEMARKS INTERNATIONAL?

One final thought on trademarks—U.S. trademarks are not international. That means if you're seeking trademark protection, you'll likely need to file in every country you plan to do business. That's how jars of [Bonne Maman®](#) preserves (trademarked in France) are able to share a striking resemblance to [Smucker's®](#) jars (trademarked in the United States).

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