

Trademarks and Service Marks

What is a trademark or 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.

What are common law trademark rights?

Please review "[Common Misconceptions About Naming a New Business](#)," a column written by John Farmer of the Leading-Edge Law Group, PLC, for the *Richmond Times-Dispatch* containing common-sense information that every applicant should read.

What are the benefits of a registered trademark?

- Serves as constructive notice to the public of the registrant's ownership of the mark.
- Establishes a legal presumption of your ownership of the mark and your exclusive right to use the mark in the Commonwealth of Virginia.
- Allows the registrant to bring an action concerning the mark to state court.

Searching for Conflicting Trademarks

Virginia's Trademark and Service mark application states "No other person has registered this mark or has the right to use this mark in Virginia, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of such person, to cause confusion or mistake, or to deceive."

In order for an applicant to acknowledge this statement they must either hire a professional search firm or go to both the [U. S. Patent and Trademark Office](#), and the [Division's web site](#) to determine if the name is currently in use.