



# Trademarks

Law 115 | Week 6 | Lecture 12  
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# Agenda

- Trademark Searching
- In-class Exercise Part I: Discussion with the class
- In-class Exercise Part II: Group work

# Trademark Searching

- USPTO web site: <http://www.uspto.gov/>
- Trademark Electronic Search System (TESS):  
<http://tess2.uspto.gov/bin/gate.exe?f=tess&state=4010:yi87ig.1.1>

**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Feb 19 05:02:46 EST 2013

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**WARNING:** AFTER [SEARCHING](#) THE USPTO DATABASE, EVEN IF YOU THINK THE RESULTS ARE "O.K.," DO NOT ASSUME THAT YOUR MARK CAN BE REGISTERED AT THE USPTO. AFTER YOU FILE AN APPLICATION, THE USPTO MUST DO ITS OWN SEARCH AND OTHER REVIEW, AND MIGHT [REFUSE TO REGISTER](#) YOUR MARK.

**View Search History:**

☒ Plural and Singular ☐ Singular  
☒ Live and Dead ☐ Live ☐ Dead

**Search Term:**

**Field:**

**Result Must Contain:**

Please logout when you are done to release system resources allocated for you.

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This **New User (Basic)** search form allows for searching of the most commonly searched fields: word marks, serial or registration numbers, and owners.

The **Combined Word Mark** is the default search field and includes the **word mark** and **translation**.

Use the \$ for truncation in any field. For **Combined Word Mark** searches, the \* is a more efficient truncation operator for left and/or right truncation. For example, the search term "DOG" with the **Combined Word Mark** will retrieve marks with common variations of the word DOG in the word mark or translation statements. Use of the \$ truncation operator sometimes results in a truncated hit list.

For serial number or registration number searches, enter the 8-digit serial number (e.g. 75123456) or 7-digit registration number (e.g., 1234567) and select **Serial or Registration Number** as the **Field** for the search. If multiple serial or registration numbers are searched, separate the numbers by spaces and change the **Results Must Contain** value to Any Search Terms (OR). (Alternatively, separate the number by the Boolean OR operator without adjusting the **Result Must Contain** value.)

Do **NOT** include the apostrophe for contractions. For example, search for the word **DON'T** by searching **DON T**. Including Boolean operators (e.g., AND, OR, NOT) or proximity operators (e.g., ADJ, NEAR, SAME, WITH) in your search will override the **Result Must Contain** setting for the search. To actually search for these Boolean or proximity operators, include quotes around the operator.

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# Trademark Searching

- Clearing the rights to use a mark requires the services of a trademark attorney
- But you can select a better mark for them to do an extensive search on by doing some upfront searching yourself
- Use the \* symbol as an expander
- For example, the search term **\*DOG\*** will retrieve marks with common variations of the word DOG in the word mark or translation statements

# In-class Exercise: Part I





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## Plaintiff's Mark

1. Describe what plaintiff seeks to protect
2. Has it acquired secondary meaning?

# In-class Exercise: Part I

## Defendant's Mark

1. How is defendant using plaintiff's mark?
2. Is there is likelihood of confusion?
3. Is there a dilution claim?
4. Do any defenses exist?

# In-class Exercise: Part II

You have been hired by Williams-Sonoma to design a new brownie pan (including packaging) to replace the chocolate bar brownie pan that is the subject of the dispute!

- Form groups of 3-4 people and outline your plan
- The assignment sheet is due on February 26, 2013 at 5:30 PM