

# Rhode Island Trademark/Service Mark Guide

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The RI Department of State records the registration of state-level trademarks and service marks. Before you apply to register your mark with our office, be sure you can answer “yes” to the following questions:

- Have you completed a thorough search (including of the USPTO and other states' trademark/service mark databases) to determine if your mark or a similar mark is already in use in Rhode Island or elsewhere?
- Is your mark currently being used in commerce in the State of Rhode Island? Have you sold or distributed goods or services where your mark is clearly distinguishable in connection with those goods or services?
- Have you ensured your mark is not:
  - Immoral, deceptive, or scandalous?
  - Disparaging or misrepresentative of a person (living or dead), institution, belief, or national symbol?
  - Inclusive of a flag or coat of arms of the United States of America, any state or municipality, or any foreign nation?
  - The name, signature, or image of any living person (unless you have written consent from that person)?
  - Merely descriptive of the goods or services? (e.g., “Frozen” for ice cream)
  - Merely geographically descriptive of the goods or services? (e.g., “Providence Club”)
  - A surname?

Registration of a trademark or service mark does not prevent another person from registering the name as a d/b/a (doing business as) in the city or town where their business is located, nor does it prevent another person from incorporating under the same name. Should you encounter a situation where you have a legal question or concern, you are urged to seek the advice and expertise of legal counsel.

# Before you begin

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## What is the difference between a trademark, service mark, patent, and copyright?

### TRADEMARK

A **trademark** is any word, name, symbol, design or combination of these that:

1. identifies the source of your goods; and
2. distinguishes them from the goods of another party

Example: Your business, GoStrum, makes and sells acoustic guitars. On each guitar, you stamp your logo: the name “GoStrum” in blue cursive script over bars of sheet music. You may want to apply for a trademark of the logo to distinguish your brand of guitars from other brands.

### SERVICE MARK

A **service mark** is any word, name, symbol, design or combination of these that:

1. identifies the source of your services; and
2. distinguishes them from the services of another party.

Example: Your business, Strawberry Seed, offers banking and lending services. You may want to apply for a service mark for your business name to distinguish your brand of financial services from other banks.

### PATENT

A patent provides legal protection for inventions. Patents are only available at the federal level through the United States Patent and Trademark Office.

Example: Your guitar business has invented a new type of acoustic guitar made from recycled materials. You may want to apply for a patent to protect the design of your new invention.

### COPYRIGHT

A **copyright** provides legal protection for original artistic works. Copyrights are only available at the federal level through the [U.S. Copyright Office](#).

Example: To help sell your banking services, you develop a catchy jingle for use in TV and radio advertisements. You may want to copyright your jingle to prevent others from using the same sounds in their own advertisements.

# Important considerations

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## Will I need an attorney to apply for registration of my mark?

No. An individual or entity may apply on its own behalf for a trademark or service mark in Rhode Island. It is important to remember, however, that our office cannot offer you any legal advice. If you have questions or are concerned about protecting your mark, we strongly recommend that you consult with an attorney with relevant trademark/service mark experience.

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## Do I have to register my mark in order to claim ownership rights to it?

Once you use a mark in connection with goods or services in Rhode Island, you can claim ownership of that mark. This is called “common law” rights. You do not have to register your mark to acquire common law rights to it.

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## If registering my mark does not give me ownership, why should I register?

Registering your mark with the RI Department of State gives the public notice that you claim the rights to that mark. Once you register your mark, it becomes a public record available in our [Trademark/Service Mark database](#). Registering the mark can help others in Rhode Island avoid developing or using a mark that is too similar to yours. This also gives you added protection if you wish to pursue legal action against another party who begins to use a mark too similar to yours.

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## How will I know if another person or business has registered a mark similar to mine?

Before applying to register your mark with the RI Department of State, you or a qualified attorney should conduct a thorough search of the RI [Trademark/Service Mark database](#), the [USPTO trademark electronic search system](#), other states' trademark records, and the Internet. Registering your mark with the state does not mean that your mark or a similar mark has not been registered at the federal level. In addition, it does not guarantee that another person isn't using it without registration and claiming common law rights.

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## When can I use <sup>TM</sup>, <sup>SM</sup>, or ®?

<sup>TM</sup> (trademark) and <sup>SM</sup> (service mark) are symbols that indicate you claim rights to that mark. These symbols do not indicate that you have registered your mark with the RI Department of State. There is no symbol that indicates state registration of your mark. ® indicates that your mark has been successfully registered with the [United States Patent and Trademark Office](#).

# Maintaining your mark

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## How long is my mark valid?

A mark registered in Rhode Island is valid for ten (10) years.

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## How do I renew my mark?

Six (6) months before your mark will expire, the Department of State will send notice to the applicant at the address of record. To renew your mark, you will need to file [Form 667](#), Application for Renewal of Registration of a Trademark or Service Mark. The filing fee is \$50. Your mark must still be in use in the state. Once renewed, the mark will be active for another period of ten (10) years.

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## Does registering my mark with the RI Department of State prevent others from using my mark in other states?

No. Registering your mark with the RI Department of State only provides notice to the public that you claim rights for that mark in Rhode Island. If you are looking to protect your mark nationwide, please visit the [United States Patent and Trademark Office](#). We strongly encourage you to consult with a qualified attorney with any questions about the protection of your mark.

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## What role does the RI Department of State play in regulating the use of marks or prosecuting their misuse?

It is your legal responsibility to police and protect your registered trademark or service mark. The RI Department of State's office cannot provide legal advice, send notices on your behalf to others, or prosecute infringement on your registered mark. All trademark/service mark disputes are handled by legal action. If you feel your mark has been compromised by another party, you should contact a qualified attorney.

# Additional Resources

## Need more intellectual property information?

United States Patent & Trademark Office [uspto.gov](https://www.uspto.gov)

## Need legal advice?

RI Bar Association [ribar.com](https://www.ribar.com)

## DISCLAIMER

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