

I came up with a great name. How do I protect it?

The best program names are not just unique and clever. They are also super strong legally, which means you have the right to use the name exclusively and protect it from others- this is the super strong legal protection that you want!

So what makes a name legally strong? Commit this sentence to memory so you are ready whenever you have to name a new product or service:

You get the most legal protection by being the first to use a distinctive program name to market your services to potential clients.

Did you know? As soon as you do that, you have a trademark! Nope, you do not have to register to get a trademark. In fact, registration is just one way to protect your name, and there are many others.

First, let's see if you have a trademark in your program name that you can take steps to protect:

Do you have a trademark?

1. Are you first? Being first to use the name to market your services is the #1 thing you can do to protect your name. The first user has rights over all others who come later. Therefore, before investing your program name, you must check to see if anyone else is using it (or a similar name). If not, great! Check the box on "first" and go to step 2. If someone else is using the name (or a similar name), there is still hope. Read on.

2. Is the name distinctive? A great name is distinctive, not descriptive. You may be thinking, 'Hey! Descriptive names are best because they make it easy for my ideal client to understand what I do.'

I totally understand that, but have a suggestion for you to get the most protection for your name. Use a distinctive (not a descriptive) program name, with a descriptive (not distinctive) tag line. Here's why:

Trademark law (which protects names) makes sure that consumers are not confused about the source of the services being advertised- and you should know that trademark law thinks consumers are pretty dumb.

For example, a name like "Google" is super strong because it is distinctive. If you came across a search engine called "Zoogole," it would at least make you think about Google because Google's name is so strong and memorable. Some consumers might even think Zoogole is a part of Google. That weakens Google's brand- especially if Zoogole is doing a bad job as a search engine- so the law gives Google maximum protection as a distinctive brand. *(Don't worry- you don't have to use rare or nonsense words to get max protection)*

On the other hand, a name like "Money Mindset Training with Karen" is a great, descriptive name, but unless Karen is as famous as Tony Robbins for example, this name is not going to be as memorable among consumers who see "money miracles," "money manifestation," and other terms like it fairly regularly. Sad, I know, but this is where a descriptive tag line saves the day.

In short: A less distinctive name does not create a strong customer identification with the services you are offering, and it makes trademark law less effective at protecting your name from other users who come later. There is still some protection, but not as much. Here is a guide to picking a legally strong name:

Strongest names: Made up words (Zazzle), Rare words (Google), and combinations of words (Technicolor)

The next set of names is not quite as strong, but still likely entitled to trademark registration.

Strong names: Names with a clever meaning (A Pea in the Pod Maternity), unusual groupings of words in the context of your services (Your friend who is a lawyer), or words that bear no relation to the service (Apple Employment Services).

The following names are not likely to be registered by the trademark office:

Weak names (and what to do about them): Names that describe a characteristic, quality or ingredient are not strong names ("Delicious Treats" for example). If you are still not convinced that this is a weak name, think of it this way. We need to keep descriptive words and phrases available for common speech, and so we avoid allowing people to "lock up" these words and phrases with trademarks.

There is an exception to the weak names principle: if you can show "secondary meaning" against someone who is using your name (or who says you are using theirs). Secondary meaning is a strong customer identification with the name. Just be warned- by the time you are showing secondary meaning, you are already in an expensive legal battle. Save money- and grief- by using the description in the tag line of a distinctive program name.

Naming No-No's.

Don't even think of using a name that is the same or similar to a big company. You run the risk of being "dead right," which means you may be using the name legally, but the company will make your life miserable if you do. Straight talk. It isn't worth it.

3. **Marketing:** Marketing actually covers two important points: the fact that you are actually offering your services to the public under this name and the geographic area where you are offering these services.

You have to be using the name to market your services for a trademark to exist (unless you plan to pay money to register- more on this below). For a service business like coaching, this can mean a website marketing your program. It doesn't mean that you actually have sales (but that is more important the weaker your name is). If you are not already, start using the name. Even a wait list page is a good start for a program that is not yet complete.

If you are marketing your services online in English, the world is your oyster. You have a good argument that your use is global, and not local, so no one can use the name, even if they are located in a different place. In the offline world, using your distinctive name to market services only gets you protection where you are located, which means someone in a different locale can use the name. Not so with coaches who take clients from anywhere in the world.

4. Services: How can AppleOne Employment exist alongside the Apple of i-fame? Apple is a strong name so how can another business get away with using the name, too?

Great questions. The answer is that a consumer would not be confused into thinking that Apple Computers is offering temporary employment placements like AppleOne.

If your trademark search turned up a company with a similarly named offering, ask yourself whether a consumer would likely be confused. Computers versus employment? Probably not. Manifest coaching versus mindset coaching? This is much more likely to cause confusion. The point is, don't scrap a name you like for your coaching programs just because a plumber in Iowa is using it (unlikely comparison, I know). Your businesses are too different for it to matter.

That said, companies with "famous" marks get exclusive use of the name even against people who are using it in unrelated industries. If you were thinking of a program for coaches called "7 Habits of Highly Effective Coaches," for example, you are in for legal trouble, I can promise you that.

I have a trademark. Now what?

Having a trademark in the first place (as in, you are the first to use a distinctive name to market your services) is your best protection. Now you have two jobs: make sure everyone else knows about your trademark *and* that you don't let anyone else get away with using it *and* don't forget to renew. Failing to defend even the most distinctive name means you could lose your rights (think Kleenex- it's used today as a generic word).