# TRADEMARK SEARCH

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## A Basic Guide For Merch Sellers

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## OVERVIEW

This guide is to help those who wish to avoid Trademark infringement issues, specifically on the Merch by Amazon platform. I guess I have to state the obvious, it is not legal advice and you really should consult a lawyer, if you decide to do anything I suggest in here and get sued or lose your Merch account, then you really should have read this disclaimer! This is just an outline of what 'I DO' and it has taken me a while to figure things out this far, so I thought it would be nice to share with others. It is an evolving process. Paying for a lawyer with expertise in TM law is obviously the best thing to do, so don't come back hollering at me if my system falls short of the mark!

Even when one is diligent, it is difficult to ensure that one does not inadvertently create a design that infringes a TM. Hopefully, this guide will make it easier for you to check each design before you start creating it.

I'm sure that I don't need to mention that it is best to avoid all of the obvious TMs, like Disney, Movies, TV Shows, Celebrities, Manufacturers, Sports Teams, etc. Don't try and be clever by creating what you think is a 'parody', or using Team Colours when targeting sports fans, or creating a design that obviously references a TV show even though it isn't mentioned. Just because you see hundreds of designs on Amazon, based on a trending celebrity, does not mean it is fine to do the same.

Be creative, come up with original design ideas and then check for any Trademark or Copyright issues before going further.

Unfortunately, there are a number of what I term frivolous TMs applied for and many of these are successfully granted registration, either because nobody who is effected is aware of the application, or because they do not have the considerable sums required to oppose. So, never assume that a common phrase or one you just thought up hasn't been applied for.

There is a whole lot of terminology to understand regarding Trademarks and I do not claim to be an expert by any means. I am sharing this simply to give an insight into what I do when checking.

TM law is very involved and these search strings are really just to show any obvious TMs, trying to keep things simple and relevant to Merch, they do not get into deeper areas - like translations, for example.

The search strings that follow are to check for Trademarks comprised of words, rather than images. I have found the USPTO search to be unreliable sometimes, it may return different results for the same search - it is a somewhat archaic system.

# Trademark Search Procedure

Go to http://tmsearch.uspto.gov/

Select: Word and/or Design Mark Search (Free Form) - do NOT use the other options.

| Select A Search Option |
|---|
| ▶ **Basic Word Mark Search (New User)**<br>This option cannot be used to search design marks. |
| ▶ **Word and/or Design Mark Search (Structured)**<br>This option is used to search word and/or design marks. **NOTE:** You must first use the **Design Search Code Manual** to look up the relevant Design Codes. |
| ▶ **Word and/or Design Mark Search (Free Form)**<br>This option allows you to construct word and/or design searches using Boolean logic and multiple search fields. **NOTE:** You must first use the **Design Search Code Manual** to look up the relevant Design Codes. |

Then select/fill fields as follows:

Records Returned - 500

Plurals - Yes

Search Term - insert appropriate search string from the list below

Submit Query - Click

**View Search History:** [ ▾ ]

**Records Returned:** [ 500 ▾ ] **Plurals:** [ Yes ▾ ]  *Quick Tips*

**Search Term:** [ ** Enter Search string Here ** ]

[ Submit Query ]  [ Clear Query ]

[ Logout ]  *Please logout when you are done to release system resources allocated for you.*

## SEARCH STRINGS

Replace *keyword phrase* in the string with your keyword/phrase - remember a keyword may be a single word or several.

These strings display Live listings, no Dead.

It is important to insert these strings exactly as typed below

You could exclude *AND  shirts[GS]* from your search, if you wish to get all clothing, even if 'shirt' isn't specified, this may be safest.

Do NOT include the apostrophe for contractions. For example, search for the word DON'T by searching "DON T"

#1 This is *my* default search string for nearly every search. It finds exact match keyword phrases in the clothing category that have 'shirt' specified. It includes applications which have not (yet) been granted a TM Registration.

**(live)[LD]  AND *"keyword phrase*"[BI]  AND  025[CC]  AND shirts[GS]**

#2 This is the same as #1, but only shows those which have actually been granted a TM Registration.

**(live)[LD]  AND *"keyword phrase*"[BI]  AND  025[CC]  AND shirts[GS]  AND  `RN > "0"**

#3 This shows only exact match results that have been granted a TM. It can be useful when there are too many results to scan quickly, but be aware that it won't show you anything other than the exact same keyword-phrase.

**(live)[LD]   AND   keyword-phrase[FM] AND 025[CC]   AND shirts[GS]  AND `RN > "0"**

## SEARCH STRING EXAMPLES

To help get familiar with this, check these searches, or try some of your own where you already know the results.

**Example A**
*What's Your Superpower*

Using string #1
**(live)[LD]  AND  *"what s your superpower"*[BI]  AND  025[CC] AND  shirts[GS]**
2 results, Serial Numbers 87286470 and 85331375, but only 1 is Live.

Using string #2
**(live)[LD]  AND  *"what s your superpower"*[BI]  AND  025[CC] AND  shirts[GS]  AND  `RN > "0"**
1 result, for a Registered Trademark, Number 4169154

**Example B**
*World's Okayest*

Using string #1
**(live)[LD]  AND  *"world s okayest"*[BI]  AND  025[CC]  AND shirts[GS]**
1 result, for a Registered Trademark, Number 5076010

**Example C**
*Trust Me*

Using string #1
**(live)[LD] AND "*trust me*"[BI] AND 025[CC] AND shirts[GS]**
9 results, some just applications, some actual registrations.

Using string #2
**(live)[LD] AND "*trust me*"[BI] AND 025[CC] AND shirts[GS] AND `RN > "0"**
6 results, this includes TMs like "Trust Me I'm A Professional". There are 2 results for the basic phrase "Trust Me", one is for a Design with the words, the other is a 'Standard Character Mark' which means it applies to the use of the phrase in any font.

Using string #3
**(live)[LD] AND trust-me[FM] AND 025[CC] AND shirts[GS] AND `RN > "0"**
2 results for exact match TM registrations "Trust Me"




**Example D**
*Aged To Perfection*

Using string #1
**(live)[LD] AND "*aged to perfection*"[BI] AND 025[CC] AND shirts[GS]**
2 results, only 1 has been granted registration

## Example E

*Awesome*

This is to give an example of how powerful these search strings can be. If we do a 'Basic Search' for 'Awesome' it returns 1,209 results.

| Start | List At: | OR | Jump | to record: | 1209 **Records(s) found** |
|---|---|---|---|---|---|

Refine Search (awesome)[COMB]   Submit

Current Search: **(awesome)[COMB]** docs: 1209 occ: 2798

If we use Search String #2, it returns just 62 results.

**(live)[LD] AND *"awesome"*[BI] AND 025[CC] AND shirts[GS] AND `RN > "0"**

| Start | List At: | OR | Jump | to record: | 62 **Records(s) found** |
|---|---|---|---|---|---|

Refine Search (live)[LD] AND "awesome"[BI] AND 025[CC] AND   Submit

Current Search: **(live)[LD] AND "awesome"[BI] AND 025[CC] AND shirts[GS] AND `RN > "0"** doc

If we wanted to find exact match registered TMs and used Search String #3, it returns no results because there are no TMs for the exact phrase

**(live)[LD] AND awesome[FM] AND 025[CC] AND shirts[GS] AND `RN > "0"**

TRADEMARK

**No TESS records were found to match the criteria of your query.**

# MEANINGS OF THE TRADEMARK FIELD CODES

These codes and general explanations are taken from the USPTO website.

## Basic Index [BI]

The search **\*DOG\*[BI]** will retrieve marks that have the word segment DOG anywhere in the word mark (or pseudo mark). The asterisk symbol * acts to allow other words before/after the word 'dog'.

This search code can bring far too many results, for example, words like HotDog, DogHouse, etc. *Note: We probably aren't interested in the pseudo mark, it denotes an alternate spelling or intentionally misspelled version of a word.*

## Coordinated Class [CC]

025 is for Clothing  (related classes will also be shown - 014, 018, 024, 035, 042, A, B, 200)

You could just use the International Class [IC], but I feel it safer to use [CC] as this will show related classes

## Filing Date [FD]

This is the date when the USPTO received all necessary information for an application - I think! This will be useful when we wish to check to see if there has been a TM application since our last check. The date format is YYYYMMDD.

The search `**FD > "20161201"** will retrieve filing marks since 1st December 2016  .

## Full Mark [FM]

This field provides for exact match searches. A search for the mark GOOD AS GOLD should be submitted as **GOOD-AS-GOLD[FM]**

## International Class [IC]

This specifies the Class Number, I prefer to use [CC] instead, see above.

## Live/Dead [LD]

I focus only on Live records, those which are Dead are no longer being considered or registered with USPTO. Understand that 'Live' does NOT mean a TM has been granted registration, it just means that it is an active listing on USPTO, it may well end up being rejected or abandoned. This code **[LD]** brings up only Live records.

## Mark Index [MI]

Similar to [BI] above, but does not include the pseudo mark.

## Physical Filing Date [PF]

Use this to check on any changes to TMs since last checked

## Published for Opposition [PO]

This shows when a TM has been approved by the examiner and is now published, so that it may be opposed by anyone who considers they have a reason. It is possible to get extensions of time to the initial 30 days to file opposition, but ultimately it will cost $300+ to oppose.

## Registration Date [RD]

Self explanatory, shows the date of registration.

## Register [RG]

Shows if a TM is on the Principal or Supplemental Register. In a nutshell, the Principal Register is where most TMs appear, the Supplemental Register is where less distinctive marks appear and they may transfer after 5 years of use. For our purposes, we have to consider either as being equally valid.

## Registration Number [RN]

The search `RN > "0"` will retrieve all registered marks. Very useful if Merch informs us that they only consider registered TMs, but until then I assume that anything 'Live' is considered a TM.

## Boolean Search Operators

These can be used when searching to specify what results are found. There is only 1 that I use, although there are several more.

AND - Records retrieved will contain each of the search terms specified.

## USPTO Links

US Patent and Trademark Office Website Trademark Page
https://www.uspto.gov/trademark

PDF Download of Basic TM Facts
https://www.uspto.gov/sites/default/files/documents/BasicFacts.pdf

TESS Search Page
http://tmsearch.uspto.gov/

TESS Search Help - includes Class Lists
http://trademarkesearch.com/tesssearchhelp.html

The Nice (as in City) Class List - not a TESS site, but it is where TESS gets the classes from
http://web2.wipo.int/classifications/nice/nicepub/en/fr/edition-20160101/classheadings/

## USEFUL MERCH LINKS

The Official Amazon Merch Forum
https://forums.developer.amazon.com/spaces/80/index.html

Merch FAQ - Read this about 'Intellectual Property'
https://merch.amazon.com/resource/201846470#intellectualproperty

The largest Merch group on Facebook, currently 37,000+
members, started by Chris Green the 'Merch Man'
https://www.facebook.com/groups/MerchLife/

Not everyone is allowed in! But, has over 1,000+ 'select'
members now (I only say that, because I'm one!)
https://www.facebook.com/groups/MerchSuccess/

More specialist Merch group, currently close to 3,000 members,
started by Daniel Caudill (a 1,000 sales/wk guy)  and Dave
Espino
https://www.facebook.com/groups/MerchByAmazonSuccess/

Over 3,000 members, run by John E Adams who actively
contributes
https://www.facebook.com/groups/MerchCommunity/

Stop Trademark Trolls - small group, but worth joining the battle
against frivolous Trademark applications
https://www.facebook.com/groups/349309345269028/

Merch Reports - this is a great little bit of software for analysing
your Merch data, just $14.97, wish I'd had this a year ago (not an
affiliate link, just happy to recommend something useful).
https://gumroad.com/l/merchreports

Merch Informer - the must have tool for many Merchers, 3 day
free trial, run by the ever helpful Neil Lassen, check it out if only
to read the blog https://merchinformer.com

Merch Tools - a Chrome extension by Hamza Mallat that many solid Merchers use and it's free!
https://chrome.google.com/webstore/detail/merchtools/cmhaijgncfpbbhfnieobpbadekcpjpol

TShirt Tutorials, my page where I will occasionally share something like this, when I have a moment to spare!
https://www.facebook.com/TShirtTutorials/

TShirt Tutorials YouTube Channel
https://www.youtube.com/channel/UCJQKTSEjcDO4X3vbUwhf-uQ

There are many more Merch groups on Facebook, just search for **merch amazon** in groups. But, after you understand the essentials of Merch, don't end up spending all your time in groups, just get on with creating your business. There are also more useful tools and information sources, but this was meant to be a brief one page document and if I continue it will never get finished!

Thank you for reading this PDF, I hope it is helpful to you. If you have any suggestions for a revised edition then please let me know.

I suggest keeping an eye out for any updates to this guide, as there are sure to be improvements to the information. The easiest way is probably to like or set up notifications for the TShirt Tutorials Facebook page - I'm not trying to get likes and rarely post there unless it is to answer a question or notify about a new video or something.

Merch is an incredible opportunity, don't waste it by doing something silly just to make a few $$$ now, so check for those potential TMs.

Please share with anyone you think may be interested . . . remember to stay 'clean' by checking TM and Copyright and have fun building a future on Merch, or whichever platform you choose, I wish you great fortune.

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