

Differences Between “Trade Name” and “Trademark”

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“Trade Name” is also called a “Fictitious Business Name (FBN)” or “Doing Business As (DBA)”

A "trade name" is a name an owner uses to identify his/her business while a "trademark" is used to identify a good or service a business provides. Another distinct difference is that "trade names" are not registered at the state or federal level, but are registered with local government, primarily in the county in which a business operates. If a trade name meets the criteria of a trademark or service mark, however, it also might be eligible for registration as such.

If your business's name is in any way different from the name shown to the public, then the local authorities (city or county) require you to register your FBN so that the public knows the name of the company managing the business.

For example, if ACME Corporation opens a store called, “Larry’s Store”, then the ACME Corporation files a fictitious business name statement indicating to the public that “Larry’s Store” is owned by the ACME Corporation. In another example, if Joe Brown owns a business called, “Speedy Printers,” then Joe Brown (individual) files an FBN statement with the county showing that “Speedy Printers” is owned by the individual Joe Brown. The local authorities do not allow a company to maintain a lawsuit if the company has not filed an FBN statement if one is needed. The FBN statement is just a statement, it does not provide any trademark rights, but just complies with the state statute for “fictitious names.”

Trademark

The trademark is something that identifies the source of products and services. It may be one or more words, artwork, a sound, or practically anything that differentiates a product or service from other companies. For example, the well-known Nike swoosh trademark, or the McDonald’s golden arches. The FBN may be registered as a trademark with the Trademark Office, to stop other companies from using the same name. However, the county FBN statement does not provide any enforceable rights to stop others from using the same name. If one company wants to sue another company over a trademark, getting an award of money damages is more likely if the trademark is registered with the Trademark Office. Filing a FBN provides no trademark rights.

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