



Trademarking your Farm or Ranch: Is It Required or Necessary?

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When establishing a farm or ranch business, many people wonder how to protect their business trademark, whether it be a name, logo, or your brand for marketing purposes. A brand and/or logo is important for any business since it will be how people recognize and remember you and your products.

Following is an example of a fictitious logo, ranch name and phrase. We want to trademark this so it can be used exclusively by the Cow Ranch team. From this logo, you can see that the ranch is selling cows and they would like their consumers to know those cows are “the best”.



First Things First

What is the difference between a farm or ranch marketing “brand” and a livestock marking or “brand”? A farm or ranch brand, in terms of marketing, is the concept you are using to define your business or product. Examples of this include pictures, logos, symbols, and designs. A livestock mark, also called a brand, is an assigned physical mark (e.g., freeze or hot brand) placed upon your livestock that designates you own that animal. More information on livestock markings and brandings can be found by contacting the Arizona Department of Agriculture (<https://agriculture.az.gov/animals/livestock-brands>).

In the Cow Ranch example, the picture and the logo are the brands the ranch would like to use to sell its beef products. This becomes the ranch’s marketing brand, and

should be used on product packaging, marketing materials and social media to build consumer recognition.

What Is A Trademark

The United States Patent and Trademark Office (USPTO) defines a trademark as “any word, phrase, symbol, design, or combination of these things that identifies your goods or services”. To further complicate it, trademarks can be broken down into a true trademark which is for goods, and a service mark, which is used for services.

Examples of familiar trademarks include



Should I Develop and Use a Trademark?

Use of a trademark is a choice based upon your business goals, and that decision should be part of your farm or ranch business plan, as well as any marketing plans. It requires research and advance planning to ensure you are not using or copying any part of another business’s logos, brands, or service marks. Once the research is completed and your logo and/or brand is not in infringement of anyone else’s, it is then usable for your products.

The protection for the (™) trademark ownership is only good for your geographic area and cannot be taken from anyone else’s trademark. Also, trademark ownership has very limited legal protections if someone were to take your trademark and start using it. If you want full legal protections for your trademark, you must register it with USPTO. Once you register your trademark, then you have full rights to it, and it cannot be used by anyone else nationwide.

As the owner of the trademark, it is your responsibility to make sure that no one else is infringing upon your brand. If you find someone is copying or using it, then you can pursue legal actions to stop them, and potentially regain profits gained by the other company using your brand.

In the pictures below, the differences are shown between the trademark ownership symbol and the registered trademark symbol.



The first image has limited regional and legal protections. The second image would be nationally protected and have better legal protections.

The Cost

In 2022, the registration fee starts at \$250 per mark with additional fees and increases by the amount of goods or services you want to register. For example, if you want to trademark just your logo, it will be \$250 plus fees depending on your specific trademark and how you file. If you want to trademark your logo, and separate logos for a couple of your products, the cost increases per each additional item that you register.

The cost might be high, but the trademark is good forever only if you provide documentation that you are using it on a routine basis. Therefore, if you plan on selling a product or keeping your ranch around for a long time, the cost may be justifiable. If you are just starting out farming or ranching, it might make more financial sense to take your time building your business before fully registering your trademarks.

Attorneys And Timelines

It is not required to use a trademark attorney if you are in the United States. The USPTO provides step-by-step instructions on the process. An attorney can help you navigate the system easier but at additional cost to you.

If your business is international, then an attorney is required. Before retaining an attorney, make sure they have passed the bar, are registered in the state, and are well versed in trademark law and have experience with the process and the legal challenges.

Always get references when finding an attorney to make sure they are a good fit for you and your farm or ranch.

Based on the USPTO website, as of July 2022, the current timeline for a new application being submitted to the point where the trademark is officially registered is over 7 months. That is if all paperwork is filled out accurately, the search is done to make sure the trademark is available, and there are no issues with how your marks are designed.

What Is Infringement?

Infringement is the use of another person or business's trademark or mark without consent (Cornell Law). The trademark can be registered or unregistered. There is a very fine line between using someone else's trademark outright because you like its design and having a similar but unrelated logo or symbol. The burden of proof of trademark misuse to the courts of law will be on the person or business accusing the other of trademark infringement.

Infringement requires three main parts to be proven:

1. Use – the trademark must be in use by the owner at the time
2. In commerce – the trademark in question is being used in “interstate commerce” activities, for example, in Arizona and New Mexico, or Arizona and California by crossing state lines.
3. Likelihood of confusion – the trademark looks similar enough to the other trademark that the average consumer could confuse the two marks.

Other Considerations

1. You should not be able to register a word or phrase to keep other people from using it. For example, you likely will not be allowed to register the word “farm” or “ranch” by itself. If that was allowed, no one else could use those words in their trademarks. However, you can register “The Purple Farm” or “Roy’s Ranch” since you are claiming ownership of those business names, not the words themselves.
2. Applications to register a trademark or service mark are only available online. If you are not comfortable with technology, hiring a trademark attorney will be beneficial.
3. The searches to determine if a registered trademark (®) is in use can be difficult and may require multiple queries and searches. This is done online with a

searchable database on the USPTO website for the United States.

4. Determining if a non-registered trademark (™) is in use in your geographical area may be time consuming. Reaching out to the State of Arizona Secretary of State may be helpful.
5. Trademarks and Trade names can also be registered with the State of Arizona. (<https://azsos.gov/business/trade-names-trademarks>). This provides additional protections and establishes the use of that trademark for business purposes.

Final Thoughts

There are pros and cons, and a trademark may not be needed by every business.

Pros:

- Provides marketing brand recognition for your farm or ranch
- Provides a personalized logo for your business to build a marketing and business plan around
- Can help consumers quickly identify the farm or ranch, and the product(s) produced

Cons:

- Can be expensive for smaller or new operations
- Requires significant research to ensure infringement does not occur
- Application process can be difficult and long

Deciding whether you want to trademark your farm or ranch is a personal preference and business decision that should be made with care toward the benefits it will have for you, both now and in the future. Consider it carefully in your marketing plan and/or business plan before committing long term, as it will become a symbol of your farm or ranch to consumers. Use a licensed attorney if possible, or needed to help you navigate the process, and ensure you are not infringing upon anyone else's trademark.

References And Other Resources

American Bar Association (Find legal help for trademark law)
https://www.americanbar.org/groups/legal_services/flh-home/

Arizona Department of Agriculture Livestock Brand information: <https://agriculture.az.gov/animals/livestock-brands>

Cornell Law School Legal Information Institute: https://www.law.cornell.edu/wex/trademark_infringement

State of Arizona Trade Names and Trademarks: <https://azsos.gov/business/trade-names-trademarks>

United States Patent and Trademark Office (USPTO) <https://www.uspto.gov/trademarks>



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