

The Creative Shield: The Artist's Guide to Copyrights, Trademarks & Brand Monetization

Checklist: Strong vs. Weak Trademarks

1. Strong Trademarks (Highly Protectable & Enforceable)

Fanciful Marks (Completely made-up words with no prior meaning)

- Examples: Kodak (film), Xerox (copiers), Exxon (oil)

Arbitrary Marks (Existing words used in an unrelated context)

- Examples: Apple (computers), Camel (cigarettes), Shell (gasoline)

Suggestive Marks (Hint at a characteristic of the product without being too obvious)

- Examples: Netflix (internet + flicks), Jaguar (fast car), Coppertone (sunscreen)

2. Medium Strength Trademarks (Can be Protected, but May Require Additional Proof)

⚠ **Descriptive Marks** (Describe a function, quality, or feature of the product)

- Examples: Sharp (TVs), Holiday Inn (Hotels), American Airlines (Airline)
- *Note:* May be protectable if they acquire "secondary meaning" (consumers associate the name with a specific brand).

3. Weak Trademarks (Difficult or Impossible to Protect)

✗ **Generic Marks** (Common names for a type of product or service)

- Examples: Coffee Shop (coffee retailer), Computer Store (computer sales), Law Firm (legal services)
- *Note:* Generic names cannot be trademarked because they refer to the general category of the product.
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✗ **Overly Descriptive Terms** (Directly state what the product/service does)

- Examples: Cold & Creamy (ice cream), Fast Cars (racing service), Fresh Bread (bakery)
- *Note:* Difficult to register unless the secondary meaning is proven.

Quick Test: Is Your Trademark Strong?

- Is the mark unique and distinctive?
- Does it avoid describing the actual product/service directly?
- Would consumers immediately associate it with your brand?
- Is it not already commonly used in your industry?

If you answered YES to all, your trademark is likely strong. If not, consider adjusting your brand name for stronger protection.

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