

Quirky Questions: Using the Registration symbol (®), the Trademark symbol (™) or Neither?

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by Adam Sapper

Quirky Questions

TMCA EDITION

Maybe you've applied to register a trademark. Maybe you already own a registered trademark. Maybe you're using your mark but haven't yet applied to register it. Maybe you don't even know what a trademark is and how it differs from a copyright. Either way, you're wondering: when can I use the ® symbol, and when should I use the ™ symbol instead?

Background: The ® symbol vs. the TM Symbol

At its simplest, the ® symbol gives notice to others that a mark is registered with the U.S. Patent & Trademark Office (USPTO). You can begin using the ® symbol only after the USPTO issues a registration certificate for your mark. The ™ symbol, on the other hand, is an unofficial way of telling the world that you are using a word or design as a trademark. Remember, trademark rights stem from use, not registration, so using the ™ symbol even when a mark is not registered can be useful for putting others on notice that you are claiming enforceable trademark rights in a mark. Thus, any time a mark is used in a trademark sense to designate source—regardless of whether you've applied to register the mark—you can use the ™ symbol (tip: the ™ symbol should be used when designating a mark for products; the equivalent SM, which stands for "service mark," can be used when designating a mark for services, although the public tends to be less

