

HOW TO TRADEMARK A T-SHIRT BRAND

A practical U.S. guide — prepared for the BITCH ASS EARS collection (asking for a friend)

NOT LEGAL ADVICE — this is general information. For an actual filing, a trademark attorney (typically \$1,000–2,000 including USPTO fees) is worth it, especially for responding to office actions.

1 TRADEMARK VS. COPYRIGHT — KNOW WHICH ONE YOU NEED

They protect different things, and a shirt brand usually wants **both**:

	TRADEMARK	COPYRIGHT
Protects	The brand name / logo as a <i>source identifier</i> — “BITCH ASS EARS” as a clothing label	The artwork itself — each of the 60 designs as creative works
Where	USPTO — uspto.gov	U.S. Copyright Office — copyright.gov
Cost	\$350 per class, DIY	~\$45–65 per registration (group filings possible for related works)
Time	12–18 months	A few months; protection exists automatically at creation
Stops	Others selling clothing under a confusingly similar name	Others copying the actual designs

Copyright already exists in the designs automatically — but **registering** it is what unlocks the right to sue and statutory damages. It’s the cheap, fast move to make first.

2 RUN A CLEARANCE SEARCH BEFORE SPENDING ANYTHING

- Search the USPTO database: tmsearch.uspto.gov — try “bitch ass ears,” “BAE,” and close variants in **Class 25 (clothing)**.
- “BAE” alone is likely crowded; the full phrase probably is not.
- Google it too — unregistered (“common-law”) users with earlier use can still block or sue you.

3 THE VULGARITY IS NOT A PROBLEM ANYMORE

The USPTO used to refuse “immoral or scandalous” marks. The Supreme Court struck that down in *Iancu v. Brunetti* (2019 — the “FUCTION” case). Profane marks are now registrable on the same terms as anything else.

4 THE BIG TRAP FOR SHIRT BRANDS: THE “ORNAMENTAL” REFUSAL

THIS IS THE #1 REASON APPAREL APPLICATIONS GET REFUSED

A slogan printed huge across the chest is treated as *decoration*, not a trademark. The USPTO wants to see the mark used the way a brand is used.

The play:

- Register “**BITCH ASS EARS**” as a **standard character mark** (covers the words in any font/style).
- Put the name on **neck labels, hang tags, packaging, and the store name** — that’s what you submit as your specimen of use.
- Don’t rely on the front-of-shirt artwork as proof of trademark use.

5 FILING: WHERE, WHAT, AND HOW MUCH

- File online at the USPTO **Trademark Center**. Base fee: **\$350 per class**.
- **Class 25** = clothing. Add **Class 35** (retail/online store) if running a shop under the name.
- Filing basis:
 - **Use in commerce §1(a)** — already selling across state lines; submit a specimen now.
 - **Intent to use §1(b)** — not selling yet; locks in your priority date, then you file a Statement of Use later (+\$150/class).
- Typical DIY total: **\$350–550**. With an attorney: add ~\$1,000–2,000.

6 TIMELINE & SYMBOLS

- **™** — use immediately, no filing required. Signals a claim.
- Examination: first examiner review ~8 months after filing. Office actions get ~3 months to respond.
- Publication for opposition: 30 days for anyone to object.
- **®** — only after registration issues, roughly **12–18 months** total.
- Registration lasts forever if renewed (maintenance filing between years 5–6, then every 10 years).

RECOMMENDED ORDER OF OPERATIONS

- Register **copyright** on the design collection now — cheap, fast, protects the art itself.
- Run the **clearance search** (USPTO + Google) on the name.
- Start selling with **™**, with the name on neck labels / hang tags / the shop.
- File the **USPTO application** (Class 25; use-in-commerce if already selling, intent-to-use if not).
- Calendar the deadlines — office-action responses and the year 5–6 maintenance filing are use-it-or-lose-it.