

Lanham Act § 45 (15 U.S.C. § 1127)

The term “**trademark**” includes any word, name, symbol, or device, or any combination thereof—

(1) used by a person, or

(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this chapter,

to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.

The term “**service mark**” means any word, name, symbol, or device, or any combination thereof—

(1) used by a person, or

(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this chapter,

to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown.

Restatement (3d) Unfair Competition § 9

A trademark is a word, name, symbol, device, or other designation . . . that is distinctive of a person’s goods or services and that is used in a manner that identifies those goods or services and distinguishes them from the goods or services of others. . . .