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How Cannabis Companies Can Protect Their Trademarks



Amid the rapid growth of the cannabis industry, trademarks remain a thorny issue for cannabis companies. As the companies continue to grow, many are confronting two related needs: protecting their own brands through trademark, and avoiding becoming a target of potential trademark infringement claims.

## **Federal Trademark Registrations for Cannabis**

The U.S. Patent and Trademark Office (USPTO) oversees registration of federally recognized trademarks. It issued guidance in 2019 that stressed that the use of a trademark must be "lawful" under federal law. Under that guidance, the USPTO found that marks for marijuana violate federal law, and therefore, cannot be federally registered

By contrast, the USPTO determined that marks for hemp-derived CBD products containing no more than 0.3% tetrahydrocannabinol (THC)—the substance most associated with a cannabis "high"—are lawful under the 2018 Farm Bill.

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