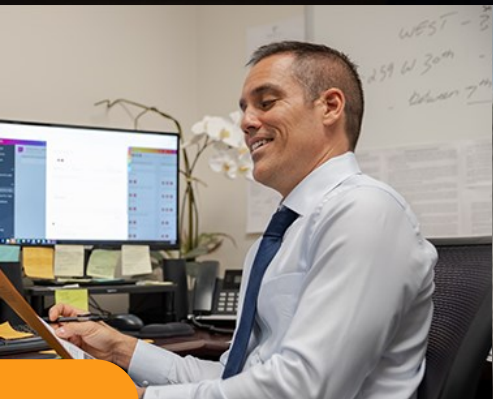




THE
PLUS IP FIRM
Patents.Trademarks.Copyrights.



THE PLUS FACTOR
+ TRADEMARKS

WHAT'S NEXT?



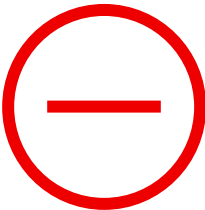
RECEIVE ENGAGEMENT LETTER AND
PAYMENT INSTRUCTIONS



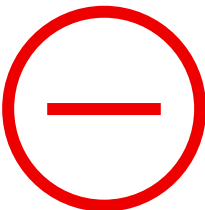
SIGN ENGAGEMENT LETTER



RENDER PAYMENT



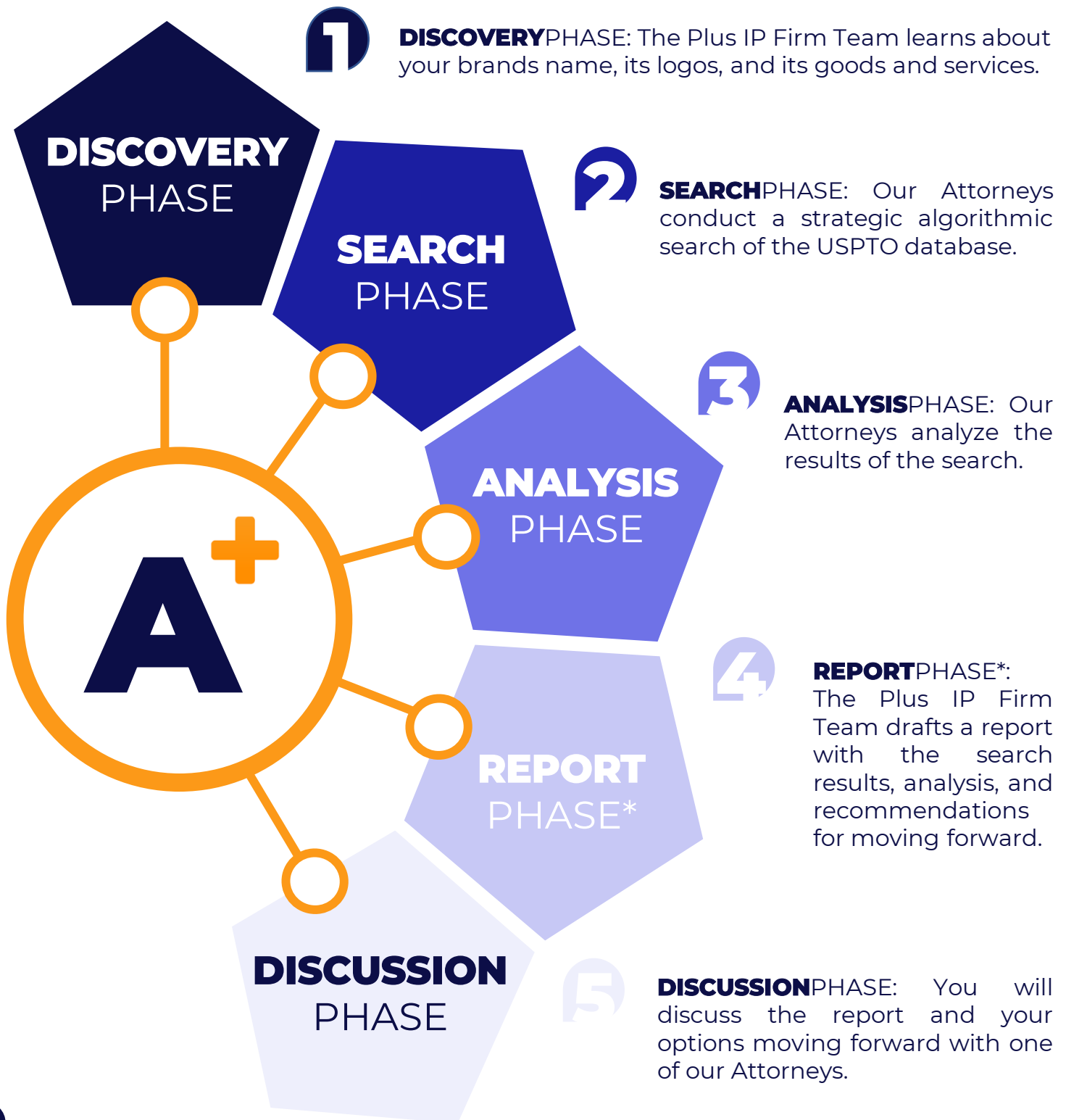
COMPLETE TRADEMARK
QUESTIONNAIRE



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TRADEMARK CLEARANCE SEARCH

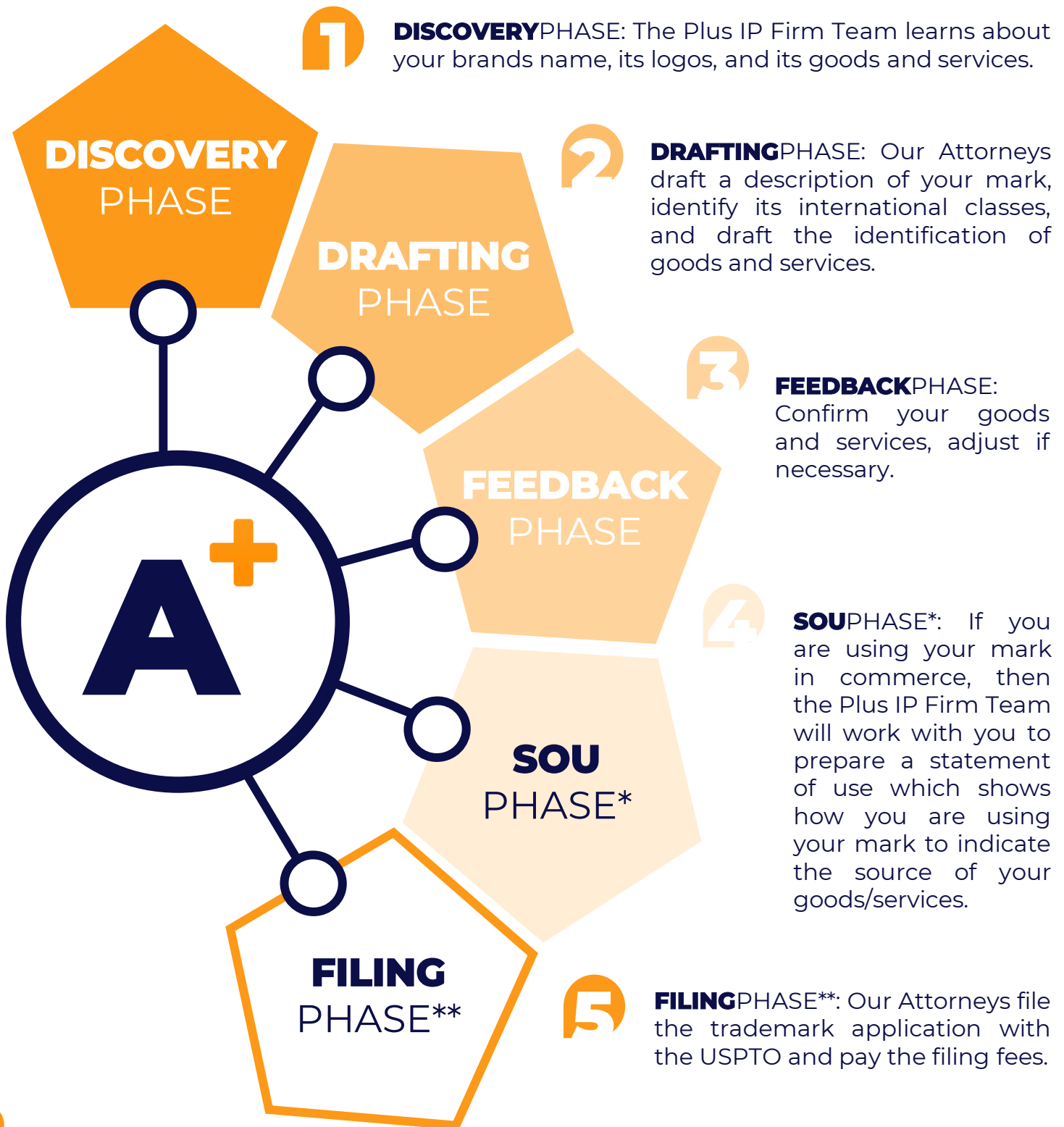


**Note: Expect to receive the report in approximately 3 – 5 business days*



THE PLUS FACTOR™

UNITED STATES TRADEMARK APPLICATION



**If necessary*

***Expect to receive filing confirmation within 1 – 2 weeks*



THE PLUS FACTOR™

U.S. TRADEMARK APPLICATION POST FILING TIMELINE

1

PENDENCY PHASE: This is the waiting period. The average application waits between 6 – 8 months before getting examined.

**PENDENCY
PHASE**

2

**EXAMINATION
PHASE**

EXAMINATION PHASE: After your application is assigned to an examiner, the examining attorney will review your application and most likely issue an office action (70% of applications receive at least one office action) within 1 – 2+ months.

3

RESPONSE PHASE*: Our Attorneys will analyze the office action, discuss it with you, and draft and file a response within 1 – 3+ months.

**RESPONSE
PHASE***

4

NOA PHASE: If the response overcomes the office action, then examiner will issue a notice of allowance in 1 – 2 months. *If applicable, must file statement of use within 36 months.*

**NOA
PHASE**

5

PUBLICATION PHASE: The USPTO will publish your trademark for opposition (rarely occurs) for a 30-day period.

**PUBLICATION
PHASE**

6

TRADEMARK REGISTERS: If registerable, your trademark should register in 7 – 9+ months from filing

**TRADEMARK
REGISTERS**

**You may receive additional office actions that require additional responses*

uspto



TRADEMARKFAQS

1. What is a trademark?

A trademark or service mark is any “thing” used to identify and distinguish goods or services of one seller from another. That “thing” may include a word, logo, slogan, symbol, package or design. A registered trademark or service mark can give a business owner exclusive rights to use a trademark or service mark. A trademark or service mark also provides a consumer with the means to make judgments of services before sampling them. For example, when a consumer enters into a McDonald’s restaurant, that consumer knows the type and quality of food generally associated with that trademark. Another example is that when a consumer sees a Rolex name and logo on a watch, that consumer has a commercial impression associated with that Rolex watch. What type of commercial impression does your business or product name have? How much is it worth to protect the value of your business or product name? How many thousands of dollars has your business spent in developing your business or product name?

Now that you have those answers in your mind, just imagine if someone was tarnishing your business or product’s reputation or was benefiting from the time and money you spent in developing your business or product name. A business or product name can be a business’s most significant asset and it deserves to be protected.

2. Do I have to register a trademark to have trademark rights?

A trademark owner does not have to register a trademark in order to have rights to a trademark. In the United States, a trademark owner can have certain trademark rights under “common law”, which is law that is derived from judicial precedent rather than statutes. However, registering a trademark with the United States Trademark Office does have several significant advantages.

3. Why should I register a trademark?

Registering a trademark with the United States Trademark Office has several significant advantages. One of the significant advantages is that registering a trademark provides the owner of the mark with nationwide priority. In other words, if a trademark or service mark is registered, then the owner may prevent another business from selling a similar good or service using a same or similar trademark or service mark anywhere in the United States.

Another significant advantage is that a registered trademark may become incontestable after five years of continuous use. If incontestable status is obtained, then a business may greatly reduce the legal costs and issues if the trademark is ever litigated.



TRADEMARKFAQS

3. Why should I register a trademark? (CONTINUED)

Another significant advantage is with that a registered trademark attorneys fees and costs and triple damages may be awarded during litigation if a trademark owner can prove that infringement was willful.

Another significant advantage is that a federally registered trademark provides notice of when a trademark was registered. This can be important in determining who owns the rights to a trademark. Under the trademark law, the first person who registers a mark has superior rights.

4. Do I have to be using a trademark to begin the registration process?

You do not have to be using a trademark in order to begin the registration process. In order to begin the registration process, a person or business only has to have a bona fide intent to use a mark. Many savvy business owners begin the registration process as soon as they know they will use a mark to sell goods or services. This is because they want to protect a mark before spending money to develop the brand.

5. What is a trademark search?

A trademark search is a search to determine whether a trademark or service mark either infringes the rights of a prior user or to determine if a trademark or service mark can be registered with the United States Trademark Office. A trademark search is not legally necessary; however, it is highly recommended that one be conducted before applying for registration of the mark or beginning to use a mark to sell goods and services.

During the trademark registration process, the results of a trademark search of the United States Patent and Trademark Office's databases are required to determine if a particular trademark creates a "likelihood of confusion" with another trademark.

If a particular trademark creates a "likelihood of confusion" with another trademark in the United States Patent and Trademark Office's database, then an examining attorney who examines a trademark or service mark application will not allow a trademark to be registered. The attorneys at The Plus IP Firm are available to assist you if you have any questions regarding the "likelihood of confusion" analysis or need a trademark search conducted. If you have any questions, please give us a call.





TRADEMARKFAQS

6. Can I conduct a trademark search on my own?

Websites do exist that allow beginners to conduct a trademark search on their own. However, businesses and individuals should be cautious when using and relying upon such “do-it-yourself” websites. This is because many of those websites are not configured to provide all the marks in the United States Patent and Trademark Office’s database that are substantially similar or that create a “likelihood of confusion”. Additionally, many of those “do-it-yourself” websites do not provide adequate training in order to properly find all the marks that create a “likelihood of confusion”. Finally, the “likelihood of confusion” is a legal analysis based upon United States case law that should be performed by an experienced trademark attorney.

7. What type of trademark application should I file?

Typically, trademark prosecution begins with filing a trademark or service mark application with the United States Patent and Trademark Office. There are two main types of trademark applications.

The first main type of trademark application is known as a use-based application. In order to correctly file a use-based application a trademark or service mark must be “used in commerce” before the filing date of the application. The term “used in commerce” is a legal definition that is defined in the Trademark Act and the case law derived therefrom.

The second type of trademark application is known as an intent-to-use application. Unlike the use-based application, a trademark or service mark does not have to be “used in commerce” in order to file the application. However, eventually an intent-to-use application will need to be converted to a use-based application within a certain period-of-time before the United States Patent and Trademark Office will allow a trademark to be registered and afforded the rights and privileges of a registered trademark.

Businesses should be careful when selecting which type of application to file. The Trademark Office does not verify an application’s accuracy for when a trademark or service mark was first “used in commerce”. As a result, before filing an application an analysis of when a mark was first “use in commerce” is required. It is very important to accurately determine the first “used in commerce” date. Failure to accurately state the first “used in commerce” date on an application may result in the cancellation of a trademark in litigation when the stakes are at their highest.

