

TRADEMARK REGISTRATION - PROTECTING YOUR BRAND

HOW DOES IT BENEFIT YOUR BUSINESS?

- Exclusive statutory rights in your brand and control over its use
- Adds an asset to your balance sheet - a registered trademark is more valuable, easier to sell and more attractive to licensees
- Gives you Australia-wide protection
- Provides a spring board to world-wide protection through various international treaties
- Your ownership is forever - initial registration period lasts for 10 years and can be renewed indefinitely as long as it is used in the same form as the registration (eg Trademark Registration No. 1 on the Australian Register of Trademarks is still registered, 110 years later)
- A significant deterrence factor for potential infringers - prevents problems before they occur:
 - before a competitor chooses a name very similar or identical to your own
 - when a competitor comes to apply for registration, they will be blocked or possibly deterred from even applying
- Enforcement of your brand ownership rights is cheaper and faster against infringers, whether they are competitors, ex-employees or counterfeiters (often a simple 'cease and desist' letter will be effective when a registered trademark is owned)
- Third parties will cooperate to protect the brand of registered trademark owners (eg Australian Customs will attempt to prevent importation of goods that infringe your brand name - Google and Facebook will be more willing to assist you in removing infringing content)
- Substantially reduces the risk of infringing another's trademark through using your name

WHAT IS THE RISK IF YOU DON'T REGISTER?

- Business name or company name registration does not give ownership or protection (a common misconception)
- Conducting business without knowing your brand belongs to another business and therefore isn't protected
- Difficult or impossible to enforce your rights against third party infringers, and considerably more expensive
- Brand dilution in the marketplace as you do not have monopoly over key elements of your branding
- Third parties with registered rights or superior unregistered rights can force an unregistered user to stop using a brand - best outcome is that goodwill in the brand is lost and rebranding costs incurred, worst case you could be liable for damages and legal costs
- Recovering a domain name from a cybersquatter is virtually impossible

WHAT IS THE PROCESS, AND HOW MUCH DOES IT COST?

- Choose a name and/or logo distinctive of your brand - avoid geographical references or indicators of quality or the nature of the business (eg "Australia's Best Fish and Chips")
- Check the Register of Trademarks and a general internet search ensure you are clear around any obstacles to ownership
- List the products or services that you will offer under the brand, both now and in the next 3-5 years - this will form the basis of the specifications for your application and determine the number of classes in your application
- IP Australia will be able to indicate whether your trademark is successful within 4 months, and in straightforward applications the process can be completed through to registration in 7 to 8 months
- IP Australia charges \$400 per class of goods/services at the time of application, with nothing more payable for a decade
- Legal fees for preparing and filing the application are typically around \$1,000 per mark, and the total cost of fees to complete the process is usually around \$1,500-\$2,000 depending on the number of classes in your application

■ WORKPLACE ■ LITIGATION + DISPUTE RESOLUTION ■ COMMERCIAL + PROPERTY ■ CONSTRUCTION ■
■ INTELLECTUAL PROPERTY ■ WILLS, ESTATES, PLANNING + STRUCTURING ■

TOOWOOMBA (HEAD OFFICE) | BRISBANE | SUNSHINE COAST

POSTAL: PO Box 8208, Toowoomba South Qld 4350

CG Law (Trading) Pty Ltd ACN 143 426 028

t/a Clifford Gouldson Lawyers ABN 89 143 426 028

Liability limited by a scheme approved under professional standards legislation

P +61 7 4688 2188

F +61 7 4688 2199

mail@cglaw.com.au

www.cglaw.com.au