Trade mark information sheet

This information sheet is designed to provide you with a snapshot of the process for applying for registration of a trade mark in Australia. If you decide to proceed with your application, we will also provide you with a separate detailed estimate of our fees.

1. Things to consider before applying

1.1 Who can apply?

The applicant must be an individual, company or incorporated association (or a combination of these) and must claim to be the owner of the trade mark.

1.2 Initial search

It is important before you lodge an application to conduct thorough searches to ensure that the same or similar trade mark is not already registered. As the interpretation of these search results is a matter of legal opinion, we will conduct this search of the Register on your behalf. There may be other similar, unregistered, trade marks in use that could impact your application which will not be disclosed by a search of the Register. Other searches we can conduct on your behalf will uncover most of these unregistered marks, if they exist. Due to the nature of unregistered marks, these searches will be indicative, rather than conclusive of their presence. The extent to which an unregistered mark will prevent registration of your trade mark application is a matter of legal opinion and again we will advise you on a case by case basis.

1.3 What classes will I need to apply in?

You will need to decide what classes of goods and/or services to apply to register your trade mark in.

Again, this is something that we can advise you on, once you have provided us with information about the goods and/or services you offer.

2. The application process

Once a search has been conducted and you have been advised by us that there are no similar trade marks already registered, we will lodge the application to IP Australia online.

2.1 Fees

<u>IP Australia Fees</u>

For a standard trade mark, the cost of application and registration is $400.00 per class, payable at the time of application. If you are not successful in having the mark registered, no refund is available.

For example, if you have one trade mark, and you wish to register it in three classes, the total IP Australia fees payable would be $1,200.00. Our fees for drafting and lodging the application will be in addition to these charges.

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Liability limited by a scheme approved under professional standards legislation

Our Fees

Our professional fee for preparing and filing a trade mark application is $1,100.00 incl. GST + IP Australia's filing fees (starting at $400.00 per trade mark application per class). We can also assist with preliminary advice regarding the registrability of your trade mark and any logos before you decide to apply for registration of any trade marks.

IP Australia's website provides a DIY trade mark registration process called TM Headstart, accessed via this link https://www.ipaustralia.gov.au/trade-marks/applying-for-a-trade-mark/how-to-apply-for-a-trade-mark/tm-headstart. Minimal savings may be made using this process, however the downside is you will be limited to a proforma list of descriptions for the specifications of your trade mark application (known as picklists). Our trade mark fees include tailoring and drafting the specifications to your needs so that you are not limited to the picklist.

2.2 How long will it take?

Provided there are no issues with your application, IP Australia will examine the application and provide you with a final determination of registrability within around 3-4 months. Due to Australia's obligations under certain international agreements, final registration cannot occur until at least 7.5 months after the application is lodged.

2.3 What if there are problems with my application?

If IP Australia issues an adverse report in relation to your trade mark, we will advise you and seek your instructions before responding on your behalf. Our costs will be incurred whenever an adverse report is raised by IP Australia. Once any administrative and substantive issues raised by IP Australia are overcome, the trade mark then proceeds to acceptance and advertisement for opposition by third parties. If your trade mark application is opposed, the timing and our costs for finalising the process will vary greatly, with no guarantee that your trade mark will eventually be registered. We will talk to you about this process and our fees before going further.

2.4 Payment of IP Australia fees

It is our experience that the most reliable method of payment to IP Australia is by your credit card. If you decide that you would like us to pay your fees for you on your behalf (and you reimburse us) we are obliged to charge GST on that transaction (no GST is payable if you pay IP Australia direct).

3. The effect of registration

A trade mark is initially registered for a period of ten years and continues indefinitely as long as the renewal fees are paid every ten years, and provided also that you continue to use your trade mark (else a third party may seek to have your trade mark removed for non-use).

Once registered, you will have access to the enforcement options available under the *Trade Marks Act 1995* (Cth), which allows you to take action in court against infringers.

4. Unsolicited IP services

Once your application is advertised by IP Australia, you may receive unsolicited offers in the mail from firms purporting to provide IP services. Please ignore this type of correspondence.

For further information about the trade mark application and registration process, please contact us.

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