



Australian Government

IP Australia

Trade Marks Act 1995

Trade Marks Office

Application to Register a Trade Mark

Standard, certification, collective and defensive trade marks

Before filling out the application form,
please read the instructions carefully

The application may be considered as not filed if you do not
correctly complete this form or if insufficient fees are paid.

Application to Register a Trade Mark

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Instructions for filling in the Application Form

If there is not enough room provided to complete any part of the form please use the additional space provided on the last page of the form. You may firmly attach as many additional pages as necessary. Please keep a photocopy of the application form for your own records.

1 NAME OF APPLICANT

Print the full name of the applicant (owner) of the trade mark. The applicant must have legal personality and may be an individual, a company, an incorporated association or a combination of these. A business name or trading name is not acceptable as the name of the applicant. If a trade mark is owned by a corporation, the application should be made in the corporation's name and not in the name of directors or shareholders. A Trust is to apply in the name of the Trustees. An association, whether incorporated or not may apply for a collective trade mark. Please provide the company number (ACN) or registered body number (ARBN) if applicable.

More than one name?

If there is more than one applicant, the all names should be provided. An application should not be filed in the name of more than one individual or company unless;

- * the use of the mark by one of them counts, at law, as a use by both or all of them **or**
- * the mark is used on goods/services with which both/all of them are connected in the course of trade - for example if both/all parties are involved in a joint venture or if both/all of them carry out work on the goods and/or services **or**
- * they are in business together **or**
- * have agreed to share ownership of the trade mark.

Joint applicants are considered to be "in business together" if they intend to use the trade mark in relation to goods or services which the applicants offer or provide for a shared business purpose. All joint applicants should be aware that, for the purposes of the *Trade Marks Act 1995*, they will be considered co-owners of the trade mark.

2 FULL ADDRESS OF THE APPLICANT

Print the address of your business. This may be a post office box. If there is more than one applicant and the applicants have different addresses, each address should be included.

3 ADDRESS FOR SERVICE OF CORRESPONDENCE WITHIN AUSTRALIA

Print an address in Australia where all correspondence about this application should be sent. This may be a post office box. An address in Australia must be nominated for correspondence even if the applicant's own address is not in Australia.

Telephone numbers and fax numbers of the address for service are not compulsory but, if we need to contact you, they can be useful to confirm or speed up the resolution of a matter.

*Note: The names and addresses you provide in response to points 1, 2 and 3 will be made available on the Internet.

In some circumstances, other information in relation to the prosecution of your application may be made available, upon request, to third parties.

4 TRADE MARK

Write or put the trade mark in the box. Please ensure the trade mark is placed the right way up **AND** is clear enough to reproduce (without retouching) for publication purposes.

If the trade mark is other than in plain typescript, we need the trade mark put in the box on the form.

If the trade mark(s) does not fit within the box provided, please try to reduce the size while clearly retaining all the features of the trade mark. If the trade mark(s) cannot be reduced to fit, please put a copy of your trade mark in the 'extra space' on the back of the form.

Note: If this trade mark application might become the basis for an international application the trade mark must not be greater than 8 cm x 8 cm.

We do not need a coloured representation unless you intend to restrict your registration to specific colours. A trade mark is usually taken to be registered for all colours.

5 CONVENTION PRIORITY DETAILS

If the applicant applied for this trade mark in another convention country in the last 6 months and wants to claim the earlier filing date, then information about that convention application should be included on the application form.

If a different priority claim applies to different goods and/or services in an application and you claim multiple priority dates, please use the extra space provided on the last page. You **MUST** indicate which goods and/or services apply to the various priority dates.

6 NON-ENGLISH WORDS AND FOREIGN CHARACTERS

If your trade mark contains non-English words you may be required to provide a translation of those words into English. For example, “I advise that the English translation of the German word PFEIL appearing in the trade mark is ARROW”. Note that this is not compulsory, however this information may be requested during examination of your application. If your trade mark contains foreign (non-Roman) characters then you are required to provide a transliteration and translation of those characters.

7 GOODS AND/OR SERVICES COVERED BY THIS APPLICATION

Please list the goods and/or services for which you want to register your trade mark.

If your application covers goods or services in more than one class, please group them together by class in numerical order. When selecting your class/es consider the goods or services which your business sells. While you may use your mark on various products for advertising, you require protection only for the goods/services you sell.

Please note: The descriptions “*all goods*” or “*all services*” in the class or including “*all other goods*” or “*all other services*” are not acceptable.

It is important that you provide a clear, succinct description of your goods and services. The list of classes and a brief description of the goods or services is shown over the page. A detailed list of goods and services in each class can be viewed on the internet on IP Australia’s home page at www.ipaustralia.gov.au (go to the ATMOSS trade marks search and click on the Classifications tab available there).

If you need further help, please contact the **Customer Service Centre** by email at assist@ipaustralia.gov.au or by phone on **1300 651 010**.

If you need more room to list the classes and the relevant goods and/or services, please use the ‘extra space’ provided on the back of this form.

8 SIGNATURE

Signing the form is optional.

9 SERIES TRADE MARKS

A series application is made for two or more similar trade marks in the same application. However, not all similar trade marks will qualify as a series. In most cases, applicants with more than one trade mark to register will need to file multiple single-mark applications. Only in very limited circumstances will applicants be able to register an application for a series of trade marks. An application for a series is more costly with an additional fee charged at filing. If your series is found to be invalid, **this fee is not refundable**.

With narrow criteria and additional cost involved, *you should carefully consider whether your series of trade marks meets the requirements before filing the application*. If in doubt, consider filing multiple applications for single marks to ensure you secure your filing date for each trade mark.

The Trade Marks ACT (1995) sets very restricted criteria for what constitutes a valid series application. Trade marks can only form a valid series if the main feature of the trade marks closely resemble each other *and* that any differences between them are:

- a) statements or representations as to the goods or services that the trade mark is to be used upon, or
- b) statements or representations as to number, prices, quality or names of places, or
- c) the colour of any part of the trade marks

This means that even when trade marks appear very similar, if they have differences other than those listed in a), b), or c) above they will not form a valid series.

For example, similar marks will not form a valid series where the marks:

- are with and without spaces between words
- are with and without hyphenated words
- are with and without capital letters
- have different phonetic spellings
- have different positioning of identical elements within the mark
- have different fonts
- have different size ratios of representations

(Please note the above list is not exhaustive but it is illustrative of the highly restricted criteria for a valid series.)

To further illustrate, the following two trade marks vary only in font:

IDAK IDAK

If this example were filed, this would **not** be valid because the way in which they differ - the letter font - is not the difference mentioned in categories (a), (b) or (c). The applicant would have to delete one of the trade marks before the application could proceed, their series fee would not be refunded and they would lose the filing date for the mark that they deleted.

This particular example helps demonstrate that the range of trade marks that can qualify as series is narrow. Very few applicants will have a number of trade marks that vary in the ways specified. As such, series is **not** an option for undecided applicants to have a range of possible marks examined and reported on. Applications which are clearly not series will not receive a full report on registrability until the invalid series claim is resolved.

Example of a **valid** series of trade marks:

IDAK CLOTHING, IDAK FOOTWEAR, IDAK HEADGEAR

Class 25 claim for *Clothing, footwear, headgear*

In this example of a valid series, the trade marks resemble each other because the essential feature IDAK is common to each, and the words CLOTHING, FOOTWEAR, HEADGEAR are differences allowed under category (a) because they are statements as to the goods claimed.

Further information on series trade marks can be found at http://www.ipaustralia.gov.au/trademarks/faq_index.shtml#series

10 SPECIAL KINDS OF SIGNS

A trade mark must be represented graphically. Where the sign is a shape, scent, sound or colour you need to give a clear description of the sign. If there is no other form of graphic representation of these kinds of trade marks, the description may also be used as the representation (at No. 4).

Please indicate colour **ONLY** if your trade mark consists of particular colour(s) applied to your goods or their packaging or is used in a special way in respect of your services.

11 OTHER THAN STANDARD TRADE MARKS

Trade mark (standard) – Most trade marks are standard trade marks. They distinguish the goods or services of one trader from the goods or services of any other person. If your trade mark is a standard trade mark, you do not need to complete this section.

Certification trade mark – This is a sign used to distinguish goods or services dealt with or provided in the course of trade and certified by the trade mark owner (or by another person approved by the owner) in relation to quality, accuracy or some other characteristic including origin, material or mode of manufacture. After examination of the application by the Trade Marks Office, the rules governing the use of a certification trade mark must be approved by the Australian Competition and Consumer Commission.

Collective trade mark – This is a sign used in the course of trade by members of an association. **The association may be a body corporate.** The trade mark cannot be assigned to a new owner at a future date.

Defensive trade mark – Such an application may be filed because a registered trade mark has become so well known in relation to some goods or services that its use by another trader in relation to other goods or services may be confusing to consumers. The owner is not required to use the trade mark on these goods or services. Evidence is required to support the application.

12 DIVISIONAL APPLICATION

Where an application for a trade mark has been made in Australia (referred to as the initial application), and that application is still pending, a divisional application may be made for the same trade mark in respect of some of the goods and/or services included in the parent application.

At the same time as you make the divisional application, you must also specify the good and/or services that are to remain in the parent application. There is room on the application form to do this.

A divisional application is taken to have the filing date of the parent application on which it is based. If the parent application has a claim for convention priority, you must make that claim in the divisional application for the claim to be valid.

Please Note:

- **The earliest date a trade mark can be registered is 7 months after an application is filed. This is to fulfill our international obligations to allow 6 months for applications to claim a priority date based on an overseas filing.**
- **Information provided in this form, including personal information, will be made available on the Internet.**
- **Checklist provided on page 9 of this application form.**
- **Payment Form for credit cards, cheques and money orders is accessible online at www.ipaustralia.gov.au/pdfs/finance/g01068.pdf**

CLASSES OF GOODS

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry
2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists
3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices
4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks for lighting
5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides
6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores
7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand operated; incubators for eggs
8. Hand tools and implements (hand operated); cutlery; side arms; razors
9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus
10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials
11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes
12. Vehicles; apparatus for locomotion by land, air or water
13. Firearms, ammunition and projectiles; explosives; fireworks
14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments
15. Musical instruments
16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks
17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal
18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery
19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal
20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics
21. Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthen ware not included in other classes
22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials
23. Yarns and threads, for textile use
24. Textiles and textile goods, not included in other classes; bed and table covers
25. Clothing, footwear, headgear
26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers
27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile)
28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees
29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats
30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice
31. Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt
32. Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages
33. Alcoholic beverages (except beers)
34. Tobacco; smokers' articles; matches

CLASSES OF SERVICES

35. Advertising; business management; business administration; office functions
36. Insurance; financial affairs; monetary affairs; real estate affairs
37. Building construction; repair; installation services
38. Telecommunications
39. Transport; packaging and storage of goods; travel arrangement
40. Treatment of materials
41. Education; providing of training; entertainment, sporting and cultural activities
42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software
43. Services for providing food and drink; temporary accommodation
44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; horticulture and forestry services
45. Legal services; security services for the protection of property and individuals; personal and social services by others to meet the needs of individuals



Application to Register a Trade Mark

Please use black pen when completing this form.

Office Use Only

1. Name of applicant (Please print)

ACN / ABN / ARBN

Additional space for joint applicants

ACN / ABN / ARBN

2. Full address of the applicant (Please print)

State Postcode

Additional space for joint applicants if address is different

State Postcode

3. Address for service of correspondence within Australia (if same as first 'Full Address' please print 'as above')

State Postcode

Phone No. (business hours)

()

Fax No.

()

Your Reference

Email address

* Please note names and addresses recorded at questions 1, 2 and 3 will be made available on the Internet.

4. Trade Mark

[Large empty box for trade mark drawing]

Place a copy of your trade mark in the box.

Most trade marks contain words, letters, numbers or pictures / graphics or a combination of these things. If your trade mark is not one of these you should refer to **No.10. Special kinds of signs.**

If your trade mark contains non-English words and/or foreign (non-Roman) characters complete **No. 6.**

5. Convention Priority Details

If you have filed an application for this trade mark, for some or all of the goods and/or services, in another convention country in the last six months, you may claim priority from the earlier application/s.

Country in which first filed

Date

Trade Mark No. if available

6. Non-English Words and Foreign Characters

Complete (a) **ONLY** if your trade mark contains non-English word/s and/or (b) **ONLY** if your trade mark contains foreign (non-Roman) character/s

(a) I advise that the English translation of the word/s
(eg GERMAN) (eg PFEIL)
appearing in the trade mark is
(eg ARROW)

(b) I advise that the character/s appearing in the trade mark
(eg Chinese) (eg 喜 樂)
may be transliterated as which may be translated into English
(eg XI LE)
as
(eg JOY)

7. Goods and/or services covered by this application

Insert the class No. and then **list** the goods and/ or services for which you are seeking registration eg. Class No. 15 Violins, Class No. 25 Clothing, hats (additional space is available on the last page of the form)

If you need help deciding the class(es) or the goods or services for which you should apply, please contact IP Australia during business hours on 1300 651 010 or at assist@ipaaustralia.gov.au

Class No:	
Class No:	
Class No:	
Class No:	
Class No:	

8. Signature

(optional)

Date

Name

(please print)

cont'd

Please specify the goods and/or services that are to remain in the parent application

Class No:	
Class No:	

Extra space if required

CHECKLIST

- Have you completed all the requirements on the application form?
- If you found insufficient space to attach your mark(s) in Trade Mark box on page 5 or in extra space on page 8, have you attached a sheet with all trade marks ?
- Is the correct application fee attached?

The application fee, with the completed form may be paid by:

- * credit card, cheque or money order payable to IP Australia, PO Box 200, Woden, ACT 2606 or
- * credit card, cheque, money order, cash or EFTPOS at IP Australia Lodgement Points.