

Are you ready to apply for a trade mark in the US?

This checklist is intended to help you to prepare for the process of applying for a US trade mark. If you're engaging a trade mark attorney, this may also help to brief them on your requirements.

Your trade mark

Describe your trade mark

What [type of trade mark](#) are you applying for?

- 'Use in commerce' (I am already using my trade mark in the USA)
- 'Intent to use' (I plan on using my trade mark in the USA very soon)

[What format](#) is your trade mark?

- Standard character mark (text only)
- stylised/design mark (graphics, logos, colour and stylisation)
 - Do you have a [clear drawing or depiction](#) of your mark?
 - Yes No
 - Is the drawing:
 - In a JPEG format
 - Less than 5 megabytes
 - Have a file name less than 256 characters
 - In colour, using RGB colour scheme (if claiming a colour)
- Sound mark
- Certification mark
- Product design and packaging mark
- Non-traditional mark (colour, taste, touch, motion, scent)

Which trade mark system do you intend on using?

- File directly with USPTO
- File via the Madrid Protocol
 - What is your Australian trade mark number

Goods and/or services Classes

Provide a description of the [goods and/or services](#) you use, or intend to use, your trade mark on. Think about the nature of your business. What goods and/or services do you sell that make you money?

E.g. t-shirts, online store

Using the USPTO's [ID Manual](#) identify the classes and ID numbers of the goods and services you wish to apply for.

It's important to note that The US will not accept broad claims, such as 'clothing'— the class you choose must accurately describe your goods or services.

E.g. Class 25: 025-560 Short-sleeved or long-sleeved t-shirts & Class 35: 035-284 Online retail store services featuring t-shirts.

Note: If you are using the Madrid Protocol the classes you chose in your Australian trade mark will be automatically transferred to your international application.

Checking your trade mark is available

Once you have chosen your goods and services it's important to check the USPTO's trade mark register to see if a trade mark is already registered or applied for in relation to same or similar goods and/or services.

List the distinctive elements of your trade mark:

My trade mark has..... E.g. a bear, apple, tree, red, green, brown

Using the distinctive elements you captured above, search the USPTO's [Trademark Electronic Search System \(TESS\)](#) for trade marks like yours and list any similar marks below:

Hint: Don't just search the exact match of your trade mark; it's important to think about spelling or phonetic variations, for example "Cube Necessities", "Kube Necessities"; "Garnitol", "Garnytol".

Need help?

You may wish to seek professional advice about protecting your trade mark in the US.

If you have an existing IP attorney in Australia, it may be worth asking if they have associate offices in the US. Going through an Australian attorney will usually come at a higher cost than going directly to a US IP attorney. Your Australian trade mark attorney ideally understands both your business and your global intellectual property strategy, but it's up to you to decide what is best for your business and brand.



To find an IP attorney in Australia, visit [The Institute of Patent and Trade Mark Attorneys of Australia](#).

To find an IP attorney in the US, the USPTO recommends searching with [findlegalhelp.org](#), which is provided as a public service by the American Bar Association's Division for Legal Services.

Jot down your attorneys details here:

For more information on protecting your trade mark in the US visit www.ipaustralia.gov.au/US