



# Application for an Award of Costs

## Privacy Notice

The personal information collected on this form is collected for the purposes of the Trade Marks Act 1995 (TM Act) ([www.ipaustralia.gov.au/about-us/publications/ip-legislation/](http://www.ipaustralia.gov.au/about-us/publications/ip-legislation/)) and is protected by the *Privacy Act 1988* ([www.comlaw.gov.au/series/c2004a03712](http://www.comlaw.gov.au/series/c2004a03712)).

All personal information you provide on this form is handled in accordance with IP Australia's Privacy Policy ([www.ipaustralia.gov.au/about-us/corporate/privacy-policy/](http://www.ipaustralia.gov.au/about-us/corporate/privacy-policy/)).

The Privacy Policy contains relevant information, including:

- how you may seek access to and correction of the personal information we hold;
- how you may make a complaint about a breach of the Privacy Act and how we will deal with your complaint; and
- IP Australia's Privacy Contact Officer details.

Any personal information you provide will be used for the purposes of processing this form, and any opposition proceedings purposes, as provided under the TM Act. IP Australia may also contact you, using the contact details you have provided, to request your feedback on our products and services.

IP Australia may disclose your personal information to:

holders of relevant international trade marks; and

the World Intellectual Property Organization in Switzerland, in accordance with the requirements of the Madrid Protocol ([www.wipo.int/madrid/en/](http://www.wipo.int/madrid/en/))

Once personal information is disclosed overseas, IP Australia will have no control over its subsequent use and disclosure.

IP Australia will publish your:

- name;
- address;
- address for service;
- address for correspondence (if applicable); and
- Trade Mark details and history

in the Official Journal of Trade Marks, the Register of Trade Marks and Australian Trade Mark Search. Once information is available on the internet, IP Australia has no control over its subsequent use and disclosure. You should be aware that the information (including personal information) held in IP Australia's online IP Rights databases is also available on request, subject to our terms and conditions.

As far as your personal information is concerned:

- you may provide a post office box address if you do not want your residential address to be published; and
- if you do not provide the personal information required on the form, IP Australia may not be able to process this form.

IP Australia will not otherwise use or disclose your personal information without your consent, unless authorised or required by or under law.



# Application for an Award of Costs

## Personal Details of Customer

(\* denotes mandatory fields)

*Name	ACN/ARBN/ABN		
*Address (can be a PO Box)	Country (if not Australia) State Postcode		
Telephone	Fax number	Mobile number	
Email Address			
2nd Name (if required)	ACN/ARBN/ABN		
Address (can be a PO Box)	Country (if not Australia) State Postcode		
Telephone	Fax number	Mobile number	
Email Address			
<input type="checkbox"/> Additional customer details attached			

## \*Address for Service

Address for service of documents in Australia or New Zealand (can be a PO Box)

Address	Country State Postcode		
Telephone	Fax number	Mobile number	
Email Address	Your reference		

By completing this form you consent to your personal information being handled in accordance with the Privacy Notice on page 1 of this form and the IP Australia Privacy Policy.

IP Australia publishes address details in our online databases and bulk data products. Please provide a post office box if you do not want your residential address to be published.



# Application for an Award of Costs

## Part 1 Formality Details

*(Enter in numeric order and use block letters)*

Trade Mark No.	International Registration No.(s) <i>(if applicable)</i>	In the name of	ACN <i>(if applicable)</i>

## Part 2 Type of Opposition Proceeding *(Please tick the appropriate box)*

I/We apply for an award of costs in respect to one of the following

### Opposition to:

- Registration of the above trade mark / Protection of the above International Registration Designating Australia (IRDA).
- Removal of the above trade mark / Cessation of protection of the above international trade mark for non-use.
- Other- please specify below

*(for example: extension of time for more than three months (s224) or amendment after particulars of application published (s65A)).*




# Bill of Costs

## Part 3 Costs, Expenses and Allowances that may be Claimed

### Costs

Item	Description	Amount	Applicant	Opponent
1	Notice of opposition /Notice of intention to oppose	\$200		
2	Statement of grounds and particulars*	\$200		
3	Receiving and perusing notice of opposition / Receiving and perusing statement of grounds and particulars	\$130		
4	Notice of intention to defend*	\$200		
5	Notice of opposition - s224 / s65A	\$200		
6	Receiving and perusing notice of opposition - s224 / s65A	\$130		
7	Evidence in support	\$700		
8	Receiving and perusing evidence in support	\$300		
9	Evidence in answer	\$700		
10	Receiving and perusing evidence in answer	\$210		
11	Evidence in reply	\$350		
12	Receiving and perusing evidence in reply	\$130		

\* Only applicable in opposition proceedings where a notice of intention to oppose was filed on or after 15April 2013.

### Costs in relation to the preparation and conduct of a hearing

Item	Description	Amount	Applicant	Opponent
13	Preparation of cases for hearing	\$525		
14	Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor without counsel	\$260 per hour or \$1170 per day		
15	Attendance at hearing by registered patent attorney, registered trade marks attorney or solicitor instructing counsel	\$200 per hour or \$900 per day		
16	Counsel fees for attendance at a hearing	\$300 per hour or \$1350 per day		

**Expenses**

Item		Amount	Applicant	Opponent	
1	Prescribed Fees	Opposition to Registration Fee or Opposition to Removal Fee	\$250		
			\$150		
		Hearing Fee	\$400 per day or \$600 per day		

**2 A person attending proceedings before the Registrar must be paid: -**

- (a) reasonable amount for allowances for transport between the usual place of residence of the person and the place that he or she attends for that purposes; and
- (b) if a person is required to be absent overnight from their usual place of residence - a reasonable amount for allowances up to a daily maximum of \$700 for meals and accomodation.


**Allowances**

**3 A person summoned to appear as a witness before the Registrar:-**

- (a) because of his or her professional, scientific or other special skills or knowledge that person (if remunerated in their occupation by wages, salary or fees) must be paid an amount equal to the amount of wages, salary or fees not paid to that person (in their occupation) because of attendance for that purpose; and
- (b) in any other case - an amount not less than \$140, or more than \$700 for each day of attendance


**4 A person summoned to appear as a witness other than as a witness referred to in clause 3, before the Registrar must be paid:-**

- (a) if the person is remunerated in their occupation by wages, salary or fees - an amount equal to their wages, salary or fees not paid because of their attendance for that purpose; and
- (b) in any other case - an amount not less than \$80, or more than \$130 for each day on which he or she so attends.

<b>Total:</b>	

## Part 4 Important Information for Filing an Application for an Award of Costs / Bill of Costs

1. The Registrar may award costs in amounts provided for in Schedule 8 of the *Trade Marks Regulations 1995*.
2. An application for an award of costs may be filed during proceedings or within **three months** of the end of the proceedings.
3. You will need to apply for an extension of time under the provisions of section 224 of the *Trade Marks Act 1995* if you apply for an award of costs more than three months from the day on which:
  - the Registrar makes a decision that ends the proceeding; or
  - gives notice to the party that the proceedings have been discontinued or dismissed
4. A bill of costs may be filed within **three months** of the day on which the costs are awarded. Otherwise you will need to apply for an extension of time under the provisions of section 224 of the *Trade Marks Act 1995*.
5. For your convenience a bill of costs is provided in this application form. You may submit an application for an award of costs and the bill of costs at the same time.
6. Where an opposition is concluded prior to a hearing being conducted, IP Australia may decline to make an award of costs unless exceptional circumstances are shown, or written advice is provided which confirms that one party has consented to pay the other party's costs as agreed or taxed.
7. Where co-pending opposition matters rely on the same evidence, costs according to Schedule 8 may only be awarded to the first application and proportional costs may be awarded to the remainder. Please refer to Part 55 of the *Trade Marks Office Manual of Practice and Procedure*.
8. In certain circumstances the Registrar may require proof of expenses incurred.
9. A fee does NOT apply to the filing of this form.
10. The *Trade Marks Office Manual of Practice and Procedure* contains more information about awarding of costs. The Manual can be accessed via IP Australia's website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au).

---

## Part 5 General Information

1. IP Australia will give relevant documents filed in an opposition to the other party.
2. IP Australia does not offer or provide any legal, financial or business advice or financial assistance in respect to the opposition and hearing process. The Trans-Tasman IP Attorney Board provides a list of registered professionals on their website - [www.ttipattorney.gov.au](http://www.ttipattorney.gov.au). Alternatively you may wish to consult a telephone or business directory.
3. Opposition proceedings are legal processes and once started the unsuccessful party or parties may be liable for costs being awarded against them. The matters and amounts that may be awarded are set out in Schedule 8 (Costs, Expenses and Allowances) of the *Trade Marks Regulations 1995*.
4. You can find more information about trade mark oppositions by searching 'trade mark oppositions' on the IP Australia website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au).