A guide to applying for your trade mark
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- IP Australia’s corporate logo
- photographs of our staff and premises
- content provided by third parties – including photographs, logos, drawings and written descriptions of patents and designs.

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- clearly label material where the copyright is owned by a third party
- ensure that the third party has consented to this material being presented in this publication.

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Disclaimer

This application guide is designed to help you prepare and file a trade mark application in Australia. This guide does not cover every issue that may come up and you should not regard it as an authoritative statement on the relevant law and procedure.

You should also note the requirements may change from time to time and while we make every effort to ensure the information presented is accurate, you should check with us before relying on this information.
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What is a trade mark?

A trade mark could be the most valuable asset your business has. This is because your brand is an investment in the future of your business, one worth protecting. A registered trade mark protects your brand and is more valuable than a business name or a domain name. By registering your trade mark, you have the exclusive, legal right to use your brand on your goods and services. A trade mark registration also alerts other traders of your intellectual property rights, which may deter them from choosing the same, or a similar, trade mark. Trade marks, like other assets, can be licensed or sold.

Your trade mark should be something other traders would not wish to use in the normal course of their trade. But before you decide on your trade mark, it’s important to understand the limitations around the types of words that can be trade marked.

If you are applying for a trade mark for the first time consider using our TM Headstart (pre-application service). This is a simple and fast way to assess the likely success of your trade mark application. Access this service by signing into eServices on our website.

What trade marks can be registered?

It is a principle of trade mark law that everyday language and symbols should remain open for all to use. Granting exclusive rights to common elements such as descriptive words, geographical names, common surnames and trade symbols would deprive others of their legitimate right to use these words in connection with their own goods and services.

To be registered, a trade mark must meet the conditions of the Trade Marks Act 1995 (the Trade Marks Act). Here are some examples of words that other traders are likely to need to use, so they would be very difficult to register.

Descriptive words and phrases on their own

A simple example is an apple farmer trying to register the phrase THE BEST APPLES. Other apple farmers have a legitimate need to be able to say they also grow the best apples. So it would be unfair on others to give one apple farmer exclusive rights to this phrase. Ideally, a trade mark should denote the entity that produces the product or service to which it relates, rather than a particular aspect or quality of the goods or services. Examples of some other words that are extremely difficult to register as trade marks include:

**STRAWBERRY** for drinks (common flavour)

**WARM** for heaters (describes function)

**GLOBAL** for freight shipping services (indicates geographical range)
Geographical names

Geographical references or place names are usually very difficult to register, especially when the place has a reputation for certain goods or services. For example, it would be very difficult to register TASMANIA for apples or NEWCASTLE for steel production. This is because traders who provide goods or services from these areas need to be able to indicate the origin of their goods and/or services without infringing a trade mark.

Commonly used acronyms, single letters, and numerals

Commonly used combinations of letters may be difficult to register. Common acronyms (such as USB) or abbreviations are also difficult to register if they describe the goods or services specified. Single letters are difficult to register as other traders are likely to want to use a single letter in the form of an initial or an abbreviation for a variety of reasons - for example M may indicate mobile. Similarly numerals are often used in a number of fields to indicate size, quantity, date of production or as a model or serial number. As a result numerals can be difficult to register.

Common surnames

Common surnames such as SMITH or JACKSON are also problematic. Many Smiths and Jacksons in Australia need to be able to use their name in relation to the goods or services they provide. However, less common surnames like CREGAN or RUDNICKI are more likely to achieve registration.

Other words or phrases that are difficult to register

• trade marks that are the same or very similar to an earlier trade mark
• trade marks that could mislead the public about the nature of the goods or services
• trade marks containing certain words or phrases whose use as a trade mark is prescribed or prohibited. For example registration of the term OLYMPIC CHAMPION is prohibited
• words that are subject to legislation. For example, the use of the word CHAMPAGNE is governed by the provisions of the Wine Australia Corporation Act 1980 (the Wine Act). This word is not able to be trade marked.
• an application can be rejected if it contains scandalous matter. Scandalous matter may include obscene or coarse language, profanity, words or images appearing to condone violence, racism and/or terrorism, libellous or defamatory words or statements and any other offensive material.

Types of words that can be registered as trade marks are those other traders are unlikely to need to use legitimately. These include:

• invented words - words with no meaning that you have created, such as KODAK
• suggestive or emotive words – words that don’t describe the goods or services directly, such as LUCKY CAT for pet food
• words that have no relation to the goods or service to which they are applied, such as APPLE for computers.
Benefits of registering a trade mark

As the owner of a registered trade mark you have:

- the exclusive right, with certain exceptions, to use your registered trade mark as a brand name for the goods or services specified in the registration
- the exclusive right to authorise other entities to use your registered trade mark for the goods or services specified in the registration
- a registered trade mark that is personal property and can be sold
- a registration that usually covers the Commonwealth of Australia.

You may also prevent people from using your trade mark as their brand name on the goods or services covered by your trade mark registration.

Is registration of a trade mark compulsory?

Trade marks do not have to be registered. However if you decide not to register your trade mark, we suggest you search our database of registered and pending trade marks. This will help ensure you don’t inadvertently use a trade mark that has been registered by someone else.

Although™ can be used with your trade mark at any time, ® can be used only with a registered trade mark.

If your trade mark is not registered and another person uses it you may have to take passing off action under common law, or claim for a breach of Section 18 of the Competition and Consumer Act 2010 if you want to stop them. Protecting your trade mark without the benefit of registration can be more difficult and expensive than using the remedies available to owners of registered trade marks.

If you own a registered trade mark you have the right and the responsibility to protect it. You may take an infringement action against another person who uses your trade mark on the same or similar goods or services. It’s important to understand we grant trade mark rights but do not police or enforce them.

Goods & Services - Get them right from the start

When you apply to register a trade mark you must provide a list of the goods and/or services for which your trade mark will be used. These goods or services need to registered under one or more classes. We use the international Nice Classification system that separates goods and services into 45 different classes. A list of these classes are in the Trade Marks Classification Search tool.

Think carefully about the goods or services you want your trade mark to protect because you will not be able to expand your selection once you submit your application.

Consider the exact nature of your business before you choose the goods and/or services to which your trade mark will apply:

- what products or services do you derive your business income from?
- what is the nature of your business?
- what do your customers/clients know you for?
- what products or services does (or will) your business provide?

When you apply for a trade mark it is implied you are using, or intend to use, the trade mark in relation to the goods and/or services in your application. You can be subject to ‘non-use’ action if you apply too widely. This means you may not be able to enforce your rights for all the goods and/or services you have claimed if you do not use the mark on those goods and/or services.
Trade marks, business, company and domain names

People are often confused between business, company or domain names and trade marks. These are very different things.

To build your brand identity, try to secure the same name for your trade mark, business, company and domain names.

Only a registered trade mark gives you the exclusive legal right to use your trade mark throughout Australia. If someone infringes your trade mark, by copying it, or using it without your permission, you have legal grounds to stop them.

Business, company or domain names do not provide this sort of protection.

Search our trade marks online search system (ATMOSS) before you register your business, company or domain name, otherwise you might unknowingly infringe someone else’s registered trade mark.

At a glance

- A trade mark distinguishes your goods and services from those of other traders. It is an important business asset and is yours to sell or license to others as you like.
- A business name is the name under which your business operates. You should register your business before you start trading.
- A company name is the name you can choose to give your company when you register it. Although you must register your company, you don’t have to give it a name.
- A domain name is a unique name given to every website on the internet. Our domain name is: ipaustralia.gov.au.

Just because you are able to register your business, company and/or domain name doesn’t mean your trade mark can be registered.

The requirements for trade mark registration are quite different to those for business, company or domain names registration. Your trade mark needs to meet the requirements of the Trade Marks Act to be able to be registered.

Trade marks and plants

Plant breeder’s rights, which are granted by us under the Plant Breeder’s Rights Act 1994, are used to protect new varieties of plants. The name of a plant variety cannot be registered as a trade mark because it is not capable of distinguishing one trader’s plants from another.

A plant variety name (or a common name) describes a particular plant. While a trade mark does not name any particular plant, it does identify the trade source of the plant, that is, the grower, producer or seller.

When your application is being examined, your trade mark will be checked to see if it is a variety name recorded on the Plant Breeder’s Rights Register. It will also be checked to determine that your trade mark is not the scientific name for the plant variety or species, a common trade name of a plant, or some other term used to describe a plant variety or species. You cannot register your trade mark if it occurs as a plant variety name or common name in these searches. If you require more information on trade marks and plants, visit our website.
Trade marks and wines

You need to be aware of the requirements of the Wine Act and as well as the Trade Marks Act before choosing a trade mark or designing a label under which wine will be imported, exported or sold in Australia.

For more information see our website or the Wine Australia Corporation’s website: www.wineaustralia.com.

Non-traditional trade marks

Applications for trade marks containing sounds, scents, shapes, colour or aspects of packaging should be accompanied by a concise and accurate description. All trade marks must be capable of graphic representation.

Other types of trade marks

Certification trade marks

A certification trade mark shows that a trader’s goods or services meet a certain standard. A good example is the Woolmark trade mark, which indicates an item is made from pure, new wool.

Certification trade marks guarantee a certain aspect of a product or service, such as the quality, content, method of manufacture and/or geographic origin. Certification trade marks are often filed by an industry group that wants to regulate how entities that use the certified trade mark make their goods or services.

In contrast to standard trade marks, certification trade marks can sometimes include descriptive or geographic references. When applying for a certification trade mark you must also supply a set of rules which apply to the use of the certification trade mark. An application for a certification trade mark is examined in a similar way to an application for an ordinary trade mark. The application and the rules must also be approved by the Australian Competition and Consumer Commission (ACCC).

Collective trade marks

A collective trade mark is used in relation to goods or services provided by members of an association. It distinguishes those goods or services from those offered by people who are not members of the association. Companies limited by shares or individuals cannot own collective trade marks.
A guide to applying for your trade mark

Flowchart of an application

Application
Must be in approved form

Examination
The application will be examined to ensure it is in accordance with the Trade Marks Act and there are no grounds for rejecting it.

Acceptance
Notice of advertisement of acceptance is sent to the applicant. The Registrar may accept an application subject to certain conditions or limitations.

Advertisement of Acceptance
Acceptance is advertised in the Official Journal of Trade Marks

Registration
The Registrar must give the registered owner a certificate. Initial registration is for ten years from the filing date.

Renewal
Required every ten years.

Opposition
Another person may oppose registration of the trade mark

Hearing by Registrar*
Registrar must provide the applicant with an opportunity to be heard before an application is rejected.

Registration

Rejection
The Registrar will reject an application if it fails any of the detailed criteria

Unbroken lines signify possible course of events.
Note: Fees and time limits may apply at various stages of this process.

* An Appeal may be made to the Federal Court or the Federal Magistrates Court against the decision of the Registrar.
The application process

Who can apply?

You can apply for a trade mark as:

• an individual
• a company
• an association - whether incorporated or not (although unincorporated associations can only own collective trade marks)
• a combination of these
• a trust - provided the application is in the name of the trustees
• a corporation - provided the application is in the corporation’s name and not its directors or shareholders.

You cannot apply for a trade mark as:

• a business name
• a trading name.

Applicants must use, or intend to use, the trade mark in relation to the goods or services identified in the application.

Publication of your details online

The name and address of the applicant(s) are published on our database and will be available on the internet.

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

You must have an address in Australia. All the correspondence we send to you will be to this address. It is very important to advise us of any change of address.

Searching

You can search our trade marks online search system (ATMOSS) before using a new trade mark and before filing an application to register it. Identical or similar trade marks for the same or closely related goods or services could result in your trade mark being rejected. The search could also save you trouble and money by alerting you to existing trade marks which are similar to the one you plan to use.

When you search ATMOSS, look for other trade marks identical or similar to your own which may relate to the same or similar goods and services.
Before you apply

It is important to remember that once your trade mark application has been filed and the details published, you cannot substantially amend your trade mark, nominated goods or services or applicant name. So it’s important to get it right the first time.

Read through this guide carefully before submitting your application.

There are four different ways you can apply for a trade mark.

1. Apply online through our TM Headstart (pre-application service). Before you file your trade mark application you can request an assessment of the likelihood of your trade mark achieving registration through TM Headstart (pre-application service). Access this service through eServices on our website. You can subsequently file a trade mark application via TM Headstart (pre-application service).

2. Apply online. We recommend you apply online using eServices. It is cheaper to apply online than by post.

3. Apply by post. If you choose to apply by post, you will need to download the application form from our website. You can also request a paper form by phoning us on 1300 651 010. Post your completed application form, with payment, to:

   The Registrar of Trade Marks
   IP Australia
   PO Box 200
   Woden ACT 2606 Australia

4. Apply using an IP professional. In some cases, you may wish to engage a registered trade mark attorney, an IP professional or a solicitor experienced in trade mark matters to help you file your application. Our website has some information about IP professionals and other sites.

TM Headstart (pre-application service)

TM Headstart (pre-application service) is a simple and fast way to assess the likely success of your trade mark application.

Before using TM Headstart (pre-application service):

- have you decided on a trade mark?
- do you know the goods or services you want to use your trade mark for?
- can we contact you easily (by phone or email) during business hours?
- are you prepared to pay the fee? For details go to our website or contact us during business hours on 1300 651 010
- have you got a MasterCard or Visa to pay the fees?
- are you comfortable that your filing date will not be determined until after completion of the TM Headstart (pre-application service) process?

For more information about TM Headstart (pre-application service), visit the trade marks section of our website.
Fast track your application

You may request early examination of your application if you believe you will be seriously disadvantaged because of the time taken between filing and examination. This is known as ‘expediting’ the examination of your application. There are no fees associated with expediting, but you must complete a declaration detailing the reasons for your request. Requests are assessed on their individual merit and are more likely to be accepted if any delay in examining your trade mark could result in commercial or other disadvantage.

You can expedite the examination of your trade mark through eServices or post a completed Request for Expedited Examination of a Trade Mark Application form to us.

What happens after you file your application?

Filing and publication are initial steps in the process. They don’t mean your trade mark has been accepted for registration. Your application will not be registered until it has been examined, any problems have been resolved, it has been accepted, passed through the opposition period, and registration fees have been paid.

Once we have received your application it will be assessed against the requirements of the Trade Marks Act. It will be accepted for registration if it meets these requirements. If not, you will be sent a report detailing issues that need to be addressed before the application can be accepted. Please respond in writing to the queries set out in the report. You may ring the examiner to discuss your application and how to proceed with it, but or staff cannot give you legal or business advice.

The Trade Marks Act gives you 15 months from the date of the examiner’s first report to meet any requirements and to have your application accepted by the Registrar. You can request and pay for an extension of time of up to six months if you need it. Fees apply to extensions and you must apply for an extension before the date specified in the examiner’s report.

After 21 months, an application for an extension of time may only be made under the provisions of section 224 of the Trade Marks Act. You will need to pay the appropriate fees and supply a declaration setting out the grounds for the extension. Not all of these requests are accepted, and fees are not refundable. If your trade mark application is not accepted and you allow it to run out of time, it will lapse.

What happens after acceptance of your application?

The details of your application will be advertised in the Australian Official Journal of Trade Marks when your trade mark is accepted for registration. The journal is published by us on our website.

Anyone who believes your trade mark should not be registered has two months from the date the advertisement is published to register their opposition to it.

If your application is opposed it is your responsibility to defend it. A very small proportion – around two per cent – of acceptances are opposed. The opposition process can sometimes be lengthy, complex and costly. Consider seeking professional advice if your trade mark is opposed.

What happens after registration?

If no opposition is filed against your application, or if the opposition is unsuccessful, your trade mark will be registered when you pay the registration fee. It is in your interest to pay as soon as possible, certainly no later than six months from the date acceptance is advertised.

We will send you a Certificate of Registration and record your details in the Register of Trade Marks, which can be viewed via ATMOSS.

The registration of your trade mark will be effective from the date you file your application, not from the date it was examined or accepted.

The earliest date your trade mark can be registered is seven and a half months after an application is led. This time allows for the standard opposition period all trade marks must go through, and to allow for potential international applications which may have an earlier priority date to be considered.

You cannot claim the trade mark is registered until you receive the Certificate of Registration.
Can someone oppose my trade mark even after registration?

They can’t, but there are actions that can be taken against a registered trade mark.

**Removal action** - Another person can apply for your registered trade mark to be removed from the Register, either because you have not used it or because your use of the trade mark has not been in good faith. Your trade mark will be removed if you do not oppose the action. It is your responsibility to defend your trade mark registration by opposing the removal action and providing evidence of your trade mark use.

**Court action** - Another person can apply for a court order to remove or cancel your trade mark registration. Again, defence is your responsibility.

**Maintenance of your registered trade mark**

At any stage after filing your application you may apply in writing to record:

- changes in the details of your application/registration. Although it's important to note the goods or services to which your trade mark relates cannot be extended and only very minor amendments are allowed to the trade mark itself
- another party’s claim of interest to, or right in, your trade mark
- sale or licensing of your trade mark to another party.

**Renewal**

The initial period of registration of your trade mark lasts for ten years from the filing date.

Two months before the expiry date, we will send you a reminder notice to the last known address you gave us. Make sure you keep your details up to date with us so you do not miss important correspondence.

You can renew your registration up to 12 months before or six months after the expiry date.

Late fees apply if the registration is renewed after the expiry date.

The Registrar will renew your trade mark registration when the renewal fee is paid.

**Be vigilant – check all letters and invoices**

Anyone can access information about your trade mark, including your contact details, online. Some people may use this information to send letters and invoices to you requesting payment for IP services that you have not requested. They may send you an invoice, or offer to provide a service, such as:

- registering your trade mark
- publishing your trade mark in an international register
- providing you with trade mark monitoring services.

See our website for a current list of companies that send these unofficial invoices, and for examples of the invoices they send. The World Intellectual Property Organization (WIPO) website also contains a warning about these companies.

Before paying a fee for any IP-related service, we recommend you carefully consider what, if any, value the service will provide.

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**WARNING**

These companies are not associated with us, WIPO or its International Bureau. The services offered by these companies do not provide official trade mark registration or trade mark rights in Australia or overseas.
 Costs
A full list of fees can be found on our website. GST does not apply to these fees. We cannot refund your application fee.
A basic fee applies for filing your application, which is not refundable.
You will have to pay additional fees if:

- your application covers goods or services in more than one class.
  This is called a ‘multiclass application’
- you have applied for a ‘series’ of trade marks. You can apply to register more than one trade mark on one application if the trade marks are essentially the same. The differences between the trade marks must be extremely minor to qualify as a series application.

If your application is accepted, the appropriate fee must be paid before your trade mark can be registered.

How to pay
File your completed application with the correct fees:

Using eServices
By Visa or MasterCard when you submit your application through eServices on our website.

For paper applications
By cheque, money-order or credit card (Visa or MasterCard only) using the ‘Payment Form for Credit Cards, Cheques and Money Orders’ available from our website.
Post the completed form, along with your money-order or cheque, made payable to IP Australia, to:

IP Australia
PO Box 200
Woden ACT 2606 Australia

By Electronic Funds Transfer (EFT) by prior arrangement only. To arrange payment please contact 1300 651 010, and download the EFT form from our website.

Call us during business hours if you need assistance with filling in the paper or online application forms, choosing the correct classes for your goods and services or calculating the correct fees. Applications are examined in order of filing.
Protecting your trade mark

Infringement

It is your responsibility to protect your trade mark. If someone uses it without your permission, they may be infringing it and you should seek legal advice as soon as possible.

We do not monitor or police the marketplace, nor provide assistance in identifying or prosecuting infringement matters. It is up to you to be vigilant in identifying and/or prosecuting infringers.

Infringement of trade marks on the Internet

Doing business over the internet has significant implications for owners of registered trade marks. This is because it's possible you might inadvertently infringe trade marks that are registered overseas. Many trade mark owners do not realise when they begin trading over the internet that they are entering a global marketplace. Registration of a trade mark in Australia does not give any rights to that trade mark overseas. If you offer goods or services for sale via the internet you may be sued for infringement in a country where someone else owns the trade mark.

Trade mark owners need to be aware of the potential risks they face in internet trading. It's an idea to seek legal advice on the best way to avoid or minimise those risks. Most importantly, you should seek legal advice if you receive notice from an overseas trade mark owner alleging infringement.

Trade mark owners considering selling over the internet should weigh up the potential benefits for their business of applying for overseas registration of their trade mark. See the international trade marks section on our website, or read our guide to applying for your trade mark overseas.

International trade mark registration

Do you want protection for your trade mark overseas?

There are different ways Australian trade mark owners can seek trade mark protection overseas. An application can be filed directly with each country, or a single international application can be filed through us nominating the countries in which protection is required. This single international application operates under the Madrid Protocol, to which a large number of countries are signatories. See the international trade marks section on our website, or read our guide to applying for your trade mark overseas.

Removal of trade mark from register for non-use

A third party can apply to have your trade mark removed from the Register if you haven’t used it for three years or if you had no intention of using it when the application was filed.

The person applying for removal is often a trade mark applicant who is being hindered by your registered trade mark. If you do not oppose the action, your trade mark will be removed.
Objecting to importation of goods

You can give a notice to the Australian Customs and Border Protection Service (ACBPS), objecting to the importation of goods that infringe your registered trade mark.

For more information contact the ACBPS.
Contact us

Our staff will help you and answer your questions, however we cannot assist you on legal matters or provide business advice. You may wish to consult a trade mark attorney, an IP professional, a solicitor experienced in trade mark matters, or your business adviser. See our website for information about how to contact an IP professional.

We subscribe to the Telephone Interpreter Service. If you need help communicating in English, you can phone the interpreter service on 131 450 for the cost of a local call from anywhere in Australia.

All written correspondence regarding trade marks should be directed to:

**Post**
The Registrar of Trade Marks
IP Australia
PO Box 200,
Woden ACT 2606
Australia

**Phone**
1300 651 010 (within Australia);
+61 2 6283 2999 (International callers only)

**Website**
[www.ipaustralia.gov.au](http://www.ipaustralia.gov.au) - for comprehensive information relating to intellectual property, to access our eServices, and to download publications and other documents

Communicating electronically with us

The date you provide information to us can be critical to the certainty of your IP rights.

We have implemented a set of Electronic Business Rules that mean that when you communicate with us electronically (e.g. online), using our preferred method, the date and time of that communication will be Australian Eastern Standard/Daylight Saving Time.

Our preferred means of communication is through eServices - you can register and log in at our website.

We provide these rules to outline the submission requirements for your IP, including:

- identifying the appropriate file formats to submit your service request
- providing a list of electronic payment options.
Privacy of personal information

We are committed to handling personal information in accordance with our obligations under the Privacy Act 1988. Our Privacy Policy explains how we handle personal information, and is available on our website.

Customer service charter

We are committed to providing our customers with excellent customer service and high quality products and services. Our commitments are outlined in our Customer Service Charter, available on our website. We review our charter regularly and measure our compliance each quarter.
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<th>Glossary of terms</th>
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<td>Applicant</td>
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<td>In relation to a trade mark application, means the person in whose name the application has been made.</td>
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<tr>
<td>Application</td>
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<tr>
<td>The document filed with IP Australia outlining your trade mark, the owner/s of the trade mark and the goods and/or services for which protection is sought.</td>
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<td>Assignment</td>
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<td>This occurs when you sell or bequeath your IP rights to someone else. The assignee then owns those rights.</td>
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<tr>
<td>Assignee</td>
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<tr>
<td>The person(s) or corporate body to whom all or limited rights under an IP right are legally transferred.</td>
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<td>ATMOSS</td>
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<td>The Australian Trade Mark On-line Search System is IP Australia’s Trade Mark Register database</td>
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<td>Certification trade mark</td>
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<td>A trade mark used to identify goods or services that achieve a particular level of quality, accuracy or some other characteristic, including origin, material or mode of manufacture.</td>
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<td>Class</td>
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<td>Trade marks are granted in categories (classes) of the goods and/or services they promote.</td>
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<td>Collective trade mark</td>
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<td>A trade mark used in the course of trade by members of an association.</td>
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<td>Examination</td>
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<td>The process by which it is determined if a trade mark application meets the requirements for registration.</td>
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<td>Filing date</td>
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<td>The date when the application reaches IP Australia in complete form.</td>
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<td>Grounds for rejection</td>
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<td>The grounds on which an application for registration of a trade mark may have to be rejected because of the question of registrability of the trade mark itself.</td>
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<td>Hearing</td>
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<td>A hearing is an interactive presentation, in a forum conducted by the Deputy Registrar or an officer from the Hearings Section acting under delegation from the Registrar.</td>
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IP Australia
IP Australia is the Australian Government agency that administers intellectual property (IP) rights and legislation relating to patents, trade marks, designs and plant breeder’s rights. IP Australia is a prescribed agency within the Department of Industry.

IRDA
International Registration Designating Australia (IRDA) is an International application or registration seeking protection in Australia.

Madrid Protocol
A simplified process of applying for trade marks overseas.

Nice Classification
A classification of goods and services for the purposes of registering trade marks and service marks.

Opposition
Trade marks and designs all have a period of opposition, in which third parties may challenge the registration of IP.

Passing off
A common law principle whereby one person represents their goods or services as those of another.

®
The sign for a registered trade mark.

Registered trade mark
A registered owner has exclusive rights in relation to the goods or services covered by the registration to:
• use the trade mark
• authorise others to use the trade mark
• obtain relief for infringement under the Trade Marks Act.

Renewal
A trade mark registration may be renewed every 10 years. There are fees for renewing your trade mark. There is no limit to the number of times a registration may be renewed.

Sign
Includes the following, or any combination of the following, namely, any letter, word, name, signature, numeral, device, brand, heading, label, ticket, aspect of packaging, shape, colour, sound or scent.

TM
An abbreviation for Trade Mark

TM Headstart (pre-application service)
TM Headstart (pre-application service) is an online service that helps assess the potential registrability of your trade mark before taking the decision to file an application.

Trade mark
A trade mark is a sign that helps to distinguish goods or services from other similar goods and services.

WIPO
The World Intellectual Property Organization in Geneva, Switzerland.