

Application to Register a Trade Mark

Privacy Notice

The personal information collected on this form is collected for the purposes of the Trades Marks Act 1995 (www.ipaustralia.gov.au/about-us/ip-legislation/) and is protected by the *Privacy Act 1988* (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/what-we-do/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. IP Australia may also contact you, using the contact details you have provided, to request your feedback on our products and services.

IP Australia will publish your:

- name;
- address for service;
- address for correspondence; and
- details and history of your Trade Mark

in the Official Journal of Trade Marks, the Register of Trade Marks and on 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 the form.

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

Application to Register a Trade Mark

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. Refunds are not provided for applications which do not gain registration. Current applicable fees can be found on our website: www.ipaustralia.gov.au

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 PERSONAL DETAILS OF APPLICANT(S)

Print the full name of the owner of the trade mark. The owner must have legal personality and may be an individual, a company, an incorporated association or a combination of these. Individuals names should not include initials. A business name or trading name is not acceptable as the name of the owner. 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 names of the Trustees. An association, whether incorporated or not may apply for a collective trade mark. Please provide the company number (ACN), registered body number (ARBN) or Australian Business Number (ABN) if applicable.

More than one name?

If there is more than one owner, then 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 owners are considered to be "in business together" if they intend to use the trade mark in relation to goods or services which the owners offer or provide for a shared business purpose. All joint owners 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(S)

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. If you do not want your home address published online provide a PO Box.

3 OTHER ADDRESSES

Address for Service

Print an address in Australia or New Zealand where all correspondence about this application should be sent. This may be a post office box. An address in Australia or New Zealand must be nominated for correspondence even if the owner's own address is not in Australia or New Zealand. This address will also be used for service of legal documents.

Agent Details

If you are being represented by an agent, those details can be provided in the Agent Details section after your own.

Telephone numbers, email addresses 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.

4 TRADE MARK

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

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 on an A4 sheet of paper attached to this form.

Note: If you think 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.

This is the preferable size for all representations. If too larger or too small the quality of the image of your trade mark may be affected.

A trade mark is usually taken to be registered for all colours. It is not essential to provide a coloured representation unless you are applying for colour as a trade mark or intend to restrict your registration to specific 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 are requested 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 it is not compulsory to provide this information. However it 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.

It is important that you provide a clear, succinct description of your goods and services. The list of classes and a detailed list of goods and services in each class can be viewed on IP Australia's website at www.ipaustralia.gov.au (go to Australian Trade Mark Search and click on the Goods and Services tab available there).

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 under your trade mark. While you may use your mark on various items such as your stationery, uniforms and advertising material, you should list only 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.

If you need further help, please refer to IP Australia's website at www.ipaustralia.gov.au

If you need more room to list the classes and your goods and/or services, please print them on an A4 sheet of paper and attach it to this form.

8 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 a 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.

9 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 in section 4 of this form. Please indicate colour ONLY if you are applying for colour(s) as your trade mark.

10 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 trader. If your trade mark is not a standard trade mark and you are applying for a certification, collective or defensive trade mark, you 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.

11 DIVISIONAL APPLICATION

Where an application for a trade mark has been made in Australia (referred to as the parent 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 goods and/or services that are to remain in the parent application. There is room on the application form to do this.

A valid 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:

- **Applicant checklist provided in Section 12 of this application form.**
- **The earliest date a trade mark can be registered is 7.5 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.**



Australian Government

IP Australia



Application to Register a Trade Mark

(Office use only)

Please note that much of this information will be published in our data base and will be available over the Internet.

Personal Details of Applicant(s) (* denotes mandatory fields)

*1. Name	ACN/ARBN/ABN		
*2. Address (can be a PO Box)			
	Country (if not Australia)	State	Postcode
2nd Applicant (if required)	ACN/ARBN/ABN		
Address (can be a PO Box)			
	Country (if not Australia)	State	Postcode
<input type="checkbox"/> Additional applicant details attached			

*3. Address for Service (if different from the above)

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

Address			
	Country	State	Postcode

OR

Agent Details (only complete if you are being represented by an Agent authorised to act on your behalf)

Name			
Address			
	Country (if not Australia)	State	Postcode

Optional Details:

Telephone	()	Fax	()	Mobile Number	
Email Address				Customer Reference	

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

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 to Register a Trade Mark

Standard, certification, collective and defensive trade marks

*4. Trade Mark

Write or 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 **Section 9. Special kinds of signs**

If your trade mark contains non-English words and/or foreign (non-Roman) characters complete **Section 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)
<input type="text"/>	<input type="text"/> (DD/MM/YYYY)	<input type="text"/>

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 *(If additional space is required please attach to the back of this form on an A4 sheet of paper)*

If you need help deciding the class(es) or the goods or services for which you should apply, please contact IP Australia's website at www.ipaustralia.gov.au

Class No:	

Class No:	

Class No:	

Additional goods/services attached

11. Divisional Details

Please read carefully the information regarding divisional applications. If you are making a divisional application, please supply the following details:

Trade Mark number of parent Australian application

Lodgement date of parent Australian Application
(DD/MM/YYYY)

Convention priority details have been entered at Section 5

Goods/Services (including the class number) to remain in the parent application

Class No:	

Class No:	

Additional classes have been attached to back of form.

12. CHECKLIST

- Have you completed all the Customer Information?.....
- Have you attached your Trade Mark/s in **Section 4** or to the back of this form?
- Have you provided the goods and services to be covered by this application?
- Have you supplied any additional requirements, if relevant?.....
- Is a Payment Form and correct application fee attached?.....
- Have you attached any additional information to the form?.....