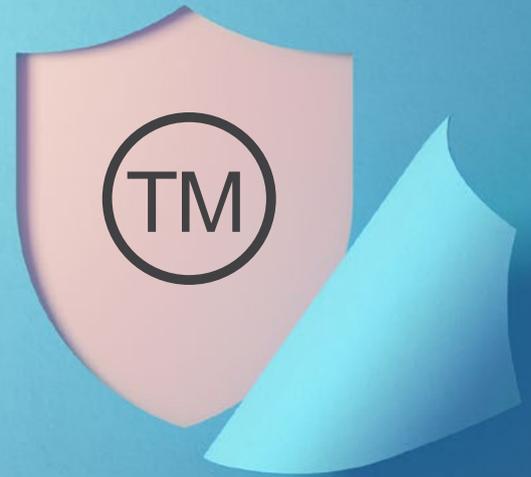


Australian trade mark applications



If you are considering filing a trade mark application (trade mark), we would be pleased to assist you. We recommend that you consider the following issues before proceeding:

The application process

Once a trade mark application is lodged, IP Australia generally takes approximately four months from the date of filing to initially examine the trade mark.

The timeframe for the process of the application varies depending on the outcome of examination. If the examiner does not raise an objection, or an objection is overcome, the trade mark will be advertised as accepted and open to opposition by third parties for a period of two months. If no oppositions are lodged, the trade mark will then proceed to registration.

However, if the examiner does raise any objections or a third party files an opposition, the process of registration is likely to take longer. This could take, for example, up to five years.

Expedited examination

In limited circumstances, it is possible to request an expedited examination of the application. Where a request is accepted by IP Australia, the relevant application should be examined within three to four weeks from the date of acceptance of the request, instead of the current four month estimated period.

Obtaining an availability search

We generally advise clients to instruct us to conduct a full availability search in respect of any proposed mark so that we can assess the risks discussed below. By conducting a detailed search, we can identify the following:

- any potentially conflicting trade marks which are registered or pending which may impede your application;
- whether another party could claim ownership rights over the trade mark due to its first use of a similar mark in respect of the relevant goods or services; and
- whether your use of the trade mark may potentially infringe a similar registered mark.

Without a full availability search, we cannot fully advise on these risks.

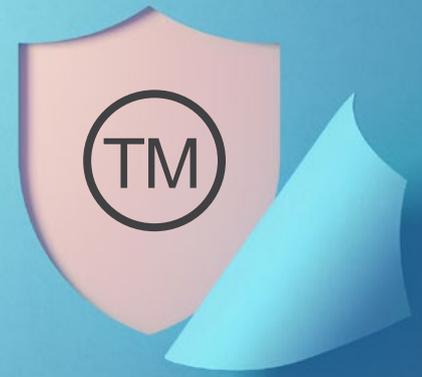
Trade mark requirements

A trade mark must be capable of distinguishing the applicant's goods and services from those of other traders (ie it must not be descriptive).

Marks that describe their designated goods or services or a characteristic of them or are laudatory in nature can be difficult to register. We can provide additional advice on this aspect if you would like us to.

Please note that, even if a mark is otherwise available for registration, certain marks and names are prohibited from being registered under various pieces of legislation. We can provide additional advice on this aspect if required. Please note that this would involve additional fees.

Australian trade mark fees



Availability search

Our fees – provide high level search and report (plus GST)

\$1,500

Our fees – provide detailed advice of search results identifying potential risks, if required (plus GST)

\$2,000 to \$3,000

Application

The costs of filing a trade mark application in one class of goods and services are as follows:

Our fees (plus GST)	IP Australia disbursements (GST free)	Total (plus GST)
\$900	\$400	\$1,300

The costs to add additional classes of goods and services:

Our fees (plus GST)	IP Australia disbursements (GST free)	Total (plus GST)
\$350	\$400	\$750

The costs at registration of a trade mark in one class of goods or services are as follows:

Our fees (plus GST)
\$450 (plus \$150 for each additional class)

Note that the above fees are on a per trade mark basis and also do not include the costs associated with dealing with significant objections and/or oppositions. We can provide an estimate if and when this occurs.

Should an objection be raised, it may be able to be overcome by compiling and filing evidence of use of the mark. Our fees for compiling and filing this evidence could be \$4,000 to \$5,000 (plus GST). We would provide you with an updated estimate if and when that was to occur.

Next steps

If you wish to proceed with the trade mark application, please consider whether you:

- would like us to conduct a full availability search;
- would like us to advise on whether your trade mark is sufficiently distinctive to be registered or otherwise capable of registration; or
- wish to apply to expedite your application.

Contact us

Please contact us at trademarks@hallandwilcox.com.au to discuss how we can assist you.