

AUSTRALIA : TRADE MARK FAQs

1. What is a trade mark?

A trade mark is something used by traders to distinguish their goods and/or services from the goods and/or services of other traders. Examples of things that may be trade marks are:

- Words
- Logos
- Slogans/catch phrases
- Product names, brands
- Aspects of packaging, labels
- Distinctive shape of a product
- Colour
- Sound
- Scent
- Image
- Sign
- Symbol

2. Will a Business Name Registration protect me?

A business name registration does not grant proprietary rights in that name to the business owner. The registration of a business name is merely a government requirement under the to identify the individual or other legal entity that operates the business. The only way to protect your business name and prevent others from using it, is to secure its registration as a trade mark.

3. How can I make sure I can trade under a certain name?

This is no 100% certain guarantee that you will be able to trade under any name. However, if you obtain a registered trade mark for your name you will be 99% certain to be able to trade under that name and to prevent other traders from using that or a similar name in relation to the same or similar goods/services.

4. What makes a good trade mark?

A good trade mark is distinctive, i.e. unique. Some of the most memorable trade marks are those that were created by the owner, i.e. GOOGLE, XEROX ...

While you may want to use a very descriptive term as your trade mark so as to capitalise on instant consumer recognition, this is not recommended as it is costly to obtain trade mark rights in a descriptive term (if you are able to get them at all).

It is better to use the money in promoting brand awareness of your distinct trade mark so that consumers become aware of your good/service. This will provide you with greater trade mark protection, and more importantly a more valuable business asset in the long run.

5. Is it expensive to obtain a registered trade mark?

No. While the cost to attain registration of a trade mark can vary, in the majority of cases it is very affordable (and the cost is also a complete tax deduction for you).

E.g. if you have a distinctive trade mark and you wish for IP Gateway to seek registration of it for you in one class of goods/services, it may be registered for **\$1260** (including all official fees and GST). Given that a trade mark will remain registered for a period of 10 years if it is continually used, this equates to only **\$126** per year.