

# Australian Trade Mark Applications



## General information

An outline of the procedures and costs for trade mark applications in Australia

### 1. APPLICATION

The charges for filing an application in Australia, including official fees, are AU\$900 for an application in one class. If an application is filed in more than one class, each additional class would cost an extra AU\$570 including official fees.

For simultaneously filed applications there is an AU\$125 reduction on the cost of the second and subsequent applications.

If convention priority is claimed, there is an additional charge of AU\$110.

We can file applications to register trade marks directly into New Zealand, and our charges will be reduced by approximately 15% if we apply simultaneously in New Zealand and Australia. Please advise if you require further details about the costs, etc, for filing applications to register a trade mark in New Zealand.

In order to file a trade mark application in Australia, we require the following details: -

- a. Full name and address of the applicant. If the applicant is a company, advise as to where the company is incorporated;
- b. Details of the goods and/or services in respect of which registration is required;
- c. A clear copy of the mark;
- d. Details of any convention priority claim (if applicable). A certified copy of convention priority documents is not required, however it is useful to have a photocopy for our file; and
- e. An Authorisation of Agent or Power of Attorney is not required to file trade mark applications or prosecute trade mark matters in Australia, and we can sign the application form on behalf of our clients.

### 2. SEARCHING

If intending to adopt and use a trade mark in Australia, we recommend conducting a pre-filing search of the Trade Marks Register to assess the availability of the trade mark. A pre-filing search will assist in determining, whether the trade mark is available for use and registration, and will often avoid unnecessary expense if the trade mark or a similar trade mark is already registered or is applied for. A pre-filing search may also help avoid infringement of an already registered trade mark.

The costs for searching vary depending on the time involved, and the complexity of the results depends on the trade mark being searched. However, the cost is generally in the region of AU\$750 to AU\$1,200.

Please let us know if you would like a trade mark availability search to be conducted prior to filing. If you do not require any pre-filing searches, we would be grateful if you would indicate that no pre-filing search is required.

### 3. PROSECUTION

The Australian Trade Marks Office will examine an application for potential conflicts with earlier marks, and to assess the inherent registrability of the trade mark in terms of whether it is descriptive or does not qualify for registration for any other reason.

The cost involved in prosecution of an application varies depending on the objections raised in the Examiner's report and the cost is largely time dependent. It will significantly increase if presentation of evidence of use is required to support the application.

Costs for receiving, considering and reporting on an Examiner's objections are typically in the region of AU\$350 to AU\$650. Costs for responding to an Examiner's objections are typically in the region of AU\$350 to AU\$700.

#### 4. REGISTRATION

After an application is accepted it is advertised for three months for opposition purposes. In the absence of opposition to the registration of the trade mark, the trade mark will proceed to registration upon payment of the requisite fees. Our charges, including the official fees, for completing registration of a trade mark in one class are presently AU\$650, and AU\$450 for each additional class in an application.

#### 5. TIME

Applications filed in Australia are presently being examined within about five months from the date of filing. However, expedited examination is presently being granted automatically to applications claiming convention priority. The applications are being examined within approximately two months from the date of filing.

Expedited examination may be requested if sufficient reasons are provided. In this case examination is likely to occur within approximately two months. Our charges for requesting expedited examination, including preparation of a supporting statutory declaration, are AU\$400.

If the Examiner raises objections against an application, the registration process will be delayed. Fifteen months is allowed within which to overcome any objections. If no objections to an application are raised, the application will proceed to acceptance and will be open to opposition for a period of three months from the date of acceptance. Accordingly, the approximate time for the registration procedure where an application faces no obstacles is around eight months from the date of filing.

*The estimates and indications given do not include sundry costs such as fax and photocopying, and exchange rates are variable approximations only.*

*Our general terms of engagement and other information on our firm can be found at our website at [www.ShelstonIP.com](http://www.ShelstonIP.com).*

*Please do not hesitate to contact us if you require any further advice or assistance.*

*Effective as at 15 May 2010.*