

## TRADE MARKS: FILING BASICS

### Filing Requirements

Once a decision is made to lodge a trade mark application, an Attorney will require:

- a representation of the trade mark;
- a list of the goods and/or services in respect of which protection is required;
- the full name of the Applicant (i.e. the owner of the trade mark) and, if a company, the A.C.N.

### Priority Date

In Australia once a trade mark is registered, the registered rights take retrospective effect from the priority date. The priority date is usually the date on which the trade mark application was filed with the Australian Trade Marks Office. However, an Australian application may “claim priority” under the Paris Convention from an earlier application for the same trade mark first filed less than six months previously in another Convention country. In this case, the priority date will be the date that the earlier overseas application was filed. The Paris Convention is an international agreement to which Australia and ~170 other countries are signatories. Priority date is also important because the Examiner will only cite a similar mark as being in conflict with a trade mark application if the similar mark appeared on the register before the priority date of the application under examination.

### Classification

Goods and services that can be protected by a trade mark are divided into 45 classes, in accordance with an international classification system. When drafting an application for trade mark registration, it is important that the specification of goods and/or services is accurate and that the appropriate classes are selected.

Once registered, an application will provide protection only for the goods or services specified in the registration, or closely related goods and/or services. It is therefore important to ensure all goods or services of interest are properly specified and the correct classes chosen. A common mistake is for applicants to file in fewer classes than necessary to properly cover their goods or services of interest, or to file in unnecessary classes.

Usually, the goods or services to specify are those from which the applicant derives an income. By way of example, a restaurateur who also sells house-made condiments might specify services relating to the provision of food and drink in class 43, as well as goods class 30 for ‘sauces’.



**Class 9**  
apparatus and  
instruments



**Class 25**  
clothing, footwear  
and headgear



**Class 35**  
advertising



**Class 42**  
scientific and  
tech services



**Class 41**  
education

## FIND OUT MORE

We recommend that you speak with one of our Attorneys regarding your IP protection needs. There is no obligation and no fee for an initial meeting. We will advise the required steps and costs involved. Please contact us for more information.

**Michael Buck IP**

PATENTS - TRADE MARKS - DESIGNS

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