

A strong, distinctive brand is a valuable asset of your business that will enable you to stand out from your competitors and build loyalty and trust with your customers. It is important to protect that asset and the best way to do this is use trade mark protection for your brand. In this article, we explain what trade marks are and the benefits of using trade mark protection.

What can you register as a trade mark?

You can register your names, logos and brands as a trade mark in both New Zealand and overseas. A company can have multiple trade marks – and trade marks can include words, images, smells, colours and logos that are used to distinguish your goods or services in the market place.

Registering your trade marks will help you to protect your rights in those marks. It is best to protect your trade marks from the outset. You can do this by:

- taking time to stop and assess what trade marks your business owns and uses;
- ensuring it is your business, and not any individual, that owns the trade marks; and
- registering (as early as possible) all trade marks that can be registered.

Where can you register a trade mark?

Trade marks are territorial so if your goods or services extend overseas, you should consider applying to register your trade marks in the relevant countries. In New Zealand, applications for registering a trade mark must be filed with the Intellectual Property Office of New Zealand (**IPONZ**).

Why should you put in place trade mark protection for your brand?

Once your trade mark has been registered, you will have the exclusive right to use the trade mark in each country it is registered in, and you can sell or license your trade mark to others.

Trade mark registration also strengthens your legal position in a case of unauthorised use, or counterfeiting, as it allows you to seek remedies such as injunctions or damages against the infringing person or business. A registered trade mark is also effective for deterring others from using that same mark or a similar mark as it will appear in searches on IPONZ.

Unregistered trade marks do not offer nearly as much protection as registered trade marks. There are some common law remedies available for unregistered trade marks, but the protection depends on the length of time and level of your use of the trade mark. It can also be an onerous task to provide the information and proof required to show that you are the owner of the trade mark.

Trade mark registration lasts for 10 years and can be renewed indefinitely. Generally, trade marks increase in value as time goes on if you use your brand.

Why should you carry out trade mark searches?

Before you submit a trade mark application, you should carry out searches of the relevant trade mark register to check your proposed mark is not already in use or if there are similar existing marks that may cause issues with your application.

While searching is not mandatory, it is hugely beneficial if you wish to progress to a successful registration. To future-proof any expansion plans, searches should also be carried out in any countries you are likely to operate in in the future.

Please contact us if you would like any assistance with using trade marks to protect your brands.

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