

WHAT IS A TRADEMARK?

A Trademark is a letter, word, phrase, sound, smell, shape, logo, picture and aspect of packaging or combination of these.

It identifies a product or a service and distinguishes it from other similar products or services.

WHY IS A TRADEMARK IMPORTANT?

A Trademark can be an integral part of your business and marketing strategy. Customers and competitors will identify a certain quality and image with the goods and services bearing your Trademark.

Quite often companies and business, when looking at establishing a new product do so through having a distinctive Trademark, which they use to market the product.

WHY REGISTER A TRADEMARK?

Once you register a Trademark you:

- Have the exclusive right to use the Trademark as a brand name of the goods or services specified in the registration.
- Have a registered Trademark, which is personal property and can be sold.
- Are able by registration to cover the whole of the Commonwealth of Australia.
- Have the exclusive right to allow other people to use the Trademark, particularly in such cases as franchising. If any Trademark infringes your own Trademark you are able to prevent other people using your Trademark or misleading the public. You can do this by legally enforcing your rights against the person breaching your Trademark.

WHAT IF I DON'T REGISTER A TRADEMARK?

Registration of a Trademark is not compulsory, however if somebody else uses your Trademark you then would have to take action under common law for a claim of passing off.

To do this you will have to prove that you have developed recognition for that Trademark and the use of your Trademark by another person will or may confuse or deceive consumers. This is a very expensive option.

When your Trademark is registered you have a right as of law to take action against any person who uses that Trademark.

HOW DO I REGISTER A TRADEMARK?

To register a Trademark you have to apply to IP Australia. At Ferguson Cannon Lawyers, we can assist you with the whole process right through from application to registration and subsequent renewal.

We can also assist you in protecting your Trademark if it is infringed by another party.

We will provide you with clear advice in relation to the registration process together with a competitive quotation to carry out the work.

If you have any question in this matter, please do not hesitate to contact Glenn Ferguson.