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FAL Marks & Brands

Trade Marks: FAQs

Presented by:

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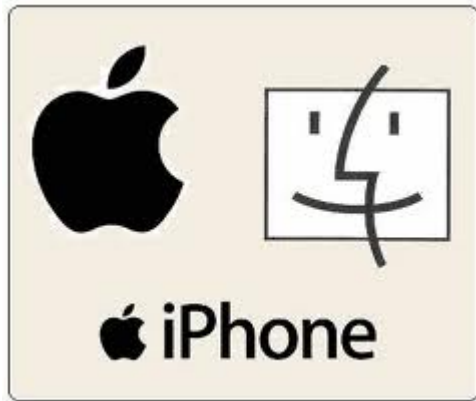
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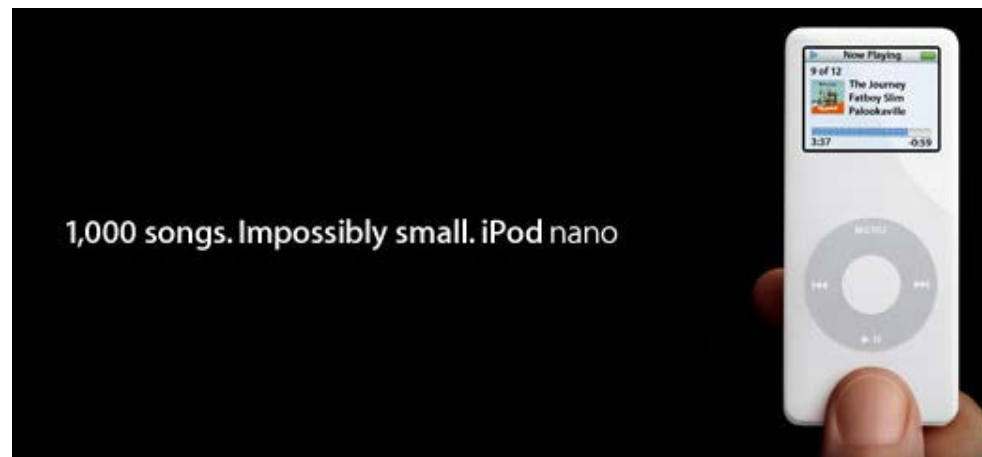
What is a TM?

- “Sign” – used to distinguish one trader’s goods/services from those of another
- Signs can include a letter, word, numeral, logo, shape, colour, smell, sound, picture an aspect of packaging or a combination of these.
- Property
- 45 classes of goods and services

Types of trade marks



APPLE



Types of trade marks



What rights are conferred?

- Exclusive right to apply trade mark to certain goods or services.
- Sell and/or licence.
- Unlimited duration (use it or lose it).
- 10 year renewals for registered marks.

What is the function of a Trade Mark?

- Indicates the source of origin of goods and services.
- Helps guarantee the quality of goods and services offered under the mark.
- Creates and maintains demand for the product or service.
- Used as a marketing tool to build a brand.
- Can add great \$ value to a company

Business & Domain names

- You have both – Do you need a trade mark? YES
- If you register a business, company or domain name, you do not automatically have the right to use that name as a trade mark.

Before Applying for a Trade Mark...

- Elements to consider when creating a Trade Mark:
 - Is your Trade Mark **memorable**?
 - Does your Trade Mark stand out from the crowd (**distinctive**) or does it simply describe the goods or services you offer (**descriptive**) by:
 - Name, quality or value, price, description, intended use or location?
 - What positive/negative images does your Trade Mark convey?
 - Is your Trade Mark **similar** to those of your competitors?
 - Have you searched to see if your Trade Mark is available?

What are the steps towards TM protection?

- Searching
- Application
- Examination
 - Clear Report
 - Acceptance
 - Adverse Report
 - How to overcome adverse reports.
- Advertisement
- Registration
- Renewal

Searching

- Why search for a Trade Mark before filing an application?
 - To ensure that the Trade Mark is **available**.
 - To **customise** the application in order to avoid costly objections.
- Do I need to do a search before applying for a Trade Mark?
 - Not mandatory, but **highly recommended if**:
 - You are planning on using you Trade Mark; or
 - Spending Money developing a brand.

Searching

- Where to **start** searching:
 - The Australian TMs Register
 - The Australian Securities and Investments Commission (ASIC) records
 - Telephone directories
 - Trade Brochures
 - Internet

Trade Mark Application

- What do we need to apply for a Trade Mark?
 - ✓ A clear representation of the mark
 - ✓ The applicant's legal name, description and principal place of business
 - ✓ A list of the goods, products and/or services upon which you propose using the Trade Mark
 - ✓ If you have already filed the Trade Mark in another country, the details of that prior application

Examination

- Examination by IP Australia within 4-5 months
 - Clear report → Acceptance
 - Adverse Report
 - 15 Months to overcome objections
- Common objections:
 - Formalities requirements
 - Conflicting TMs
 - Trade mark is not distinctive – need to provide evidence of use

Acceptance & Registration

- **Publication** in the Australian Official Journal of Trade Marks for **2 months**:
 - Option for third parties to oppose
 - Less than 5% of the applications are opposed
- No opposition → registration
- Issuance of certification of registration
- Ownership for **10 years** from filing date

CRCs and TMs:

Why should your trade marks be protected?

- ✓ Protect your Name/Image
- ✓ Commercialisation/Licensing
- ✓ Community Engagement:
Simplify Complex Ideas
- ✓ Stakeholder Engagement



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A FEW EXAMPLES....

LOGOS



A FEW EXAMPLES....

LIVESTOCK LIBRARY

Sheep CRC Ltd

Beef CRC Ltd

Class: 44 Providing information and reference material relating to the breeding and veterinary care of livestock

A FEW EXAMPLES....

WORMBOSS

Australian Wool Innovation Limited Sheep CRC Ltd

Class: 44 Providing information about the parasites that affect wool-producing livestock

A FEW EXAMPLES....

MATCARE

CRC Care Pty Ltd

Class: 1 Adsorbent material used to remove fluorinated surfactants and other organic compounds from wastewater and soil

A FEW EXAMPLES....

EverCrop
EverFarm
EverGraze
EverTrain

Future Farm Industries CRC Limited

Class: 31 Agricultural, horticultural and forestry products and grains developed using perennial plant technologies

Class: 41 Provision of education and training

Class: 42 Scientific, services



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