



**HEUER
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LEGAL INSIGHT - BUSINESS INSTINCT

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Trade Mark Registration

Why Register a Trade Mark?

A registered trade mark protects the name (brand name, slogan or logo) of a product and/or service. Being a statutory right, a registered trade mark is a much stronger right than common law right comprising of your reputation and goodwill. Your trade mark is deemed to be *prima facie** evidence of your right in the trade mark and, as a general rule, it would not be necessary to prove your reputation and goodwill should infringement arise.

Reputation and goodwill are often difficult to prove and are limited to the specific geographical areas where the reputation and goodwill have been established. Furthermore, a registered trade mark is enforceable throughout the whole of the Republic of South Africa. This means that, with a registered trade mark, no other entity would have the right to use your name (brand name, slogan or logo) anywhere in the country.

Cost Summary

The costs involved in registering your trade mark are tabled as follows:

Service Description	notes	Total Rand
Trade Mark Search	Step 1	R 2550.00
Filing Trade Mark Application	Step 2	
First filing (single trade mark in one class)		R 5590.00
Subsequent filing (same trade mark in additional class at the same time)		R 3590.00
Subsequent filing (additional trade mark in the same class at the same time)		R 3590.00
Reporting of Official Action and Publication	Steps 3-5	R 2000.00

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* In common law jurisdictions, *prima facie* denotes evidence that, unless rebutted, would be sufficient to prove a particular proposition or fact.

Trade Mark Registration Procedure

Step 1: Trade Mark Search

It is of utmost importance to conduct a trade mark search before filing your trade mark. This search will reveal if your trade mark is available for registration or whether there are other marks within the Trade Marks Register which could result in your application being opposed by a 3rd party. Only if the search results are positive, do we recommend filing your trade mark registration.

Trade marks are filed in one or more of the 45 classes, for goods and services, prescribed by the multi-national *Nice Agreement*. It is thus critical to extend the trade mark search to all relevant classes. If any conflicting marks are found, you would have to rethink your name (brand name, slogan or logo) for registration before any subsequent trade mark searches can be conducted.

Step 2: Filing the Trade Mark

Once the trade mark search results are positive, we prepare the applicable documentation and file the trade mark application at the South African Trade Marks Office. Application reference numbers are received approximately 2-3 days after filing. The filing details will be e-mailed to you as soon as they are received from the Trade Marks Office.

Step 3: Examination Report

It may take between 9-12 months to process examination by the Registrar of Trade Marks. Upon examination, the Registrar may accept the application unconditionally, set certain requirements for acceptance of the application, or preliminarily refuse the application. The examination outcome is set out in the Official Examination Report / Official Action. Should the Registrar set certain requirements for acceptance of the application, then will provide a quotation and obtain your approval prior to proceeding.

Step 4: Notices of Acceptance

Once in compliance of the Registrar's requirements, if any, the application is formally accepted and IP Braai requests the Notices of Acceptance from the Registrar. This should be received within 6-12 months from Examination.

Step 5: Opposition Period

The application is advertised in the Patents and Trade Marks Journal. After the month of advertisement, we enter into a mandatory 3-month opposition term during which 3rd parties can oppose the application proceeding to Registration. If an opposition is lodged, our Litigation Department will be in contact to advise on the options available to proceed. Further charges could apply to overcome the opposition (See attached costing schedule).

Step 6: Registration Certificates

If no opposition is lodged or an opposition is overcome, and we receive the registration certificate, we check same and then dispatch the registration certificate, if requested.

Trade Mark Renewal

After registration, the trade mark requires renewal once every 10 years. We provide the service of monitoring the renewal date, sending reminders, attending to the renewal and reporting thereon.

Conclusion

Registering your trade mark is an integral segment of any business' Intellectual Property (IP) Road Map and is deemed an asset to your business entity. Whilst a trade mark application is pending, you can use it, in trade, with the TM symbol.

Please feel free to contact us for any further assistance with trade mark registration, with your IP Road Map or any legal services your business might require.

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