



Intellectual Property

Intellectual Property is an area of law which protects the various types of intangible rights including:

- literary works
- performances
- scientific discoveries
- industrial designs
- trademarks
- patents

Copyright

In Australia original expression of ideas is automatically protected upon it being formally expressed in writing or electronically. There is no registration process to protect copyright.

It commonly protects books, films, music, sound recordings, newspapers, magazines, artwork, computer programmes etc.

Copyright is governed by the Copyright Act.

A copyright owner is well advised to record details of ownership as this will advise others of your right and will act as a deterrent to copycats.

A copyright ownership gives you the right to licence others to use it, perform it, subject to your rights of acknowledgement.

Pearce Webster Dugdales Lawyers can assist you to:-

- record your copyright ownership;
- licence your copyright for use by others; and
- challenge infringements of your copyright.

Trademarks

A Trademark is a mark which is in use, or intended to be used by a trader so as to distinguish their good and services from others. In Australia this is governed by the Trademarks Act 1995.

A trademark is a right granted for the registration of an original or distinctive mark which could consist of drawings, symbols, three- dimensional signs such as the shape and packaging of goods, audible signs such as music or vocal sounds, fragrances, or colours used as distinguishing features.

A registered trademark is legally enforceable and gives you commercial exploitation rights which includes licencing rights on sale of good and sources connected to the trademark.

Trademark registration is governed by IP Australia. The process involves application, examination and acceptance. For a trademark to be registered it must be distinctive, not deceptive or confusing, and not similar to another registered trademark.

Trademarks can be registered as a colour trademark, services trademark or as a single trademark which may embody a logo, scent, sound etc. Registration is for 10 years and is renewable for a further period.

Prior to any registration, applicants are encouraged to do a search of the Company Names/Business Names register, white pages, yellow pages as this will save time and expense so that an application is not being made for existing registered trademarks.

Trademark applications can be registered in Australia and if it is intended to be registered internationally, it can be done so as soon as the Australian registration is approved so that the application date is preserved.

The international registration can be to individual countries or it can be made by a single application to protocol countries and this application whilst it can be expensive is lodged through IP Australia with the World Intellectual Property Organisation (WIPO) and is based on the original application lodged in Australia.

Contact: Pearce Webster Dugdales, Level 4, 379 Collins Street, Melbourne