



Protecting Your Intellectual Property

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More and more dental practices are making the choice of branding their business by using a name other than their own name and developing a true corporate identity. If implemented correctly this makes perfect sense as it allows greater flexibility with the treatment of patients by different Dr's and Hygienists within the practice, it allows more concise marketing messages to be created and ultimately it helps with the sale of the practice and the value of any good will.

However, with the creation of a brand comes the need for Brand Protection. There are now many dental practices throughout Australia using the same name and if issues arise from this it will be the practice that has taken the correct steps towards brand Protection that will be able to continue to use their current name and will be in a position to stop other practices trading under the same name if they should choose.

If you are making the decision to change the name of your practice, it is important that before you fall in love with it, you complete the necessary searches to make sure you are not going to infringe on anyone else's brand. These searches are readily available and for a small cost can provide you with the piece of mind that you can invest in the collateral and advertising of your choice.

Once you have completed your search, found there were no problems and created a brand for your practice, it is importance to follow the correct steps to safeguard yourself and your brand from use by competitors.

Solicitor Joanna Oakey of Access Legal Services in North Sydney is an expert in this field and is already in the process of helping several Dental Practices the their brand protection requirements. This is Joanna's advice: -

"Trade marks represent one of the most valuable assets of a company, and the protection of trade marks are essential for the protection and growth of the reputation and goodwill of a company.

Contrary to popular belief, neither business names, company names nor domain names offer any proprietary rights to the registered owners, and do not give exclusive rights to the marketing and advertising of the name. Trade mark registrations however provide one of the best legal means of achieving this protection, in the form of an exclusive right. Trade mark registrations essentially mean that your brand name and logo are recorded on a national register, as

being property belonging to your company, which then brings with it all of the advantages of property ownership.

The advantages of trade mark registrations are numerous, and can be simply summarised into the following main elements:

- 1. Provide a legal monopoly** – Registering a trade mark gives you a legal monopoly on that trade mark for your goods and or services within Australia.
- 2. Protect your company from competitors** – Trade mark registrations protect your company's reputation and goodwill by preventing other from using a substantially identical or deceptively similar mark by its registration. Registration of a business name can not give you the right to prevent others from using those words, but trade mark registration can.
- 3. Create value for your company** - Trade mark protections create an asset for your company in the form of personal property that can be used freely, rented, licensed or sold, or used in a variety of ways to create value for your business.
- 4. Get in first** - Trade marks are registered on a first-come first-served basis – so if someone else registers your mark or a substantially similar logo before you, you may never have the right to register it yourself – and you may even be prevented from using your trade mark and logo in the future.
- 5. Protect your company from legal infringement actions** - If you continue to use an unregistered name or logo, you could be opening your company up to the potential of a legal suit for infringement of someone else's trade mark that was registered first.

The importance of properly protecting the IP of a business is strongly understood by the large corporate companies that dominate the list of top companies nationally and



internationally, with companies such as Mars Inc valuing IP as their single most important asset. However, the application process will take a minimum of seven and a half months, and possibly up to a year, so it is extremely important that the process of registration is commenced as quickly as possible. Once an application is submitted, you will be able to use the ™ symbol straight away, to indicate that you are claiming rights in relation to your trade mark and that your trade mark application is pending.

GENERAL INFORMATION:

How long can registration last?

Trade mark registration continues indefinitely provided it is renewed every 10 years.

International Registration of your trade

It is possible to protect your trade mark in other countries. Under the Paris Convention, separate registration procedures and requirements apply in each country. You may claim priority from the filing date, if you lodge the other application within 6 months of lodging Australian application.

Access Legal Services

The services provided by our firm include:

- Advice on trade mark creation and protection strategies
- Trade mark availability searches
- Advice on registrability of your trade mark
- Due diligence
- Preparation, filing and prosecution of trade mark applications
- Opposition, filing and revocation proceedings
- Preparation of trade mark licence and assignment agreements
- Trade mark infringement litigation
- Trade mark management in overseas

For the purpose of lodging your application in Australia, we will advise you on the following issues:

- What are intellectual properties that you own and should consider protecting;
- What classes you should register these in (relating to what goods and services you wish to gain protection for);
- What type of trade mark can you get including divisional and defensive applications;

- What are the registered trade marks similar to your trade mark and what are the strategies that you can adopt to either obtain protection of your brand name from the competing trade marks or if you should obtain any legal actions against these competing trade marks; and
- An outline and explanation of the trade mark registration process.

After filing the trade mark application, your trade mark will be examined by Trade Marks Office and the Office will register your trade mark if all objections and requirements are met.

Once an application is submitted, you will be able to use the ™ symbol straight away, to indicate that you are claiming rights in relation to your trade mark and that your trade mark application is pending.

We strongly recommend that you apply for registration of the trade mark for the company's name and logo as soon as possible, to secure your ownership of it above any would-be competitors. "

There are different methods to allow you to trademark your brand. You are able to research information on registering your brand name and logo and complete searches independently using www.ipaustralia.gov.au. Here you will find an extensive website full of the information you will need to apply for a trademark however the process can be time consuming and if you are unsure of the exact areas you need to complete, you may miss a crucial part of the application process leading to an unsuccessful trademark. Alternately, you can use the professional services of Access Legal who, with their years of experience in registering trademarks will provide you with the best possible chance of getting your brand trademarked correctly.

Here at Integrated Dental Marketing we have helped many dental practices create brand names and logos and through Access Legal we are now offering the service to protect this I.P.

If you would like individual advice on protecting your brand then Joanna and her direct line at Access Legal is (02) 9409 2525 or via e-mail joanna.oakey@accessgroup.com.au. If you would like to know more about creating a brand then contact Carl at Integrated Dental Marketing on (02) 9211 1477 or via e-mail carl@dentalmarketing.com.au both services are provided nationally.

