

Trade mark FAQs

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If you haven't found your answer then [send us your question](#) and we'll get back to you.

What is a trade mark?

See [What is a trade mark?](#)

How can I search to see if my mark can be registered?

See [How to check for existing](#) trade marks.

What is a Specification and Classification?

See [Classifying Goods or Services](#).

What are trade mark classes?

Trade mark classes relate to categorising goods and services of a similar kind into classes for ease of identification and searching. New Zealand follows an international classification system called the International Classification of Goods and Services (currently the 9th edition of the Nice Classification, introduced on 1 January 2007), which is published by the World Intellectual Property Organisation (WIPO). For more information about trade mark classes please click [here](#).

How do I register a trade mark?

See [How to apply](#).

What happens after my application is received?

Online applications - a trade mark application is confirmed by 3 emails if it has been successfully filed with our Office.

1. A tax invoice confirming payment
2. An IP Summary report
3. A TM Detail report.

If you have received all 3 emails then your application has been filed. Your Trade Mark number is on your tax invoice and IP Summary report and starts with a T7. If 3 emails are not received you can access your application by going to [Lodge Trade Mark application](#)>>Trade Mark application. Type in your reference and your password then click on the select button and it will take you back to your application. The reference and password is case sensitive.

Paper applications – A receipt for the fee is sent and you are notified of your trade mark number.

Once your application has been filed you can go online to the IPONZ website and view your application details by typing in your Trade Mark number under the Trade Mark Search Field >> New Zealand numbers.

After the application has been examined you will be sent either a Compliance REPORT or a Notice of Acceptance usually within 5-7 working days of the receipt of your application and fee.

If the application is not accepted the Compliance report will outline the reasons why.

There may be certain conditions to meet before your application can be accepted. The client has 12 months from the file date to meet the criteria and to convince the office that the trademark is registrable.

If your trademark is accepted you will be sent a Notice of Acceptance which will include information about when your trademark will be advertised in the Intellectual Property Journal for 3 months. If there is no objection to the trademark it can be registered.

The minimum period from filing to registration is six months and then you will be sent a Certificate of Registration.

For more information about what happens after your application is received please see [The Trade Mark Process](#).

When will your application be processed?

You can find the latest processing timeframes for Trade mark applications and correspondence [here](#).

To track the progress of a particular application or correspondence you have submitted please see our View IP History service.

[VIEW NOW](#)

What is a Compliance Report?

See [Replying to your Compliance Report](#).

How do I respond to a Compliance Report?

See [Replying to your Compliance Report](#).

I have already filed my application but I want to make changes to the trademark. Can I do this now?

The answer can depend on whether or not the Office has commenced work on the particular application. For example whether or not the trade mark has been searched.

If the Office has not commenced work on an application, it may be possible to make amendments to the trade mark, so long as the Office is contacted within 24 hours of filing. The office will look at the surrounding circumstances and treat each application on a case by case basis. Please note that any changes made may affect the filing date.

After the Office has commenced work on a trademark, you cannot make any changes that will materially alter the meaning or scope of the application. Generally, only very minor changes can be made. The reason for this is that substantial changes made to a trade mark post-filing may disadvantage other applicants or users of the register. For information see our guideline on [amendments to trade mark applications](#).

I filed my application with the wrong name - can I change it?

If you need to correct an obvious mistake in the applicant's name, such as a spelling error or the omission of the legal status of the applicant, you can request a change under section 37(2)(a) of the Act. The Commissioner will usually allow such a change where the legal ownership of the application remains the same. Please note - where there is any doubt as to the validity of the request under section 37(2)(a) of the Act, the Office may require supporting documentation to be supplied.

If your change to the applicant's name involves the ownership of the application changing from one legal entity to another you will need to complete an assignment or transmission of the mark.

For more information on amending your trade mark please see our guideline on [amendments to trade mark applications](#).

What steps are involved in amending my trade mark?

You can make a written request to amend your trade mark, which must include details of the applicant's name, if the applicant has an agent the agent's name, a description or representation of the trade mark, the trademark application number and the nature of the correction to be made to the application. Any request for an amendment to a trade mark is examined by a trade mark examiner. For more information on amending your trade mark please click [here](#).

The trade mark opposition process - an overview

Opposition is an objection to the registration of an application in the form it was advertised. The Intellectual Property Office of New Zealand recommends that a potential opponent bring their concerns to the attention of the trade mark applicant before they formally file a notice of opposition. The three month opposition period facilitates this.

See [Opposing Registration of a Trade Mark](#) for more information.

Maintaining your trade mark registration

[See Maintaining your trade mark](#).

Can my trade mark be restored to the register?

Yes. Your trade mark can be restored up to one year after the trade mark registration has expired by simply paying the renewal fee. This can be done online.

Can someone else apply to register my trade mark if it has been removed from the register?

Yes. If your trade mark has been removed from the Register, another person can apply to register that trade mark as their own. However your mark will prevent the other person's mark from being accepted until one year after the expiry of your trade mark registration.

How do I sell or license my trade mark?

Trade marks are bought, sold or licensed by way of a contract that should define the terms and conditions upon which you change the ownership of the trade mark. You are advised to seek professional help in drafting your contract.

IPONZ does not assist in the drafting of contracts between parties. It is the responsibility of the new owner of the trade mark to register any change of ownership with the IPONZ.

How can I show that my goods or services are covered by a registered trade mark?

When your trade mark is registered you can use the ® symbol on your goods or when advertising your services. It is an offence to falsely claim that your trade mark is registered.

Can IPONZ help me if my trade mark is infringed?

No. IPONZ does not assist with infringement of a trade mark. If a trade mark is infringed, then IPONZ recommends that you seek legal advice from a Patent Attorney or a lawyer familiar with intellectual property issues.

How long will it take to register my trade mark?

The amount of time that it takes to register a trade mark can vary and depends on the outcome of the examination and acceptance. The minimum period from filing to registration is six months and then you will be sent a Certificate of Registration.

After the application has been examined you will be sent either a Compliance REPORT or a Notice of Acceptance usually within 5-7 working days of the receipt of your application and fee.

If the application is not accepted the Compliance report will outline the reasons why.

There may be certain conditions to meet before your application can be accepted. The client has 12 months from the file date to meet the criteria and to convince the office that the trademark is registrable.

If your trademark is accepted you will be sent a Notice of Acceptance which will include information about when your trademark will be advertised in the Intellectual Property Journal for 3 months. If there is no objection to the trademark it can be registered.

When can I use the TM and ® symbol?

A ™ symbol indicates that a trader is using a sign as a trade mark but does not indicate

whether the sign is registered. Once a trade mark is registered, the ® symbol may be legally used against the trade mark.

How much does it cost to register a trade mark?

A trade mark application costs NZ\$100 plus GST per class. (You may wish to register your trade mark in several classes of business activity.)

Renewal fees (\$250 plus GST) are payable every 10 years if you want to maintain the registration.

Note: Since the trade mark application fee is not refundable if your application is unsuccessful, please review the [How to Apply section](#) before submitting your application.

How long will my registration last?

The registration period lasts for 10 years from the date the Office received your application or 10 years from your [convention priority date](#) (if the application claims priority from an overseas application), whichever is earlier. Once this initial period has expired, the registration can be renewed every 10 years. This can be continued indefinitely, provided you continue using the trade mark.

See [How to apply for a trade mark](#) for more information.

Will registration protect my mark overseas?

No. Each country has its own laws and practices regarding trade marks. You may need to apply for protection in each country where you wish to register your trade mark. However, New Zealand is a signatory to an international agreement called the Paris Convention for the Protection of

Industrial Property. Article 4 of the Paris Convention provides that any person who has filed an application to register a trade mark in a signatory country, has the right to file further applications in any of the other signatory countries, and receive the priority date of the original application, provided that the further applications are filed within six months of the original application.

To learn more, consult an intellectual property expert and review the information on the [World Intellectual Property Organization's](#) website.

Who enforces trade mark protection?

Registered trade marks are protected by intellectual property rights, but the trade mark owner remains responsible for taking action if competitors try to use the same or a confusingly similar mark for identical or similar goods/services.

Can I transfer the ownership of my trade mark to someone else?

Yes. The owner or applicant for a trade mark may assign or transmit ownership of the mark. To apply for assignment or transmission of the mark, complete an [Application for Assignment or Transmission form](#) and lodge with IPONZ together with supporting documentation showing transfer of title. The application form may be submitted through our [online correspondence system](#) by email or posted to IPONZ.

How do I change my name or address details?

Regulation 135 of the Trade Marks Regulations 2003 sets out the necessary formalities when an owner or a licensee requests an alteration of name and/or address pursuant to section 78(a) of the Act.

A request to alter the name and/or address of the owner or licensee of a registered trade mark must be in writing and contain the following:

- the owner's name:
- if the owner has an agent, the agent's name:
- a representation or description of the trade mark:
- the trade mark's registration number:
- the new name or address to be entered on the register.

Where the [request to alter](#) the name and/or address of the owner or licensee of a registered trade mark is accepted, the Commissioner will notify the owner or licensee of the alteration.

How do I sell or license my trade mark?

Trade marks are bought, sold or licensed by way of a contract that should define the terms and conditions upon which you change the ownership of the trade mark. You are advised to seek professional help in drafting your contract.

IPONZ does not assist in the drafting of contracts between parties. It is the responsibility of the new owner of the trade mark to register any change of ownership with the IPONZ.

What if I've lost my reference and password for my online application?

The reference and password for your application is key information to be able retrieve the record from our system. If you have lost this information you will need to begin the application process again.

When filing a TM we advise that you choose a reference and password that you will remember so that you are able to access your application.

What is a geographical indication?

A geographical indication (GI) is used to identify goods that have a specific geographical origin and possess a quality, reputation or other characteristic that is essentially due to that place of origin.

A famous example of a GI is "Champagne". The name Champagne can only be used for sparkling wine that comes from the Champagne region in France.

GIs do a similar job to trade marks in that they help to "brand" a product. They provide information to consumers about the source, quality or other characteristics of goods.

New Zealand Law on GIs

Fair Trading Act 1986

Section 9 of the Fair Trading Act 1986 provides that "no person shall, in trade, engage in conduct that is misleading or deceptive or is likely to mislead or deceive". If a GI is used in trade to create a misleading impression as to the geographical origin, quality, or some other characteristic of a product, this could be a breach of the Fair Trading Act 1986.

Passing off

The action of "passing off " can be used in cases where the goods or services of one person are wrongly represented as being those of another person. There must be loss suffered as a result of consumers being led to believe that they were buying the one trader's goods when in fact they were buying goods from another trader.

In New Zealand, French wine interests used the action of "passing off " to prevent non-French winemakers from labelling their sparkling wine "Champagne".

Trade Marks Act 2002

GIs can be protected as collective or certification trade marks, provided they meet the criteria for registration under the Trade Marks Act.

Geographical Indications (Wine and Spirits) Registration Act 2006

The Geographical Indications (Wine and Spirits) Registration Act 2006 provides for a voluntary system of registration of Aotearoa-New Zealand and foreign GIs for wine and spirits only. The Act was passed late 2006, but is not yet in force (meaning it does not yet have legal effect). The Act will be enacted by regulation. New Zealand continues to provide protection for GIs, including wine and spirit GIs, by the measures outlined above.

What kind of rights do geographical indications provide?

Unlike most other IP rights, GIs are collective rights, and are not owned by any one person. Any producer who produces goods from within the area in question, and meets the requirements in relation to the use of that GI, is entitled to use it.

Is a geographical indication the same as a place name?

A GI is more than simply a name of a place. To qualify as a GI, the term used to identify where goods are from must have acquired or developed a quality, reputation or other characteristic due to the place of origin. This tells people that goods with a particular GI are a product of a certain region, for example, and they can expect those goods to be of a particular standard, quality or reputation.