Apply for a trade mark

Registering a trade mark is the best way to protect your company, brand and reputation.

Once your trade mark application is assessed, the examination fee is **non-refundable**. We recommend preparing thoroughly before submitting your application.

### 1. Search for competing trade marks

Your application to register a trade mark may run into problems if your intended mark is already applied for, registered, in use or is ‘confusingly similar’ to an existing trade mark.

This makes it important to check whether or not the same or a similar trade mark is already on the register or in use. The best trade marks are unique and distinctive, or used in relation to different goods or services so they won’t be confused with similar trade marks.

**Is your trade mark already on the register?**

Before applying, use Trade Mark Check to see if a trade mark like yours already exists on the NZ Register. You can search by word, logo or image.

[Trade Mark Check](https://app.iponz.govt.nz/app/TradeMarkCheck)

If you want to search for trade mark cases by case number, owner, or date, use our Trade Mark Case Search.


You can also check if others may be using a word or slogan by:

- Using [ONECheck](http://www.business.govt.nz/onecheck) to enter the word you’re interested in and view the results of availability for company names, domains and social media usernames.
- Searching the internet with a search engine such as Google.
- Checking the [international trade mark register](https://www.wipo.int/madrid/monitor/en/) to see if anyone has already applied for your trade mark in New Zealand, even if it hasn’t been notified on the New Zealand register yet.

For more information, see Trade Mark [Practice Guideline 3 - Classification and specification](https://www.iponz.govt.nz/about-ip/trade-marks/practice-guidelines/current/classification-and-specification).

### 2. Consider an initial assessment

If you’re still not sure if your trade mark is unique enough, or are otherwise unfamiliar with the trade mark registration process, we recommend an application for a [search and preliminary advice report](http://mbie8.cwp.govt.nz/about-ip/trade-marks/spa/) before making an application to register your trade mark.

A search and preliminary advice report will provide you with an assessment of whether your trade mark is likely to comply with two important areas that are examined under the [Trade Marks Act 2002](http://www.legislation.govt.nz/act/public/2002/0049/latest/DLM164240.html).

After receiving the report you can decide whether you’d like to stop, change or proceed with your application. If you file a trade mark application within 3 months of filing a search and preliminary advice request, and the details of that application are exactly the same as what we have assessed, then your trade mark application fee will be reduced.

More information about search and preliminary advice fees can be found on our [Trade Mark Fees](http://mbie8.cwp.govt.nz/about-ip/trade-marks/fees/)

Note that trade marks containing some words may not be able to be registered - or only with permission of a third party. [See what words are protected](...)
3. Determine the trade mark type

The most common types of trade mark are:

- **Word trade marks**
  Such as a business name like ‘Dove’.

- **Image trade marks**
  These do not contain any words, such as:

- **Combined trade marks**
  These are a combination of a word and image (or words in a stylised form), for example:

4. Decide the owner

A trade mark can become a valuable asset, and you need to manage it like any other property right. Make sure you have a plan in your business or company for who will look after it (for example, pay 10-yearly renewal fees).

A trade mark can be owned by:

- a company
- individual(s)
- two partners
- one or more of the company owners
- other legal entities, such as an incorporated society.

Determining who owns a trade mark is an important decision and, while you can always transfer ownership later, it’s a lot easier if you get it right from the start.

If you’re unsure about who should own the trade mark you’re applying for, it’s not a bad idea to stop now and get legal advice.

5. Work out the specification

When you apply to register a trade mark, you must include a list of all goods and/or services that you want to use the mark for. This is called a specification of goods or services.

You also need to list the class(es) that the goods or services fall into. This is referred to as the **classification of your goods or services**.

To work out your class:

1. Go to the [online classification tool](http://www.iponz.govt.nz/classification).
2. Enter one or more words that describe your business into the search field. You can choose your own words, or use an existing specification you know of or have used previously.
3. Select the appropriate goods or services descriptions, and the classes to which they relate.
4. Enter the appropriate information into the worksheet.

Depending on your business, you may have multiple descriptions and classes. Think carefully about this, as your application fee is based on how many classes you specify.

**Save time by researching the appropriate classification for your trade mark**

**Trade mark classification search**


**Example**

Let’s suppose you have an outdoor clothing label. Go to the IPONZ online classification tool and enter the word ‘clothing’ into the search function. A list
appears that matches a goods and services description to a specific class - in this case, you'll see that the description 'clothing' matches the class number '25'.

**Note:** A search for "clothing" brings up 23 classes that contain the word. If you want protection for something more specific, such as motorcycle clothing, but enter only 'clothing' and select number 25, you will not get protection for 'motorcyclists' clothing for protection against accident or injury', which is covered by class 9.

Hints and advice:
- Check what your competitors or peers are using. You can do this by having a look at how they have registered their own trade mark (https://app.iponz.govt.nz/app/Extra/Default.aspx?op=EXTRA_tm_qbe&fcoOp=EXTRA__Default&directAccess=true).
- Print from the pre-approved specification tool for reference.

For more information about trade mark classes, see Classifying your goods and/or services (http://mbie8.cwp.govt.nz/about-ip/trade-marks/process/classifying-goods-services/).

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6. Become a registered user

For trade mark applications, it's mandatory to apply and communicate with us via our case management facility. Communications received outside this will not be considered valid unless exceptional circumstances exist.

You'll need a RealMe login and an IPONZ account to become a registered user (http://mbie8.cwp.govt.nz/support/become-a-registered-user/).

**Application process**

Follow the steps below if you're applying for one trade mark. If you're applying for more than one trade mark, and you don't have experience applying for trade marks, you should probably seek advice from an intellectual property attorney (lawyer) before continuing.

1. Log in to our case management facility by selecting the Login button at the top right of this page.
2. Under the Trade Mark section, select Apply for a Trade Mark. This will open the Trade Mark application form.
   - You can also access this form by visiting our Manage IP page, then under Trade Marks, selecting the Apply for > A trade mark option.
3. Complete the Trade Mark application form.
4. If you applied for a search and preliminary advice report, click the Search button under the Base Search and/or Preliminary Advice section. This will allow you to search for your previous report and attach it to your application.
5. If you are applying for just one trade mark, leave the Series default selection as No.
6. If you are applying for just one trade mark, leave the Nature default selection as Trade Mark. Collective trade marks are only used for groups, such as farmer co-ops.
7. If you are applying for:
   - a word trade mark, enter the words in the Mark Name field
   - a combined trade mark, enter the words appearing in the image in the Mark Name field, and upload the GIF or JPG file of the image (this option is for images or words that are in a special font).
   - an image trade mark, upload the GIF or JPG file of the image/logo.

**Note:** You can Save your application at any time and return to it at a later point.

**Submitting your online application**

1. Do a final check before paying your trade mark application fee - make sure you have entered all your details correctly.
2. Select Submit (or Save if you want to return later).
3. Pay your application fees.

Ready to apply?
The next step is to login using RealMe to our case management tool.

Apply for a trade mark
Next steps

We will examine your application and produce a report within **15 working days**. You'll receive an email inviting you to login to see the outcome.

Your trade mark application might be approved right away. However, sometimes we decide the trade mark can't be registered, in which case you'll be advised of the rationale behind our decision.

The most common objection you is that your application needs better classification of its goods or services. In these cases you'll be told the steps you need to take to amend this.

For any objections we raise against your trade mark you can respond to us explaining why you disagree.

If we need additional information, you'll be informed of this by letter through the case management facility. Please respond to this promptly, being sure to follow the instructions detailed inside it.

See [Respond to compliance report](http://mbie8.cwp.govt.nz/about-ip/trade-marks/process/respond-to-compliance-report/)

Wait for the registration period

After you receive your acceptance notice, your trade mark application is advertised. If there is no opposition to your trade mark within three months, then your application should be registered at a minimum of six months after the filing date.

See [Application acceptance](http://mbie8.cwp.govt.nz/about-ip/trade-marks/process/application-acceptance/)

Protecting your trade mark rights

Once you've successfully received your full trade mark registration, you should protect your trade mark rights by:

- using the ® symbol (a ™ symbol doesn't mean you have a legally-registered trade mark)
- fulfilling your responsibility to IPONZ by maintaining up-to-date ownership and address details
- monitoring your trade mark against infringements.

Registering overseas

When you apply for a trade mark with us (the New Zealand Intellectual Property Office), that application is only for a right in New Zealand. If you decide at any point after making your application that you need to protect your trade mark in other countries, you can use an international trade mark filing system called the [Madrid Protocol](http://mbie8.cwp.govt.nz/about-ip/trade-marks/international/).

Alternatively you can apply directly for your trade mark in each country you want your brand protected in. Note that the process involved in different jurisdictions could be very different to applying in New Zealand as each countries national laws and practices will apply.

If you decide to file a trade mark overseas, you can claim convention priority on applications that are based on your New Zealand trade mark application filing date, if you do it within six months. This only applies in countries that have joined the [Paris Convention](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=2).