

FAST FACTS 4: NAMES – WHAT IS THE DIFFERENCE?

Before you register your business name, you should be aware of the differences between a business name, a company name and a trademark, and what rights each of these provides to you.

What's the difference?

A **business name** is a trading name under which a business can operate. Registration of your business name effectively gives you the right to trade under that name in the state or territory in which you register it. If you plan to trade in more than one state or territory, you need to register under the laws of each one. Registration of a business name is compulsory when you trade under a name other than your own.

A **company name** is obtained by forming a company under the *Corporations Act*, which is administered by the Australian Securities and Investment Commission. A company will have the right to trade across boundaries, and is not necessarily restricted to trade in the state or territory in which it was incorporated. A company name does not give you any proprietary rights to the name, unless it is protected by a trademark.

A **trademark** is a word, phrase, smell, sound, logo, picture, aspects of packaging or a combination of these that distinguishes a product or service from similar products or services. Registration of a trademark gives the owner of the trademark **the exclusive right** to use or control that mark throughout Australia.

What does this mean for selection of your business name?

While you may not be interested in having exclusive ownership of your business name through the registration of a trademark, it is your responsibility to ensure you are not infringing the rights of a trademark owner.

It is recommended that you conduct a search of registered trademarks in Australia, prior to registering your business name with the Territory Business Centre. You can do this through the IP Australia Trademarks database, which can be found at www.ipaustralia.gov.au. IP Australia also offers a professional search service called the Business Names Applicant Search Service. There is a \$40 fee for this service.

Hint: You may also like to conduct your own business name search for business names already registered in Australia or the Northern Territory before submitting your business name application form with the Territory Business Centre. You can do this by accessing the Australian Investment and Securities Commission web site at www.asic.gov.au

How do I register a trademark?

The Territory Business Centre can supply you with a Trademarks Information pack produced by IP Australia, or you can contact IP Australia. The pack includes an application form and guidelines for registration.

FAST FACTS 4: NAMES – WHAT IS THE DIFFERENCE?

For more information please contact:

IP Australia

Trade Marks Office

PO Box 200, WODEN ACT 2606

T: (02) 6283 2999

TF: 1300 651 010

F: (02) 6283 7999

W: www.ipaustralia.gov.au

For more information refer to other Fast Facts in this series or contact:

Territory Business Centre

Department of **Business and Employment**

Development House, 76 The Esplanade, DARWIN NT 0800

GPO Box 3200, DARWIN NT 0801

T: (08) 8982 1700

TF: 1800 193 111 (within Australia)

F: (08) 8982 1725

E: info.dberd@nt.gov.au

W: www.nt.gov.au/business

Disclaimer: The material contained in this publication is intended for use as a guide and for general information only. It is not intended to be a substitute for independent professional advice. The Department of Business and Employment of the Northern Territory Government accepts no responsibility or liability for the correctness, accuracy and completeness of any of the material contained in this publication and recommends that users of this publication exercise their own skill, care and judgment in the application of the information contained in the publication.