

# Company Names, Business Names, Domain Names

## Company names

- All Australian companies have a company name comprising letters and /or numbers. That name must be registered under the National Corporations Act 2001.
- Some names are prohibited by law – including "building society", "trust", "university" or a name with connotations to the Royal Family.
- Each company also has a nine digit Australian Company Number, or ACN, for identification purposes, that is issued by ASIC upon registration. A company may use the ACN as its company name.
- ASIC is responsible for the administration and management of the company name registration system and the registration of all company documents that are required to be registered from time to time in accordance with the Corporations Act 2001 (Cth).

## Business names

- A business name is a trading name – ie a name under which a business operates. Each state and territory has its own statutory requirements and procedures in relation to the registration of business names, but in all jurisdictions business name registration is compulsory and must be completed before the business starts trading.
- Businesses trading in more than one state or territory must register their name under the laws of each one and ensure that such registration is current at all times whilst trading under that name continues. Any changes to the name of the proprietor of the business name, or the principal place of business or any other changes to the registered details must be notified to the relevant state/territory.
- The registration of a business name does not of itself confer any exclusive right to use the name – this depends on the use of the name itself in the market place and the strength of any competing use rights.
- Nor does registration or use of a business name create a legal entity in itself (whereas registration of a company does) and does not allow the use of privileges to which a company is entitled, such as a corporate tax rate or limited liability. A business name has no legal status.
- While the requirement to register business names is not under the Corporations Act 2001 (Cth), business names are still recorded by ASIC's index, and the register against which proposed new company names are checked includes business names. A proposed name may be disallowed if it conflicts with or is deemed to be confusingly similar to a previously registered name.

## Domain names

- Domain names are the addresses for sites on the internet. Accredited registrars handle the registration of domain names.

## Trade mark

- A trade mark is a letter, word, phrase, sound, smell, colour, shape, logo, picture, aspect of packaging, or any combination of these. It identifies a product or a service of a business and distinguishes it from similar products and services.
- An owner of an Australian trade mark has exclusive legal rights throughout the whole of Australia (but not the rest of the world) to control the use of its trade mark for goods or services for which it is registered. See our commentary on trade marks, below.

We can arrange searches and registrations of company names, business names and trade marks in all jurisdictions.

We can also assist with IP protection.

### For further information, contact:

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