



RSA – PROPOSED TRADE MARK REGISTRABILITY SEARCH AND EVENTUAL TRADE MARK APPLICATION

1. Trade marks in South Africa are lodged in terms of the Trade Marks Act, Act no 194 of 1993. The Act follows the International Classification of Goods and Services. The classification consists of 45 classes, divided into 34 classes for the protection of goods and 11 classes for the protection of services. It is therefore essential that we are provided with a detailed description of the goods and / or services for which the trade mark registration is sought in order to enable us to do the necessary classification. We further require the particulars of the person or entity in whose name the trade mark application should be lodged, which particulars should include full names as well as the postal and physical address.
2. Our advice is usually to lodge trademarks applications in black and white in order to ensure that a trade mark device covers the whole spectrum of colours. In other words if a trade mark application is lodged in black and white it is considered to cover all other colours. If client so wishes we can lodge a trade mark application in specific colours in which event we will require 9 copies of the colour device.
3. Before lodging a trade mark application our advice is usually to conduct the necessary trade mark search in order to determine whether there might be any pending applications and/or registrations which might be a bar to the registration of the proposed trade mark. Our search report is naturally subject to the accuracy of the registers kept by the Registrar of Trade Marks.
4. In order to lodge a trade mark application, in the event of the proposed trade mark being available, we require the applicant's full names or description as well as the physical address. The Registrar of Trade Marks' official reaction and/or notice of acceptance pertaining to a trade mark application is only expected after the expiry of a period of approximately 32 months after date of filing. The reason for this long delay is firstly that the trade mark application is left for a period of 6 months before the Registrar will begin investigating the availability of the proposed trade mark. This is in accordance with the international Convention of Immaterial Property Law in terms of which an entity and/or person is given 6 months to lodge the proposed trade mark in other countries which form part of the International Convention whereupon the dates on the latter

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is due to a shortage of personnel and the magnitude of trade mark applications lodged which need to be processed. We found that after the removal of sanctions the Registrar's office was inundated with a magnitude of trade mark applications which had the effect of setting the Registrar back further. Thirdly the delay is caused by the restructuring of the Trade Marks Office whereby all the past and future trade mark applications and/or trademarks are scanned into a computer system. This system is sometimes off-line which again places added pressure on the Registrar. The period within which the Registrar's official reaction and/or notice of acceptance can be expected can be shortened but it is our experience that the past couple of years that this does not happen.

5. After the trade mark application has been examined, the applicant's attorneys are notified of any possible problems in the registration of the proposed trade mark and after those problems were dealt with, the Registrar of Trade Marks issues a notice of acceptance for publication in the SA Patent Journal in order to enable interested parties to object to the registration of the proposed trade mark. The period within which to object to the proposed trade mark registration expires after a period of 3 months from the date of advertisement in the Patent Journal. If no objection against the registration of the proposed trade mark is received within the said 3 month period the necessary certificate of registration can be expected approximately 3 months after the date on which the objection period expired.

Unfortunately there is no way to expedite trade mark registrations as trade mark applications are numbered in accordance with the filing date and processing of the applications is dealt with strictly in accordance with the trade mark application numbers and filing date being first lodged first finalised.

Although registration of the proposed trade mark application is only expected approximately 2 ½ years after date of filing, the applicant's rights pertaining to said proposed trade mark is back dated until the date of filing. The trade mark remains valid for a period of 10 years from the date of filing. The trade mark can be renewed for a further period of 10 years **ad infinitum**.

6. Enclosed please find a short exposition of the costs involved pertaining to a trade mark application prescribed for this year:

6.1 Trade Mark Search (per search): R 4 000.00;

6.2 Trade Mark Application (1 application in 1 class): R 15 000.00.

Kindly note that 14% VAT is included in the abovementioned fees.

The abovementioned fees will be the only fees payable if the Registrar of Trade Marks accepts a trade mark application without any further requirements and/or enquiries.

The fees pertaining to the abovementioned trade mark register ability search is payable before the said search is conducted and the fees pertaining to the trade mark application is payable

50% on instruction and remaining amount within 30 days from the date of the statement of account.

I hereby accept the terms of appointment as set out above

Signatory

Full names of signatory: _____

Date: _____

Yours faithfully

JARVIS JACOBS RAUBENHEIMER INC.