

‘HEADSTART’: PRE-FILING REGISTRABILITY ASSESSMENTS.

Headstart is a pre-filing process to assess whether a mark is likely to be accepted for registration. A Headstart assessment does not include any marketplace ‘freedom to operate’ searches, which should be conducted separately.

BENEFITS

Fast Pre-Filing Assessment – a ‘pre-filing assessment’ report is generally issued by the Trade Marks Office within three to five working days from filing, outlining whether there are any barriers to registration. This compares favourably with the usual timeframe for the Office to examine a standard trade mark application, currently at three to four months.

Details Not Publicly Available – the details of a Headstart application remain confidential, unless the application is ‘converted’ into a standard trade mark application. If the pre-filing assessment report reveals serious issues (such

as prior marks of third parties or competitors) the Headstart application can be abandoned without any information about the proposed mark becoming publicly available.

POTENTIAL DISADVANTAGES

Pick List – in order to file a Headstart application, the goods/services to be nominated must be selected from a predetermined ‘pick list’ approved by the Trade Marks Office. It is not possible to formulate a specific goods/services description, although it is possible to narrow or limit a description to include specific goods/services of interest once the mark is converted into a standard application.

Not a Standard Application until Conversion – the ‘pre-filing assessment’ is not a standard application until it is converted, so there is some risk that a third party may file a similar mark in the meantime.

Trade Marks Office May Raise New Objections After Conversion – the Trade Marks Office may identify new obstacles to registration after the Headstart application is converted into a standard application. For example, an application may be filed for a similar mark claiming an earlier priority date.

COMPETE WITH CONFIDENCE.

Conversion to be effected within five working days from assessment – the time frame available for dealing with an assessment notice is short, requiring immediate attention and expediency in decision-making processes.

DEALING WITH OBSTACLES IDENTIFIED IN A HEADSTART PRE-FILING ASSESSMENT

Our charges for advising on the content of a Headstart assessment are 'time-based'.

ACCEPTANCE AND REGISTRATION FEES

Charges for acceptance and registration will be charged in accordance with our standard charges set out in our Schedule of Trade Mark Costs.



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Intellectual Property

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