

# PANORAMIC TRADEMARKS

Australia



 LEXOLOGY

# Trademarks

Contributing Editors

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## LEGAL FRAMEWORK

### Domestic law

What is the primary legislation governing trademarks in your jurisdiction?

The [Trade Marks Act 1995 \(Cth\)](#) and the [Trade Mark Regulations 1995 \(Cth\)](#) govern the registration of trademarks and the rights derived from trademark registrations. These are federal laws that apply at a national level and in all Australian states and territories.

Law stated - 7 November 2025

### International law

Which international trademark agreements has your jurisdiction signed?

Australia is a contracting party to each of the following:

- the Madrid Protocol;
- the Paris Convention for the Protection of Industrial Property;
- the Agreement on Trade-Related Aspects of Intellectual Property Rights;
- the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks;
- the Singapore Treaty on the Law of Trademarks; and
- the Trademark Law Treaty.

Law stated - 7 November 2025

### Regulators

Which government bodies regulate trademark law?

IP Australia is the federal body responsible for administering intellectual property rights and legislation relating to trademarks, including the examination and registration of trademarks. An unsuccessful applicant can appeal directly to the Federal Court or Federal Circuit Court, or in limited matters to the Administrative Appeals Tribunal.

Law stated - 7 November 2025

## REGISTRATION AND USE

### Ownership of marks

Who may apply for registration?

Any person or persons having legal personality and claiming ownership of a trademark can apply for the registration of a trademark under the Trade Marks Act 1995 (Cth) (the Act). The

requirement for legal personality does not apply to applications for collective trademarks. If two or more persons have an interest in the trademark, they may make a joint application.

Law stated - 7 November 2025

## Scope of trademark

### What may and may not be protected and registered as a trademark?

Under the Act, a 'trade mark' is a sign used or intended to be used to distinguish their goods or services from those of any other person. A 'sign' includes any letter, word, name, signature, number, device, brand, heading, label, ticket, aspect of packaging, shape, colour, sound or scent, or any combination of these.

Applications may be filed for defensive, certification or collective trademarks.

Law stated - 7 November 2025

## Unregistered trademarks

### Can trademark rights be established without registration?

It is possible to establish rights in an unregistered or 'common law' trademark in Australia. Because Australia is a 'first-to-use' jurisdiction, if a trademark has been used but not registered domestically, the owner of the trademark will be the first user. In the absence of a trademark registration, the trademark owner may rely on the Australian Consumer Law or the common law tort of 'passing off' to assert its rights. However, it can be difficult to assert these rights unless the trademark owner is able to establish a reputation in the trademark, and that use of the same or a similar mark by a third party is likely to mislead or deceive.

Law stated - 7 November 2025

## Famous foreign trademarks

### Is a famous foreign trademark afforded protection even if not used domestically? If so, must the foreign trademark be famous domestically? What proof is required? What protection is provided?

Australian law does not explicitly recognise famous or well-known trademarks; however, a trademark with a substantial reputation in Australia will have the benefit of broader protection than a trademark with a lesser reputation.

If a trademark owner is able to establish that the reputation of a trademark in Australia is so substantial that use of another mark would be likely to deceive or cause confusion among a significant number of consumers, the trademark owner can prevent registration of the other trademark even if the other trademark is not 'substantially identical' or 'deceptively similar' to the trademark or used in relation to closely related goods and services. Information that may be relied upon to prove a reputation may include high sales volumes or extensive advertising and promotion.

If the owner of a famous foreign trademark has used the trademark to such an extent in relation to certain goods and services that the unauthorised use of the trademark in relation to other goods or services might mislead consumers, the trademark owner is also able to file an application to register a defensive trademark in respect of those other goods and services. A defensive trademark is not subject to the same use requirements as a standard trademark, but it can only be filed as a complement to an existing registration for the same mark that is in use in Australia.

Law stated - 7 November 2025

## **The benefits of registration**

### **What are the benefits of registration?**

The benefits of trademark registration include:

- the exclusive right to use and authorise the use of a trademark in Australia, in relation to the goods or services for which it is registered;
- statutory rights that are significantly easier to enforce than actions for the common law tort of 'passing off' or under the provisions of the Australian Consumer Law, and that include the right to obtain relief from the court for trademark infringement; and
- a discrete asset that can be sold independently of the goodwill in a business, or licensed.

Law stated - 7 November 2025

## **Filing procedure and documentation**

### **What documentation is needed to file a trademark application? What rules govern the representation of the mark in the application? Is electronic filing available? Are trademark searches available or required before filing? If so, what procedures and fees apply?**

Documentation such as a power of attorney or certificate of good standing is not required to file a trademark application in Australia.

Trademark applications are filed electronically through the online services portal of IP Australia.

A trademark must be able to be represented graphically to be registrable. The representation of the mark should be sufficient to identify the trademark.

Trademark searches are not required prior to filing but are generally recommended.

Law stated - 7 November 2025

## **Registration time frame and cost**

How long does it typically take, and how much does it typically cost, to obtain a trademark registration? When does registration formally come into effect? What circumstances would increase the estimated time and cost of filing a trademark application and receiving a registration?

If no objections are raised or oppositions filed, a trademark may be registered once at least seven months have passed since the filing date. If objections are raised by the Registrar during examination, the applicant will be granted 15 months from the date of the examination report to overcome the objections. An opposition filed by a third party would further delay registration of the trademark.

Once a trademark is registered, the effective date of registration is the 'priority' date, which is typically the date on which the application was filed.

Official fees of A\$400 per class apply to an application made using the standard filing service, or A\$250 per class for applications filed using IP Australia's pre-approved 'picklist'.

Law stated - 7 November 2025

### **Classification system**

What classification system is followed, and how does this system differ from the International Classification System as to the goods and services that can be claimed? Are multi-class applications available and what are the estimated cost savings?

Australia has adopted the Nice Classification of Goods and Services. Multi-class applications are available with payment of additional fees per class. There are no reductions in fees for filing a multi-class application.

Law stated - 7 November 2025

### **Examination procedure**

What procedure does the trademark office follow when determining whether to grant a registration? Are applications examined for potential conflicts with other trademarks? Are letters of consent accepted to overcome an objection based on a third-party mark? May applicants respond to rejections by the trademark office?

The Registrar will examine the application under the Act for compliance with the filing requirements, registrability on absolute grounds and potential conflicts with other registered or pending trademarks. The Registrar will issue an examination report in respect of any objections raised and the applicant will be given a deadline of 15 months from the first examination report to respond and overcome the objections. If the objections are withdrawn, the application will be accepted and advertised in the Trade Marks Journal.

The Registrar has discretion to accept a letter of consent and letters of consent will generally be considered persuasive even in cases where the trademarks are substantially identical, for the same goods and used in the same markets.

**Use of a trademark and registration**

Does use of a trademark or service mark have to be claimed before registration is granted or issued? Does proof of use have to be submitted? Are foreign registrations granted any rights of priority? If registration is granted without use, is there a time by which use must begin either to maintain the registration or to defeat a third-party challenge on grounds of non-use?

It is not necessary to claim use of a trademark before registration is granted. However, it may be necessary to file evidence of use during the course of examination to overcome an objection based on absolute or relative grounds.

Since Australia is a party to the Paris Convention, it is possible to claim priority based on a corresponding trademark filed in a Convention member's country of origin in respect of any or all of the goods or services sought in the 'base' application.

If the owner or authorised user of a registered trademark filed after 24 February 2019 does not use the trademark in Australia within three years of the date on which the particulars of the registered trademark were entered on to the Register, the trademark will be vulnerable to removal from the Register for non-use.

Law stated - 7 November 2025

**Markings**

What words or symbols can be used to indicate trademark use or registration? Is marking mandatory? What are the benefits of using and the risks of not using such words or symbols?

The symbol can be used for any trademark, whether registered or not, to indicate a claim of rights in the trademark.

The symbol can be used with a trademark once it is registered, but it is an offence to use the symbol prior to the grant of registration.

Marking is not mandatory but is recommended to both assert rights in the trademark and to clearly evidence use of the trademark to limit its vulnerability to removal from the Register.

Law stated - 7 November 2025

**Appealing a denied application**

Is there an appeal process if the application is denied?

A decision of the Registrar to deny an application can be appealed in the Federal Court or the Federal Circuit Court within 21 days of the rejection being issued. Appeals are in the nature of de novo hearings.

### Third-party opposition

Are applications published for opposition? May a third party oppose an application prior to registration, or seek cancellation of a trademark or service mark after registration? What are the primary bases of such challenges, and what are the procedures? May a brand owner oppose a bad-faith application for its mark in a jurisdiction in which it does not have protection? What is the typical range of costs associated with a third-party opposition or cancellation proceeding?

Once an application is accepted it is published in the Trade Marks Journal. A third party may file an opposition within the two-month period following the date of advertisement of the application by filing a notice of intention to oppose with IP Australia. The opponent is generally a person who will be affected by the registration of the trademark. Within one month of filing the notice the opponent must file a statement of grounds and particulars, and the applicant will then have one month in which to file a notice of intention to defend. Thereafter, the opposition will proceed to evidence stages, followed by a hearing.

The grounds of opposition are varied and include a third party's claim to ownership of the mark at common law or prior use of a similar trademark, that use of the trademark would be contrary to law, or bad faith. To establish a ground of bad faith, the opponent must show that reasonable persons would view the applicant's conduct as being below acceptable standards of commercial behaviour.

If it appears that a trademark should not have been registered, a third party may seek revocation of registration by the Registrar within 12 months after the registration has been recorded. If registration is revoked, the trademark will revert to a pending application.

A trademark filed before 24 February 2019 may be removed from the Register for non-use if it has been on the Register for five years. For trademarks filed after this date, the trademark need only have been registered for three years to be vulnerable to removal for non-use.

Law stated - 7 November 2025

### Duration and maintenance of registration

How long does a registration remain in effect and what is required to maintain a registration? Is use of the trademark required for its maintenance? If so, what proof of use is required?

Trademark registrations remain in effect for an initial period of 10 years from the date of registration, and can thereafter be renewed for further periods of 10 years. Evidence of use does not need to be filed to maintain a registration; however, the trademark owner should be mindful that if the trademark is not used in Australia, it will be vulnerable to removal from the Register for non-use.

Law stated - 7 November 2025

## Surrender

### What is the procedure for surrendering a trademark registration?

A trademark owner may voluntarily cancel a trademark registration by making a request in writing to the Registrar. Only the trademark owner, their address for service or an authorised signatory of the trademark owner (in the case of a company) may file a cancellation request. If there are any claimed interests recorded against the trademark, the Registrar will issue a notice to the claimant allowing them two months to provide a court order to stop the cancellation.

Law stated - 7 November 2025

## Related IP rights

### Can trademarks be protected under other IP rights?

In certain circumstances, both the Copyright Act 1968 (Cth) and trademark law will protect original artistic works used as trademarks. Copyright in Australia automatically vests with the creator of a work on creation of the work and it is not necessary to register copyright. Depending on the nature of the work, copyright will last 70 years after the author's death.

Where a trademark concerns the aesthetics of a product design such as its shape, colour, configuration, pattern or ornamentation, it can also be protected under the Designs Act 2003 (Cth). For a mark to satisfy the requirements for design right protection, it must be new and distinctive.

Law stated - 7 November 2025

## Trademarks online and domain names

### What regime governs the protection of trademarks online and domain names?

There is no separate regime in Australia for the protection of trademarks online. The Australian Domain Name Authority (auDA) is the regulatory body responsible for the licensing of domain names to companies in Australia. Ownership of a trademark does not entitle the trademark owner to a licence for the domain name for the trademark. If a dispute arises in respect of a registered .au domain name, the complainant must file a complaint with the auDA.

A domain name may be registrable as a trademark provided the applicant is also the registrant or authorised user of the domain name, and unless any grounds for rejection of the application exist, such as that the mark is likely to connote a generic top-level domain.

Law stated - 7 November 2025

## LICENSING AND ASSIGNMENT

## **Licences**

May a licence be recorded against a mark in the jurisdiction? How? Are there any benefits to doing so or detriments to not doing so? What provisions are typically included in a licensing agreement?

While it is not mandatory, parties can record their claims to interest or rights in respect of a trademark on the Register if they wish to receive certain notifications from IP Australia that could affect the rights or interests claimed.

To make an application for recordal of a claim to an interest or right in a trademark, the claimant must either file with the Registrar a claim form signed by both the trademark owner (or their agent) and the claimant, or submit documentary proof of the claimed interest, such as a licensing agreement, mortgage document or court order.

Typical provisions of a trademark licensing agreement will include:

- the term of the licence;
- whether the licence is exclusive, non-exclusive or sole;
- whether the trademark can be sub-licensed;
- the territory in which the trademark can be used;
- any royalties or licensing fees payable to the licensor;
- limitations on the licensee's use of the mark; and
- quality control provisions.

Quality control clauses and financial control provisions are of particular importance. If a trademark owner does not exercise effective control over the licensed goods or services, they risk an abandonment of their rights to the trademark.

Law stated - 7 November 2025

## **Assignment**

What can be assigned?

A trademark that is the subject of an application or that has been registered may be assigned either with or without the goodwill of the business. Unregistered trademarks may only be assigned with the goodwill of the business.

An assignment may be full, that is, in respect of all of the goods and services covered by an application or registration, or only partial. It is not necessary to assign other business assets for the assignment to be valid.

Law stated - 7 November 2025

## **Assignment documentation**

What documents are required for assignment and what form must they take? What procedures apply?

Either the assignor or the assignee may apply to have the assignment recorded by filing an application to record the assignment with the Registrar by way of IP Australia's online services portal. The application must be in an 'approved form' and include the following details:

- the application or registration number of the trademark;
- the name, address and address for service of the assignee;
- the address and address for service of the assignor, if the assignor makes the application; and
- a list of the goods or services to be assigned, or an indication that the assignment is made in full.

The application must be accompanied by a prescribed document establishing the title to the trademark. Prescribed documents include deeds or letters of assignment, probate documents and merger or sale documents. Notarisation is not required.

Law stated - 7 November 2025

## **Validity of assignment**

### **Must the assignment be recorded for purposes of its validity?**

The Act requires that the Registrar be advised of the assignment of a trademark as soon as it occurs to ensure that the records of the Australian Trade Marks Office are accurate and up to date.

Law stated - 7 November 2025

## **Security interests**

### **Are security interests recognised and what form must they take? Must the security interest be recorded for purposes of its validity or enforceability?**

All claimed interests in a trademark should be recorded on the national Personal Property Securities Register (PPSR). Applications to register a security interest on the PPSR may be filed online and include details of the trademark including the trademark number and the duration of the registration, details of the secured party and payment of the applicable fees. Notarisation of documents is not required.

While registration is voluntary, a claimed interest will need to be properly recorded on the PPSR before a claimant can enforce their claimed interest against a third party. If a claimant does not perfect its interest and the grantor of the interest becomes insolvent, the claimant may lose its asset.

Law stated - 7 November 2025

## **ENFORCEMENT**

## Trademark enforcement proceedings

What types of legal or administrative proceedings are available to enforce the rights of a trademark owner against an alleged infringer or dilutive use of a mark, apart from previously discussed opposition and cancellation actions? Are there specialised courts or other tribunals? Is there any provision in the criminal law regarding trademark infringement or an equivalent offence?

Trademark infringement proceedings are brought as a civil suit in the Federal Court or Federal Circuit Court. Both courts adopt similar practice and procedure; however, the Federal Circuit Court is intended to provide a faster and more accessible forum for the determination of trademark matters. The filing fees are lower than the Federal Court but the recoverable costs are typically lower in the Federal Circuit Court.

Criminal proceedings for trademark enforcement are available in limited circumstances. Some acts that constitute trademark offences are also offences that can be prosecuted under the Criminal Code Act 1995 (Cth).

Law stated - 7 November 2025

## Procedural format and timing

### What is the format of the infringement proceeding?

It is the intention of the courts that intellectual property cases proceed as efficiently as possible and that pleadings be more informal and concise. For this reason, evidence is usually in the form of affidavits. Typically, only limited discovery will be available and it is at the judge's discretion. Live testimony by witnesses and expert or survey evidence are also allowable but are subject to court rules and directions of the judge.

The length of the proceedings will depend on the facts of the case, although proceedings in the Federal Circuit Court are typically determined much earlier than Federal Court proceedings.

Law stated - 7 November 2025

## Burden of proof

### What is the burden of proof to establish infringement or dilution?

To be successful in an action for trademark infringement, the plaintiff must establish that the defendant has, without proper authority, used as a trademark a sign that is substantially identical with, or deceptively similar to, the plaintiff's trademark in relation to goods or services in respect of which the trademark is registered, and that the defendant does not have an applicable defence.

Law stated - 7 November 2025

## Standing

## Who may seek a remedy for an alleged trademark violation and under what conditions? Who has standing to bring a criminal complaint?

An action for trademark infringement may be brought by the registered trademark owner or an authorised user. The authorised user should obtain the consent of the registered owner to bring an infringement action, unless:

- the registered owner has neglected to grant consent or has refused to grant consent when called upon by the authorised user; and
- there is no agreement in place that prevents the authorised user from bringing the proceedings independently of the registered owner.

While it is technically possible for any person to institute proceedings to commit a person for trial for a criminal offence under the Trade Marks Act 1995 (Cth), criminal proceedings are more likely to be brought by the Australian Federal Police.

Law stated - 7 November 2025

## Border enforcement and foreign activities

### What border enforcement measures are available to halt the import and export of infringing goods? Can activities that take place outside the country of registration support a charge of infringement or dilution?

The Act provides a procedure by which the registered owner or authorised user of a trademark can file with the Australian Border Force (ABF) a notice of objection to the importation of goods that infringe the trademark. A notice of objection must be accompanied by a Deed of Undertaking from the objector agreeing to repay the costs of any seizures made by the ABF.

Once the notice is registered, the ABF must seize goods bearing the trademark or a substantially identical or deceptively similar trademark unless they are satisfied that there are no reasonable grounds to believe that the importation of the goods would infringe the trademark. If goods are seized, the owner of the goods must make a claim for release of the goods. If a claim for release is made, the objector must either commence legal action or consent to the release of the goods. If legal action is filed, the goods will be held by the ABF until a final determination has been made by the court as to whether the goods should be forfeited. Usually, goods that are forfeited are destroyed.

Law stated - 7 November 2025

## Discovery

### What discovery or disclosure devices are permitted for obtaining evidence from an adverse party, from third parties, or from parties outside the country?

Directions for discovery in trademark infringement proceedings are rarely made, and if made are typically limited. The court will consider the relevance of the discovery, the scope of the discovery orders sought and the expense of compliance with the discovery orders.

Requests for the production of documents referred to in pleadings or evidence may be made. A summons or notice of production may be issued against non-parties in limited circumstances, including parties outside the country.

Law stated - 7 November 2025

### Timing

**What is the typical time frame for an infringement or dilution, or related action, at the preliminary injunction and trial levels, and on appeal?**

Time frames for preliminary injunctions, trials and appeals will vary substantially depending on the choice of forum, the complexity of the case and the deadlines set by the relevant court. Proceedings in the Federal Circuit Court are typically determined much earlier than Federal Court proceedings. Motions for interlocutory injunctive relief may be heard and determined within one or two months of filing, while a full hearing and determination of a dispute in the Federal Court will generally take 12 to 18 months, although currently, delays are not uncommon.

Law stated - 7 November 2025

### Limitation period

**What is the limitation period for filing an infringement action?**

The limitation period for a trademark infringement action in Australia is six years from the date on which the first act of infringement arose.

Law stated - 7 November 2025

### Litigation costs

**What is the typical range of costs associated with an infringement or dilution action, including trial preparation, trial and appeal?**

Costs are allowable for work done and services performed. The amount recoverable will depend on the circumstances of the case, including:

- the complexity of the matter;
- the difficulty or novelty of the questions raised in the matter;
- the skill, specialist knowledge and responsibility involved;
- the number and importance of any documents;
- the value of the trademarks involved;
- research and consideration of questions of law and fact;
- the care and conduct of the lawyer; and
- the time allowed for completion of work.

## Appeals

### What avenues of appeal are available?

Decisions from a judgment or order of a single judge of the Federal Court or Federal Circuit Court can be appealed to the Full Federal Court with the leave of the Federal Court. A direct appeal or further appeal can also be made to the High Court provided special leave is granted by the High Court.

Law stated - 7 November 2025

## Defences

### What defences are available to a charge of infringement or dilution, or any related action?

Acts that are not held to constitute infringement include:

- the plaintiff's delay is a factor in the defendant's claim to laches or acquiescence;
- the trademark is the defendant's business name;
- the defendant uses the trademark to indicate a characteristic of goods or services, such as their kind, quality, quantity, intended purpose, value, geographical origin or time of production or rendering;
- the defendant uses the trademark for the purpose of comparative advertising;
- the defendant is exercising its right to use the trademark as the registered owner of the same trademark for the same goods and services;
- the defendant would be able to obtain registration of the trademark if it applied for it, for example, as an 'honest concurrent user' of the trademark;
- the defendant is able to establish prior use of the trademark;
- the registered trademark is subject to limitations or disclaimers, such that the defendant's use does not infringe the plaintiff's exclusive rights;
- the plaintiff has impliedly consented to the defendant's use of the trademark;
- the plaintiff relied upon a representation by the plaintiff that it had no objection to the defendant's use of the trademark; and
- the plaintiff has fraudulently used the mark or falsely claimed that the trademark is protected.

Law stated - 7 November 2025

## Remedies

### What remedies are available to a successful party in an action for infringement or dilution, etc? What criminal remedies exist?

In an action for trademark infringement, the court may grant an injunction and, at the option of the plaintiff, either damages or an account of profits.

In a claim for interlocutory relief, the court will consider:

- whether there is a serious issue to be tried;
- whether monetary damages would be an adequate remedy; and
- whether the balance of convenience favours the grant of interlocutory relief to the plaintiff.

Typically, for the grant of an interlocutory injunction, the plaintiff will be required to provide an undertaking that, if it fails to establish its case at trial, it will pay to the defendant damages reflective of those caused by the grant of the injunction.

Ex parte orders may also be granted, including *Mareva* injunctions to restrain the disposal of assets or *Anton Piller* orders for the preservation and inspection of articles or documents prior to trial.

Punitive damages are not available but the court has discretion to award additional or exemplary damages, depending on the flagrancy of the infringement, the need for deterrence, the defendant's conduct following infringement and any benefit that the defendant accrued because of its infringement. The court may also order that the defendant erase the infringing trademark from goods in its possession of control, and if erasure is not possible or is impracticable, it may instead order the delivery up or destruction of goods.

Possible criminal penalties include fines or imprisonment, that infringing goods be seized and destroyed, or that the proceeds of the infringement be confiscated.

Law stated - 7 November 2025

## ADR

Are ADR techniques available, commonly used and enforceable? What are the benefits and risks?

Trademark cases are commonly mediated as part of pretrial procedure at the Federal Court or Federal Circuit Court. The benefits of mediation include more timely resolution and lower costs if the matter can be resolved before trial, greater customisation of the outcome, finality of settlement and confidentiality in the mediation process. A settlement agreement reached as a result of mediation is legally binding and enforceable.

If the parties are not able to reach an agreement, the matter will return to the judge and a discussion may be had as to preparations for trial.

Parties to a dispute may alternatively take advantage of the ADR options on offer from the World Intellectual Property Organization, such as mediation, arbitration or expert determination.

Law stated - 7 November 2025

## UPDATE AND TRENDS

## Key developments of the past year

Are there any emerging trends, notable court rulings, or hot topics in the law of trademark infringement or dilution in your jurisdiction?

- In *Self Care IP Holdings Pty Ltd v Allergan Australia Pty Ltd* (2023, High Court of Australia) the Court held unanimously that the reputation of a trademark owner (ie, how well known the mark is) is *not relevant* to the assessment of 'deceptive similarity' under section 120(1) of the Act.

This means that even if a mark is very famous, that does *not* automatically make another mark deceptively similar just because it leverages the reputation.

This means that it is important to make sure that 'use as a trade mark' and 'similarity' are assessed on their own terms, not elevated because the earlier mark is famous.

- In *Koninklijke Douwe Egberts BV v Cantarella Bros Pty Ltd* (2024, Federal Court and further decisions) the Federal Court provided further clarity regarding shape trademarks (ie, product packaging shapes) in Australia.

The decision emphasises that a shape mark must have distinctive features (not merely functional packaging) and that the presence of other badges of origin on packaging may reduce the mark's distinguishing function.

So, brands seeking protection via shape marks must show non-functional distinctiveness, and consider how actual packaging (with logos, labels, etc) operates in the market.

- In *Hemmes Trading Pty Limited v Establishment 203 Pty Ltd* (2024, Federal Court) the Court found for the well-known Sydney hospitality brand (Establishment) in a dispute with a Brisbane restaurant using 'ESTABLISHMENT 203'.

The Court held that despite geographic separation, adding that '203' did not sufficiently differentiate the marks in the same class of restaurant/bar services.

An important takeaway from this case is that geographic separation alone may not avoid infringement if the mark is essentially the same and used in similar goods or services.

Law stated - 7 November 2025