

Legal News

Is your Intellectual Property protected?

"Passing off" is a law tort which protects unregistered trademarks. The basic idea of passing off is that a trader cannot represent his or her product the same as another entity's product. This prevents a misrepresentation that can cause a lot of damage to a business' goodwill and reputation.

There are three elements in the tort; in order for action to be taken the plaintiff must produce evidence of each:

GOODWILL or reputation in a specific section of the workforce.

Goodwill is an intangible asset and cannot exist separately from the business. It includes customer loyalty, brand value and reputation. If a passing off action is to succeed, the plaintiff must prove that his or her product, brand, mark and/or the business itself are distinctive from others. This is done by showing that consumers recognise this particular characteristic as

belonging to that trader. For example when we think of a tick we think of Nike.

The plaintiff must then also prove how there has been a misrepresentation by the defendant. A connection between the two businesses must be established and a resulting consumer confusion or deception has to be demonstrated.

MISREPRESENTATION by another party.

The law of passing off is designed to prevent misrepresentation to the public. Direct statements or providing one product when asked for another, are two forms of misrepresentation. However the most common form of misrepresentation is mimicking or having a similar brand, mark or name that has become distinctive of the plaintiff. Once goodwill has been established and misrepresentation has been conveyed, the question of whether or not the defendant's actions have resulted in, or pose the threat of damaging the goodwill of the plaintiff must be answered.



DAMAGE or threat of damage to the plaintiff's goodwill.

There can be varying forms of damage which can activate the law depending on the kind of goodwill and the types of resulting confusion or deception. Therefore, the nature of the damage will be dependent on whether it involves rival traders or promotional goodwill. For example, tarnished goodwill may be a resulting damage where the plaintiffs and defendants goods, services or businesses are very similar however the defendant's goods or services are of inferior quality or their business dealings are of a questionable nature injuring the plaintiff's goodwill.

Here at The Quinn Group we can assist you with your queries regarding Intellectual Property and passing off. Go to our website www.patentstrademarkscopyright.com.au to submit an online enquiry or call us on 1300 QUINNS (1300 784 667).



Do you engage in Credit Activities? New Legislation you need to know about

The new National Consumer Credit Protection Legislation 2009 took effect on 1 April 2010. Under the new laws, if you currently engage in credit activities under State or Territory Legislation, and you want to continue to engage in credit activities from 1 July 2010, you may need to be registered with ASIC. Generally, a person or business who is involved in credit activities is engaged in the following:

- Credit contracts;
- Consumer leases;
- Mortgages; and
- Guarantees.

This also includes the hiring of goods for personal, domestic or household purpose such as a television or refrigerator for example.

The primary purpose of the new legislation is to:

- Help protect consumers
- Remove inconsistencies within and between businesses and
- Better regulate and standardise Australia's consumer credit laws on a National level, rather than on a State level.

As a business, in order to register, you must complete an application form and lodge it with ASIC. Registration closes on 30 June 2010. If you are not registered with ASIC by 1 July 2010, you must stop engaging in credit activities until you either become registered or have an Australian Credit Licence. Registered entities will also be required to apply to ASIC for a Credit License

between 1 July 2010 and 31 December 2010. The main types of businesses who will require a licence include providers of credit such as banks, and providers of credit services, for example credit and mortgage brokers. Once registered, in order to conduct credit activities you must adhere to the conduct obligations.

Understandably this new Legislation can be a little confusing. If you are unsure if you need to register or if you have any queries about the new National Consumer Credit Protection Legislation contact our experienced legal team. Visit www.quinns.com.au to submit an online enquiry or call on 1300 QUINNS (1300 784 667) to make an appointment.

Accounting News

Are you eligible for any tax offsets this year?

Tax offsets (sometimes also referred to as rebates) directly reduce the amount of tax you must pay. Unlike deductions, your tax already owing is reduced by the total amount of your tax offset, instead of reducing your taxable income.

Tax offsets can only reduce the amount of tax you pay to zero, that is, if your tax offsets are greater than your tax due, you do not get a refund of the excess amount. However, there are exemptions.

Below are some of the main tax offsets that you might be eligible for:

■ **Spouse (without dependent child or student), child-housekeeper or housekeeper.**

You may be eligible for this rebate if you have had a dependent spouse, child-housekeeper or housekeeper for any part of the year.

■ **Senior Australians (includes age pensioners, service pensioners and self-funded retirees)**

This offset can only be claimed if you meet the conditions relating to age, income and are eligible for Australian Government pensions.

■ **Pensioner**

If you have not claimed the senior Australians rebate but have an Australian Government pension or allowance you're likely to be entitled to this offset.

■ **Australian Superannuation Income Stream**

Your tax offset amount will be shown on your PAYG payment summary – superannuation income stream and you must meet certain other requirements to qualify.

■ **Private Health Insurance**

Did you, or your employer on your behalf, pay a premium for a complying private health insurance policy? If so, you may be eligible for this tax offset.

■ **Education Tax Refund**

This is a new rebate being offered by the ATO. To be entitled either you or your partner must have incurred eligible education expenses in the last financial year for the primary or secondary school studies of a child or yourself (if you're an independent student under 25.)

■ **Baby Bonus**

If you have a child or legally gained a child under 5 years of age and meet other requirements you may be suitable to receive this rebate.

There are other tax offsets relating to issues such as the geographic zone you live in, if you've served overseas for the Australian Defence Force, and many more. For any queries regarding tax offsets, eligibility and tax returns please do not hesitate to contact our experienced team of accountants. Go to our website www.quinns.com.au to submit an online enquiry or call us on 1300 QUINNS (1300 784 667) to book an appointment.

Start planning now to minimise your tax this financial year

With the end of the financial year just a few weeks away, there is no time to waste in preparing your tax plan. Tax planning involves examining your business' recent and updated financial records, BAS and your expected income for the coming quarter. Once this has been done, you can start to employ a variety of methods in order to legally minimise your tax liability.

Tax planning is vital in order to create a profitable business. Superannuation contributions, structured salaries, debts and investments can all save you money on tax payments. Some of the following matters could be of use in helping you to reduce your business' tax liability for the 2010 financial year.

- Ensure that you meet both mandatory and maximum superannuation contribution criteria
- Utilise prepaid expenditure options where possible
- Realise capital losses to reduce capital gains tax
- Purchase equipment
- Defer income

Tax planning can be a very complicated process due to the large amount of factors that contribute to the amount of tax you are liable to pay, and they all need to be taken into account. It's important to seek professional advice when it comes to structuring your investments and superannuation as well as various other factors such as those outlined above, in order to maximise your after tax income.

Here at The Quinn Group our experienced accountants will help you assess your situation and suggest a number of possible strategies and actions for your business. If this is done before 30 June we are confident that we will be able to obtain the best possible tax return for you and legally minimise the amount of tax that you are liable to pay.

If you are a business owner or company director speak to us today about the best way to legally reduce your 2010 taxation liability. There is no time to waste! Contact us now by emailing info@quinns.com.au or call 1300 QUINNS (1300 784 667) to begin creating your business' tax plan.



Look out for your
Tax Record Kit
in the post next month



Marketing News

Do you know who your customers are?



More often than not, otherwise savvy small business owners either have no idea who will buy from them, or they simply assume that 'everyone' will. Assumptions like this can lead to wrong decisions, wrong pricing, wrong marketing strategy – and potential business failure. In order to build a stronger and more profitable business you need to be able to identify your target market by determining exactly who the people buying from you will be.

People purchase products or services for three basic reasons:

- To satisfy basic needs
- To solve problems
- To make themselves feel good

You'll need to determine which of those categories (there may be more than one) your product or service is the solution to, and be prepared to market it accordingly. Remember, you can't be everything to everyone, so refine your products or services and become a specialist in your niche area!

The best way to market to your target market is through Market Segmentation. This includes determining geographically who you will be selling to – will you sell Internationally, Nationally or Locally? Once you have determined this you will then need to research the 'demographics' of the population in the region your are targeting,

such as:

- Age: children, teens, young, middle, elderly
- Gender: male, female
- Education: high school, college, university
- Income: low, medium, high
- Marital status: single, married, divorced
- Ethnic and/or religious background
- Family life cycle: newly married, married for 10 – 20 years, with or without children.

This information should be available to you through your local town hall, library or Chamber of Commerce – and the more detail you can get, the better.

Next, you need to segment the market further using 'psychographics' as your guide:

- Lifestyle: conservative, exciting, trendy, economical
- Social class: lower, middle, upper
- Opinion: easily led or opinionated
- Activities and interests: sports, physical fitness, shopping, books
- Attitudes and beliefs: environmentalist, security conscious

If you are targeting businesses you'll also need to consider the types of industries available to you and details such as number of employees, annual sales volume, and company stability. In addition, you might want to find out how they purchase: seasonally, locally, only in volume and who makes the decisions? It is important to note that businesses, unlike individuals, buy products or services for three reasons only:

- To increase revenue
- To maintain the status quo or
- To decrease expenses

If you fill one or more of these corporate needs, you may have found a target market. Often prospective customers don't know about your company, or can't tell the difference between your company and others. It is your job, once you know who your best customers are, to 'target' the group that you've identified – even if you have competition.

If you'd like to identify your target market or for any other marketing advice and services contact Deborah from Clarity Marketing on 0411 139 881 or email dcq@claritymarketing.com.au.

The miracle of networking and referrals

It's no secret that networking and referrals are two of the best ways to grow your business with very minimal cost to you. So, what can you do to build your networks and referrals? Simple:

- **Ask for Referrals** - most people are willing to help, but they need to be prompted; so ensure you pick the right clients and the right time to ask and you will be amazed at the results.
- **Join Business Networking Groups** – these are a great way to engage with like minded individuals and potentially secure new business.
- **Hold Free Seminars, Workshops or Events** – let's face it, who doesn't like something that is free? Giving things away are a great way to showcase your products or services and are a non-threatening way to build relationships with clients and prospects.
- **Attend Seminars, Workshops & Events** – attend events that are related to your customers and make sure you talk to as many people as possible to get your product or service in the minds of your customers.
- **Offer Family & Friend's Specials** – more often than not, a customer of yours will know someone that wants or needs what you have to offer, so a gentle nudge with a discount could be what they need to walk through your door.
- **Newsletters / Blogs** – add a 'Tell a Friend' link to the bottom of any blog, newsletter or other form of marketing where you can be seen as a guru in your industry that your customers can share with others.

To find out more about networking, referrals and other marketing advice contact Deborah from Clarity Marketing on 0411 139 881 or email dcq@claritymarketing.com.au



Suite 103, Level 1, 105 Pitt St Sydney NSW 2000
P: 0411 139 881 E: dcq@claritymarketing.com.au
www.claritymarketing.com.au

