



Business - it's a case of Rock-Paper-Scissors! Photo Contributed

YOUR STORY

Is your business really yours for keeps?



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YOUR STORY: So you have got a great business name and a brand that is easily identifiable and known to many; you survived the GFC; you have built-up a considerable trading reputation over many, many years and you are a market leader - you're here to stay! Well - just may be?

With the digital age of lightning fast technology well-and-truly here at our fingertips, business and brand names are no longer sacred, they are fair game and can be stolen from under you.

The mere existence, continuity, growth and future of a business or company is greatly diminished unless steps are taken to legally register one's business name and brands as material intellectual property rights.

Not only small businesses, but companies too are at increasing risk from digital pirates, thieves, and scammers - people who make it their business to steal and ruin yours by registering business and brand names as domain names and trademarks (that they have no tangible interest in) in the hope that they can cash in on them when you seek to affirm your intellectual property rights.

These 'cyber-squatters' and 'trademark trolls' make money by selling to

you (often at an overly-inflated price) those rights that you would have already owned had you taken the time and initiative to register your intellectual property rights before starting the business.

If you are not familiar with the hand game rock-paper-scissors; where rock beats scissors, scissors beats paper, and paper beats rock - you should be.

Did you know that a business name trumps a domain name, and that a trademark trumps a business or brand name?

According to [IP Australia](#), "the Australian Government agency that administers intellectual property (IP) rights and legislation relating to patents, trademarks, designs and plant breeder's rights", "Registration of a business, company or domain name does not give you any proprietary rights. Only a trademark can provide that kind of protection."

"If you register a business, company or domain name, you do not automatically have the right to use that name as a trademark.

"The same words (s) may be registered by different people as a business name in other states and territories. However, if you have a registered trademark, you can take legal action for infringing your trademark if the business name owner uses it for goods or services like those covered by your trademark registration."

No matter how long it has been registered, or traded under, a business, company, brand name, or unique mark deemed by a registered trademark holder to be deceptively similar to a registered trademark could force a business to completely have to rebrand itself, or defend its very existence.

In April 2014, it was reported that a Canberra small business owner, who had been successfully trading since 2011 under the name ZaraBumba, was forced to completely rebrand her children's clothing company after receiving an infringement notice from the Spanish retail giant Zara whose solicitors informed the business name registrant that her business name was too similar to Zara and that she was using the Zara name to better her business.

Similarly, choosing a similar name to a competitor generally is not a wise move as the potential legal costs to defend an action for alleged deceptive conduct or trademark infringement can run into the tens of thousands of dollars and bring a business to its knees.

On Easter Sunday, IP Australia posted on their Facebook page (IP Australia - Official) that the ridesharing giant Uber had forced the Gold Coast delivery business Muber to change its name after Uber contacted the business owner pointing out both the similarities between the businesses, and their trading names.

A perusal of the official IP Australia Trade Marks Journal reveals that many well-known businesses that previously relied on their long-standing business, company and brand names, unique marks and symbols as a form of distinctive market identity are clambering to ensure that their intellectual property rights are legally protected so that they do not lose control of their enterprises.

Don't gamble your business trading name and lose your market and trading reputation, register your IP rights without delay.