

# Trade mark registration: Did you include the specification?

By [Liani Taljaard](#)

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Some business owners elect to embark on the registration of their trade marks on their own, without consulting with a specialist trade mark attorney, mainly to save costs. More often than not this decision leads to the business owner incurring legal costs which could possibly have been avoided at the filing stage. A common mistake is to merely include the selected class heading as a specification when filing for a trade mark.



Image source: Dusit Panyakhom from [Pexels](#)

The specification of a trade mark application should be specific to the goods and/or services traded with under the trade mark in question, and can include goods and/or services you intend to deal in under the trade mark in the near future. Filing a trade mark application without a carefully formulated specification could lead to the following:

- the trade mark application gets provisionally refused by the trade mark Registrar upon examination;
- the registration of the trade mark application is opposed by a trader who perhaps trades under a similar trade mark but in relation to sufficiently dissimilar goods and/or services to those of interest to the applicant; and

- in the event that a trade mark application proceeds through to registration and it is not used in relation to all the goods and/or services covered by the registration, or perhaps it was never intended to be used in relation to some of the goods and/or services covered by it, the registration will be vulnerable to partial cancellation.

All these consequences require the consideration of a specialist trade mark attorney to ensure that:

1. a trade mark application successfully proceeds through to registration;
2. remains registered; or
3. the matter against a third party is settled - for which the legal costs will far exceed a specialist trade mark attorney's fees to conduct an initial trade mark search, formulate an appropriately precise specification and the filing and prosecution of the application on an applicant's behalf.

In the circumstances, it is highly recommended to involve a specialist trade mark attorney from the outset when filing a new trade mark application.

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