APAA 2026 Trade Marks Committee Country Report - Australia

1. Australian trade mark filing statistics

In 2025, a record 97,345 trade mark applications were filed in Australia – an increase of 13.3% above their level in 2024 and 9.7% above the previous peak recorded in 2021. Registrations also reached a new high of 70,614, up by 5.4% (Figure 1).

This marks three consecutive years of growth. Behind that aggregate growth lies significant compositional change – in applicant origins, filing routes, and product and service classes. Current trends suggest strong brand competition across both domestic and international applicants, as well as structural shifts in how Australia is engaged as a consumer market.

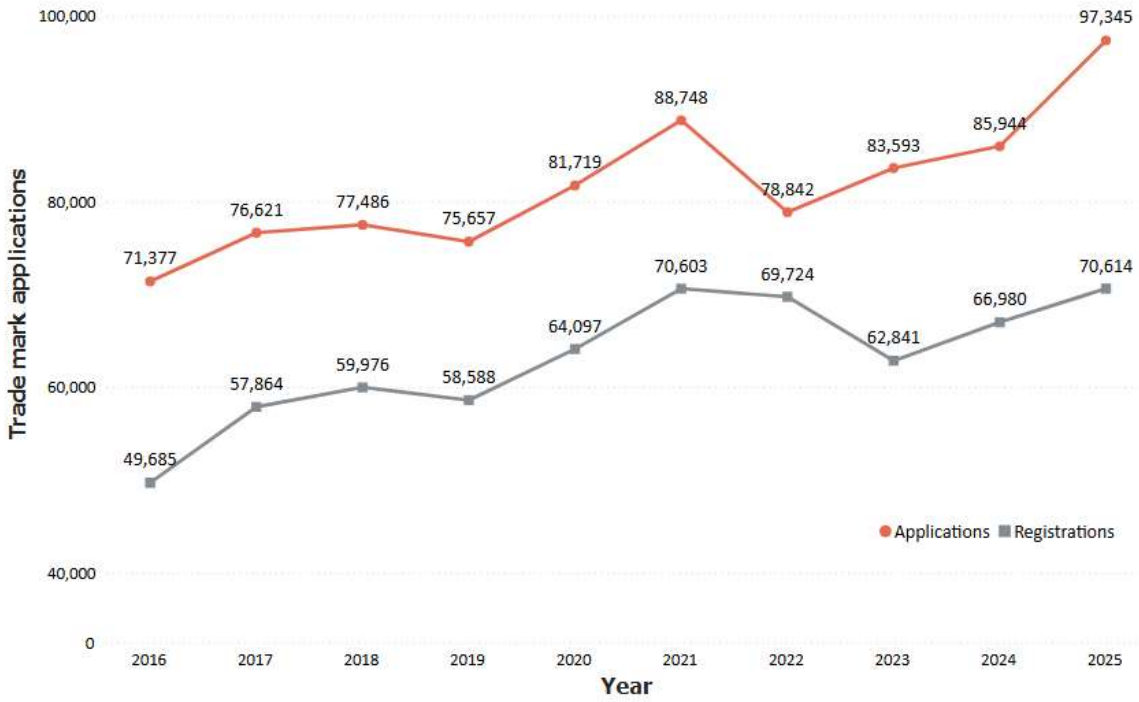


Figure 1 - Trade mark applications and registrations filed in Australia, 2016 to 2025 (IP Australia)

2. Resident and non-resident filings

Trade marks remain broadly anchored in Australian business activity. Australian residents filed 55,913 applications in 2025, comprising 57.4% of total applications received that year. Resident applications were up by 15.1% on their level in 2024, surpassing the previous peak in 2021.

The growth in resident filings exceeds the growth in non-resident filings. Non-resident filings increased by 10.9% in 2025, and account for 42.6% of total applications (Figure 2). These aggregate figures exclude a number of filings in 2025 identified as associated with fraudulent accounts.

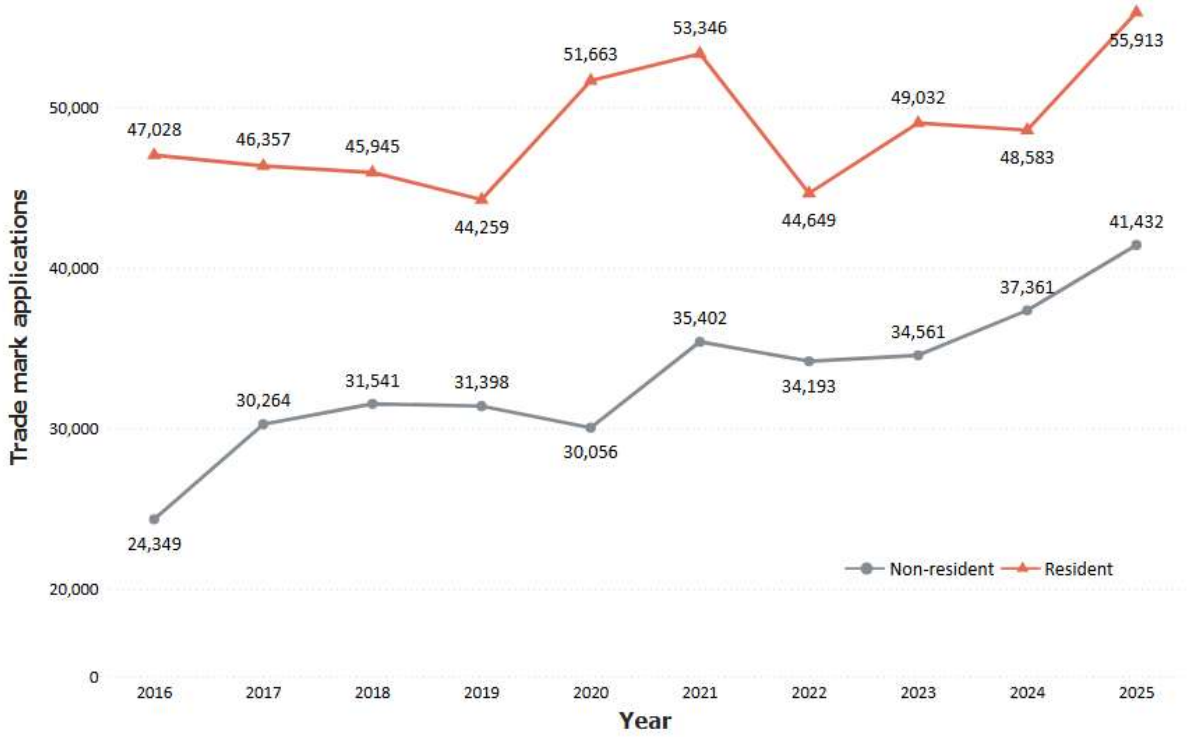


Figure 2 - Trade mark applications in Australia by domicile, 2016 to 2025 (IP Australia)

Trade mark activity aligns closely with business formation and changes in domestic demand. In 2025, Australia's business entry rate (the number of new businesses relative to the number of businesses in the economy) remained relatively steady at 16.4%, with no significant changes amongst the most trade mark intensive industries. Household spending growth in Australia accelerated in 2025, driven by rising costs and increased spending in volume terms. In particular, household spending on services increased by 6.7%, compared with 3.1% for goods. Mirroring these trends, filings in service-related trade mark classes increased by 18.5%, compared to 10.7% in goods-related classes. This follows 3 years of service class decline, over a period when services inflation remained high.

China remained the largest foreign source of filings, with Chinese applicants named on 14.8% of total filings in 2025. Having overtaken the United States in 2024 as the leading overseas origin for trade mark filings in Australia, applications from China again surged in 2025. Trade mark applications naming Chinese residents increased by 20.6% on their 2024 level. This follows two years of growth over 40%, and despite the moderate slowdown, still ranks as the strongest growth among leading origins. The US, UK, Germany and New Zealand all saw filings rebound after several years of decline, with growth between 4 and 10% (see Figure 3).

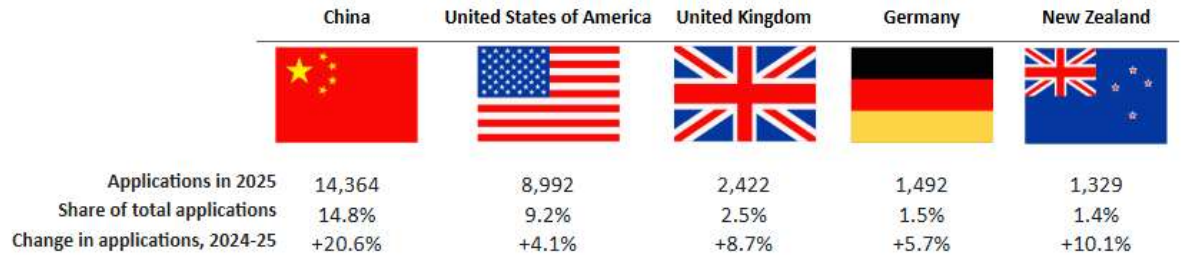


Figure 3 - Leading overseas locations of origin for trade mark filings in 2025 (source: IP Australia)

3. Filing route: direct or Madrid

Direct filings have grown faster than Madrid filings for 3 consecutive years and reached a new high in 2025. (see Figure 3.6). In 2025:

80,133 direct applications were filed (+15.3%)
17,212 Madrid designations were received (+4.8%)

The Madrid framework is explicitly designed to facilitate trade mark protection beyond the applicant's home jurisdiction. Direct filing remains the most practical route for domestic protection, and therefore may be more indicative of trends in domestic brand activity.

Direct applications by overseas applicants also increased by 15.3% in 2025. These applications represent an increasing share of total filings – from 43.1% in 2022 to 58.6% in 2025. The pattern mirrors trends observed globally, with use of the Madrid system peaking in 2021, and having since declined.

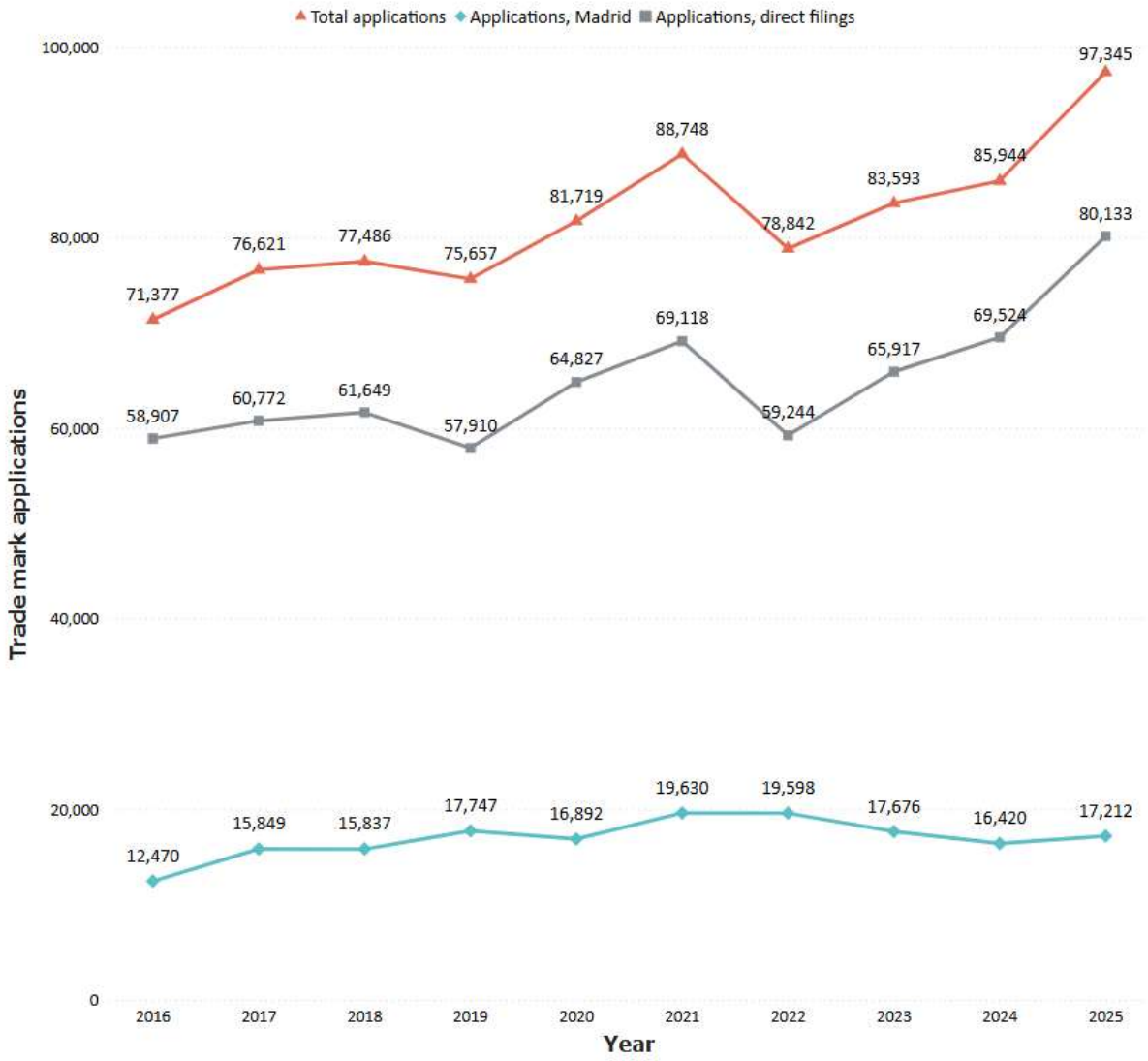


Figure 4 - Trade mark applications in Australia by filing route, 2016 to 2025 (IP Australia)

4. Class trends

Services classes grew by 18.5%, compared with 10.7% for goods classes, reversing several years of relative softness in services.

Notable growth (see Figure 5) occurred in:

- financial services (+25.1%)
- construction services (+24.0%).
- scientific and technological services (+23.4%)
- advertising and business services (+21.9%).

Advertising, the lead trade mark class in Australia, covers a broad mix of different services, including retail, advertising, business management and advisory services.

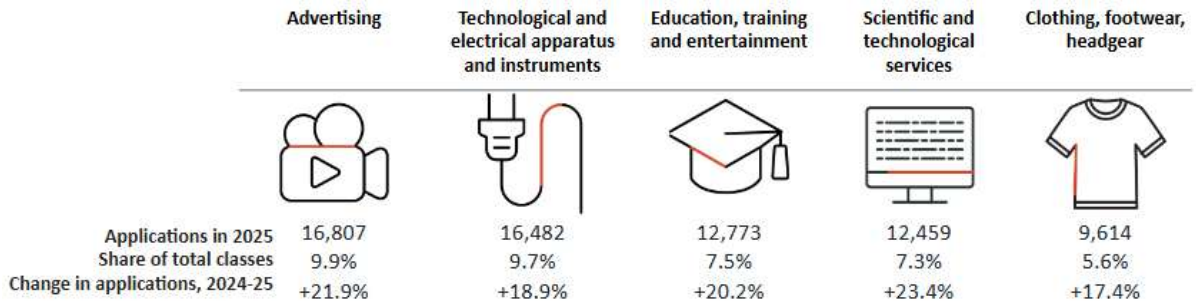


Figure 5 - Top 5 goods and service classes with strong growth in 2025. (IP Australia)

Among goods classes, clothing, footwear, and headwear continued to increase (+17.4%) on the back of strong filings from China.

5. Top filers

Domestically, gaming machine producer Aristocrat Technologies remained the leading filer for the third consecutive year. Aristocrat was followed by Pharmacor and Ainsworth Game Technology. Filing volumes among the leading gaming firms declined relative to prior years.

International lead filers in 2025 included established global brands and a number of new entrants engaged in cross-border ecommerce. French cosmetics producer L'oreal led, climbing from third in 2023 and second in 2024, increasing its applications each year.

New entrants with a focus on ecommerce included the Chinese firms Weihai Trophy Import & Export and Gudao Crossborder Ecommerce Weihai, in third and fourth place. Two Korean technology multinationals retained their position in the list: Samsung Electronics returned to the top 5, climbing from eighth in 2024, followed by LG Electronics. Canadian retailer Dollarama was a new entrant to Australia. Following the acquisition of The Reject Shop in early 2025, Canadian retailer Dollarama filed 60 trade marks in Australia as it began to rebrand the stores and phase in new product lines. In mergers and acquisitions, early trade mark filing can support smoother brand transitions by signalling ownership and reducing uncertainty.

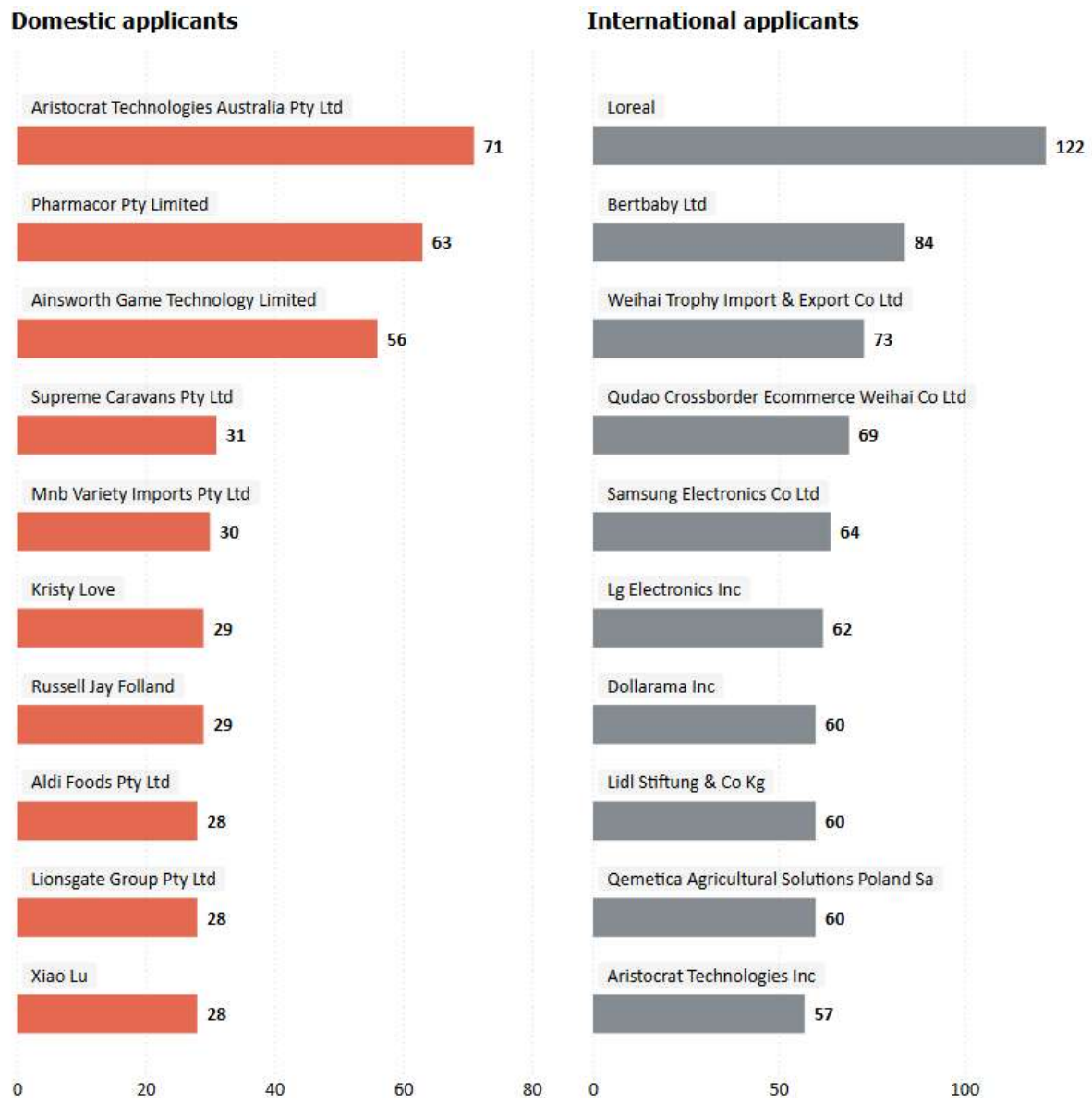


Figure 6 – Top domestic and foreign filers in 2025. (IP Australia)

6. Significant Trade Mark Decisions (October 2025 – October 2026)

The following six decisions illustrate important developments in Australian trade mark law, particularly concerning reputation, honest concurrent use, deceptive similarity, ownership, non-use and enforcement.

1. **Taylor v Killer Queen LLC** 2026 HCA 5 (Katy Perry/Katie Perry) The High Court upheld an Australian fashion designer's KATIE PERRY registration against a challenge associated with singer Katy Perry. The decision clarifies that reputation must be assessed in relation to the relevant goods or services, rather than celebrity fame alone. General personal fame as an entertainer does not automatically translate into an immediate trade mark reputation across unrelated categories like clothing if they have no established prior sales in that market.

2. **Zip Co Ltd v Firstmac Ltd** 2026 HCA 16 The High Court rejected Zip's reliance on honest concurrent use in a dispute concerning the ZIP mark. The Court ruled that honest concurrent use must be assessed at the time of each potential infringement, beginning with the very first act of alleged infringement. A business cannot rely on retrospectively building a massive commercial footprint or subsequent years of trading to excuse a use that was not honest when it commenced. Further, the Court confirmed that "honest" carries its ordinary meaning—a subjective state of mind judged by the objective standards of ordinary, decent people. Adopting or continuing to use a brand in the face of known conflicts, official IP Australia warnings, or adverse examination reports makes it incredibly difficult to satisfy this threshold. This ruling dramatically raises the stakes for pre-launch brand clearance and legal due diligence in Australia and IP Australia has already updated its Manual of Practice to align examination protocols with this strict standard.

3. **Marshall B Mathers III v Swim Shady Pty Ltd** 2026 ATMO 119 Eminem's SHADY trade mark registrations in Classes 18 & 25 were partially removed for non-use. A decision of the Registrar that reinforces the need for evidence of genuine use regardless of a global reputation tying the word to the artist himself rather than as a commercial brand for clothing and beach products. It also highlighted that use in Australia by a third party only protects a registration if the owner exercises active authorised control over the quality or financial deployment of the goods and that de minimis local commercial sales such as 3 sales of SHADY merchandise did not establish "genuine use" in Australia. The decision is under Federal Court appeal.

4. **Bed Bath 'N' Table v Global Retail Brands** 2025 HCA 50 The High Court found misleading conduct involving the HOUSE BED & BATH branding, notwithstanding the absence of trade mark infringement. The decision confirms that consumer protection law and trade mark law are distinct inquiries and the former requires a holistic look at real-world market context, including store get-up, visual presentation, and consumer perception. It also noted that while internal GRB emails and a deliberate choice to ignore the risk of confusion did not strictly equal an "intent to deceive", a trader's wilful blindness can be treated as circumstantial expert evidence that consumer confusion was highly likely

5. **Republic of Peru v Registrar of Trade Marks** 2026 FCA 791 Concerned registration of PISCO as a certification trade mark for alcoholic beverages(except beer)" and competing claims relating to geographical origin. The case marked the first time the registrability of certification trade marks was comprehensively considered at the Australian Federal Court level. The decision to allow the registration was reached because Justice Burley found that the ordinary Australian consumer would view the word "PISCO" as indicative of a specific location or region of origin in Peru where the spirit is made and that the word "pisco" was not considered a generic term by Australian traders. The decision established that generic dictionary and reference definitions do not have the final word if the evidence demonstrates regulated production, geographical distinction, and strategic brand promotion by a nation.

6. **Black Star Pastry v Richards (No 2)** 2026 FCA 383 Addressed disputes concerning the ownership and registration of jointly owned trade marks. The case serves as a major warning to businesses that failing to properly list all legal owners when applying for a trade mark can result in the entire registration being declared invalid, eliminating any basis for an

infringement claim. It establishes that getting ownership right at the exact time of filing is absolutely critical. Even if a third party clearly copies or conflicts with a brand name, an owner cannot enforce their rights if the underlying trade mark registration suffers from a fundamental ownership defect. Jointly owned marks must always be applied for via a joint application naming all parties. It also reminds us of much earlier decisions of the Court that similarly warn against confusing personal ownership where corporate ownership is the reality.