



## Statement of Grounds and Particulars

## Personal Details of Customer

(\* denotes mandatory fields)

*Name	ACN/ARBN/ABN		
*Address (can be a PO Box)			
	Country (if not Australia)	State	Postcode
Telephone		Fax number	Mobile number
Email Address			
2nd Name (if required)	ACN/ARBN/ABN		
Address (can be a PO Box)			
	Country (if not Australia)	State	Postcode
Telephone		Fax number	Mobile number
Email Address			
	<input type="checkbox"/> Additional customer details attached		

**\*Address for Service**

Address for Service of documents in Australia or New Zealand (can be a PO Box)

Address			
	Country	State	Postcode
Telephone		Fax number	Mobile number
Email Address			Your reference

**(IMPORTANT:** This e-mail will be used for filing/receiving evidence electronically. See Part 6.10 of this form.)

By completing this form you consent to your personal information being handled in accordance with the Privacy Notice on page 1 of this form and the IP Australia Privacy Policy.

IP Australia publishes address details in our online databases and bulk data products. Please provide a post office box if you do not want your residential address to be published.

## Statement of Grounds and Particulars

**Part 1 Formality Details**

(Enter in numeric order and use block letters)

Trade Mark No.	International Registration No.(s) (if applicable)	In the name of	ACN (if applicable)

**Part 2 Type of Opposition Proceeding** (Please tick the appropriate box)

Opposition to:

- Registration of the above trade mark / Protection of the above International Registration Designating Australia (IRDA).  
*You must complete Part 3*
- Removal of the above trade mark / Cessation of protection of the above international trade mark for non-use.  
*You must complete Part 4*

**Part 3 Grounds and Particulars (Opposition to Registration / Protection)**

(Please tick the appropriate box/es and provide particulars supporting the nominated ground/s for opposition)

Full grounds of opposition are set out in the Trade Marks Act 1995 and the Trade Marks Regulations 1995. More information is available in Part 46 of the Trade Marks Office Manual of Practice and Procedure.

- Trade mark not capable of distinguishing the applicant's goods or services - **Section 41** This is not a ground for opposing a certification or defensive trade mark - see section 177 or 187

Particulars should include: reasons why other traders, without improper motive, would desire to use the trade mark in the ordinary course of trade in respect of similar goods/services to those of the application


- Substantially identical / deceptively similar trade mark **Section 44 / Reg 4.15A**

Particulars should include: a list of the trade mark numbers on which the opposition is based.


Opponent has earlier use of the same / similar trade mark **Section 58A**

Particulars should include: the earlier trade mark number and description of the goods and/or services in respect of which the trade mark is used, date of first use of the earlier trade mark and whether the use has been continuous.


Applicant not the owner of the trade mark **Section 58**

Particulars should include: identify first used trade mark (trade mark does not need to be applied for or registered), goods and/or services in respect of which the trade mark is used, and whether first use was before the priority date of the opposed application. Alternatively, any other reasons the applicant does not have good title to the trade mark.


Trade mark is similar to a trade mark which has acquired a reputation in Australia **Section 60**

Particulars should include: identify the trade mark that has acquired a reputation in Australia (the trade mark does not need to be applied for or registered), or the trade mark number if applicable, the goods and/or services in respect of which the trade mark has acquired a reputation and whether first use was before the priority date of the opposed application.


Trade mark is scandalous or contrary to law **Section 42**

Particulars should include: s42(a) - why the trade mark is scandalous; s42(b) - why use of the trade mark would be contrary to law


Trade mark likely to deceive or cause confusion **Section 43**

Particulars should include: an explanation of the connotation arising from the trade mark itself\* and why use of the trade mark is likely to deceive or cause confusion.


\*If you believe deception or confusion arises from the existence of another trade mark please refer to sections 58, 60 and/or 44 of the Act.

Applicant not intending to use the trade mark **Section 59** (this is not a ground for opposing a defensive trade mark)

Particulars should include: what leads you to believe that the applicant had no intention to use the trade mark.


Application made in bad faith **Section 62A**

Particulars should include: what leads you to believe that the trade mark application was made in bad faith.


Trade mark containing / consisting of a false geographical indication **Section 61**

Particulars should include: geographical indication; country, region or locality in which the geographical indication is recognised and goods for which it is recognised; details of origin of opposed trade mark's goods (if known).


Trade mark is / contains prohibited or prescribed sign **Section 39**

Particulars should include: details of prescribed or other sign that is not to be used as a trade mark.


Application etc. defective etc **Section 62**

Particulars should include: s62(a) - details of the defective amendment; s62(b) - brief details of false material or representations.




## Part 6 Important Information for Filing a Statement of Grounds and Particulars

1. There are two parts to a notice of opposition:
  - a notice of intention to oppose; and
  - a statement of grounds and particulars.
2. A statement of grounds and particulars is a statement by an opponent that sets out:
  - the grounds on which the opponent intends to rely; and
  - the facts and circumstances forming the basis for the grounds.
3. A statement of grounds and particulars must be filed within **one month** from the day on which a notice of intention to oppose is filed with IP Australia.
4. If a statement of grounds and particulars is not filed, the notice of opposition is incomplete and the opposition will not proceed.
5. The Registrar must assess the adequacy of the statement of grounds and particulars. If the statement is adequate, IP Australia will give a copy to the other party.
6. If the statement of grounds and particulars is inadequate the Registrar may:
  - direct the opponent to rectify the inadequacy by filing more information on the basis for the grounds; or
  - dismiss the opposition.
7. If a notice of intention to defend is filed by the other party you will be required to support the particulars, provided in Part 3 and Part 4 of this form, with evidence in declaratory form.
8. A fee does NOT apply to filing this form.
9. The Trade Marks Office Manual of Practice and Procedure contains more information about a statement of grounds and particulars. The Manual can be accessed via IP Australia's website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)
10. Information about filing / receiving evidence electronically in opposition proceedings is available on IP Australia's website. If the other party responds by filing a Notice of Intention to Defend, you will receive an email from Objective Connect inviting you to view the evidence folders for this matter.

---

## Part 7 General Information

1. IP Australia will give relevant documents filed in an opposition to the other party.
2. IP Australia does not offer or provide any legal, financial or business advice or financial assistance in respect to the opposition and hearing process. The Trans-Tasman IP Attorney Board provides a list of registered professionals on their website - [www.ttipattorney.gov.au](http://www.ttipattorney.gov.au) Alternatively you may wish to consult a telephone or business directory.
3. Opposition proceedings are legal processes and once started the unsuccessful party or parties may be liable for costs be awarded against them. The matters and amounts that may be awarded are set out in Schedule 8 (Costs, Expenses and Allowances) of the Trade Marks Regulations 1995. An award of costs is decided at the conclusion of the matter. To apply for an award, please refer to Part 5 of this form.
4. You can find more information about trade mark oppositions by searching 'trade mark oppositions' on the IP Australia website at [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)