



How do I know if my business name is available?

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When starting your new business, there are a number of tasks to be undertaken and often, many seem so much more important than selecting your business name. However, selecting your business name can be very impacting on future success; your brand, your business personality, your reputation and so on. But it's not as simple as choosing a business name and registering it. It's important to ensure that your selection is available and, importantly, you're not going to breach any laws of copyright or trademark.

Could I be in breach of any laws if when choosing my business name?

As Shakespeare once said, "What is in a name? A rose by any other name would still smell as sweet." And back in the good ol' 1590's Shakespeare was probably on the money there. Nowadays, though, probably not so much.

You see, in the time since Romeo climbed a vine to stare into Juliet's eyes, a little thing called intellectual property law has been invented. Fast forward to today, and a rose by any other name would smell a little less sweet and, indeed, a whole lot like a copyright breach.

Breaches of copyright and/or trademark laws can extend to business names. That's why it's important to do some checks and balances before you settle on a business name to make sure that the name holds up for you as you enter the big, exciting journey of starting a business!

Our top 5 sources for checking business name availability

1. ASIC search

The first place to check the availability of a business name is the Australian Security and

Investment Commission's ('ASIC') [Business Name Register](#). This is also where you will need to register your business name for Australian businesses.

To search the ASIC register, you will simply need select "Check name availability" in the drop-down menu of the search function and type in your desired name. The results will come up as either:

Red – this means that your selected name is not available;

Amber – this means that someone at ASIC will need to review your application to make a decision about whether your selected name is available for you to use;

Amber (transfer) – this means that the business name registration is in the process of being transferred to new owners;

Green – this means that your name is available to register with ASIC!

Don't forget that once you've settled on a name for sure, you will need to make sure you register it as soon as possible so that others know it is now all snatched up and will be unavailable for other businesses to use.

2. Trademark register

Next, it's time to head to the [Trade Mark Search](#) to ensure you will not be breaching anyone else's trademark if you are using your chosen business name.

Just because a trademark in the search comes up that as the same as the business name doesn't necessarily mean that you won't be able to use it. There are different classes that trademarks can be registered in. In short, the different classes are different categories of goods and services which the trademark applies to.

The world of trade mark law can be very complicated, so it may be worthwhile getting legal advice specific to your business's unique circumstances to understand whether other trademarks which come up in your search may be an issue for you into the future.

If you would like some assistance with this, get in touch with us to discuss this further.

[Book a first free interview: 1800 001 339](#)

3. Website domain name search

Now that we've got the heavy stuff over with, there are some more creative and interesting places that are also worth checking before deciding on a business name.

Firstly, it is worth checking to see whether your business name is available as a website domain. Once you assess the available business name, it is a commercial decision for you to make whether there is something available that you would be happy to use or even better if your exact business name is available!

4. Social media

If you will be using social media for your business, then it would also be worth making sure your name (or, again, something similar that you would be happy to use) is available on the social media platforms that you will be operating on.

You can do this by simply searching for the handle you would like on your selected social media platform. This is particularly important for most social media platforms as no two users can have the same handle.

5. Google search

Another helpful tool for making sure your business name is the right one for you, is to do a quick Google search of that name to see what your customers will see when they are searching for you.

If this search might lead to a competitor or something that might go against your business's brand, ideals, or what your target audience want to see, then this may be a commercial risk you need to consider. Equally, those search results may be overwhelmingly positive and so can confirm your gut instinct that you have picked the right name!

Get help from a commercial lawyer to set up your new business

Are you setting up a new business and need some help with some aspects of this process that may be slightly less fun and exciting than deciding on a business name? Things like your [business structure](#) will be critical to the success of your business, along with understanding all your [commercial contract rights and obligations](#).

We'd love to hear about your new venture and to see whether we may be able to assist with any of the legal aspects of your set-up process. The same way you speak the language of your new business, we speak the language of law and can be your go-to translator.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.