

CULLENS

Patent and Trade Mark Attorneys



Are you export ready for Asia?

Gint Silins, PhD



IP has 2 sides to it:



- 1. IP protection**
- 2. Freedom to operate**

Case Study

KANGABIX



**KANGDOM FOODS Pty
Ltd**



KANGDOM FOODS
Pty Ltd



KANGABIX



[Image author: NuclearVacuum](#)

One year later...

Registered Trade Mark

Dear Sirs. You are infringing our registered trademark...Cease and desist.. Have a nice day...

KANGABIX™



Registered Trade Mark

CULLENS

Patent and Trade Mark Attorneys

Established 1936



Dear Sirs. You are infringing our registered shape trademark...Cease and desist...





**KANGDOM
FOODS Pty Ltd**



Registered Trade Mark



KANGDOM FOODS
Pty Ltd



Dear Sirs. You are infringing our registered trademark... See you in court...





'Common law rights' in a Commonwealth country



KANGDOM
FOODS

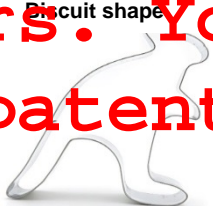


Dear Sirs. We are a manufacturer of biscuits... We have been using Kangdom for 10 years... You are causing damage to our business...

Patented



Dear Sirs. You are infringing our design patent...



You are infringing our design patent... Cease and desist...

KANGABIX™



Minimise risk!

Search for third party trade mark
& other IP rights before going
abroad.



First to use vs First to file

**TM
ALERT!**



I am looking
for a
distributor...

Will potential distributor
register the TM and domain
name as their own?



TM “First to file” countries

- **China**
- **Taiwan**
- **Japan**
- **South Korea**
- **Indonesia**
- **Some parts of Latin America**
- **continental Europe**

Minimise risk!

Protect your IP against copying.

Register your IP abroad.

(TM, domain name, product & process).

® = defence to TM infringement in some countries.

Minimise risk!



Strategy:

1. File in Australia first.
2. Then file overseas, claiming your Australian filing date as your filing date overseas.

Trade marks & designs – 6 months
Patents – 12 months



Distribution Agreements



**KANGDOM FOODS Pty
Ltd**

Distribution Agreements

...should address at least the following IP issues:

- Freedom to operate
- IP protection
- IP ownership
- Infringement of your IP rights by third party
- Infringement of third party IP rights



Brand Battles in China – Fight or Avoid?

Battle avoidance strategies:

1. Conduct trade mark availability and registrability searches.
2. Secure registration of all trade marks of commercial importance (words, graphics).
3. Secure registration of all trade marks of commercial importance in Chinese characters.
4. Ensure that business relationships (eg. with distributors) are in writing and acknowledge your ownership of the trade marks.
5. Keep evidence of trade mark usage in China, particularly government documents & signed agreements.
6. Use the Chinese-character equivalent trade marks on correspondence to business relations in China.





Thank you.

Questions?

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