

Identify and protect your Intellectual Property (IP)

Technology & Media

One-minute IP test

- Does your business develop brands?
- Do you produce written or artistic works as part of your business?
- Do you create brands and logos?
- Do you develop products, materials or processes which are aesthetically appealing?

If any of the above apply to your business or you, you are likely to own Intellectual Property (IP).

Overview

- Most businesses have some form of IP.
- Businesses need to identify their IP as it can give them a competitive advantage.
- Once identified, IP can be appropriately protected.
- If your business' IP is being used without authorisation, immediate action should be taken to enforce your rights.

Key questions about protecting your IP

<p>You need to consider if your business has any IP:</p>	<ul style="list-style-type: none"> • Do you create brands in your business? Do they distinguish your business from another? These are likely to be Trade Marks. • Do you write or illustrate or compose written, artistic or musical works? These will be copyright works. • Do you create films, broadcasts or sound recordings? Again these are copyright works. • Do you develop products or processes? These might be inventions able to be protected by patents, or designs.
<p>Does your business own the IP?</p>	<ul style="list-style-type: none"> • If your employees created it – generally yes. • If a third party developed it and there is no written contract - generally no. • If you used a contractor to create it - no, unless you have a written contract.
<p>Is the IP worth protecting?</p>	<ul style="list-style-type: none"> • Some rights exist automatically and do not need registering – e.g. copyright, database right, design right. • Some rights need registering, such as patents, trade marks, registered designs. • Registered IP rights should be registered in the country you want to use or enforce them, otherwise you have no protection. • Analyse the costs v benefits: some rights are costly to register - e.g. a patent registered worldwide - however if you have a lucrative licensing deal it may be worth it. • Assess whether there is a commercial market for your IP: if you have an established market for products which are marketed under your brand, the brand would be worth protecting. Equally, if you see a niche in the market which would be met by your branded products your brand is worth protecting.

<p>Are there licence opportunities for your IP?</p>	<ul style="list-style-type: none"> • Consider whether you can licence your product or brand to be manufactured or used by someone else, and whether this will reap commercial rewards. • For example, would a merchandising company be interested in taking a licence of your art work? • If you allow someone else to use your IP, a written licence is needed, and often this would be in return for payment (royalties).
<p>Would you be prepared to enforce your IP if someone was using it without permission?</p>	<ul style="list-style-type: none"> • Although registration of IP rights may deter third parties from using your IP, this is not always the case. • Registration of IP is worthwhile if you are prepared to enforce your registered IP rights – i.e. take legal action against someone who is using them without licence. • Enforcement can be costly but it can depend on how deep your opponent’s pockets are and whether cheaper resolution methods are available, such as mediation.