

# PROTECTING YOUR IP



## WHAT IS IP?

Intellectual Property (IP) protection helps to prevent others from stealing or copying your ideas.

This could include anything from the name of a product, its look and feel or how it is designed to copying other things that you produce, write or create.

There are several different types of protection. Some do not require formal registration, while others have a relatively long-winded application process.

## IDENTIFY YOUR IP

### POTENTIAL

Some ideas are hard to protect and commercialise successfully, so confirming if it has potential from the start is important.

At this early stage, be careful with the details of your idea to protect it from being copied or losing it altogether. Consider putting in place non-disclosure agreements (NDAs) with anyone you talk to about your idea to ensure that the information is not shared as this will weaken your ability to protect it.

Searches can be carried out to check if you are able to register your IP and whether similar IP rights have already been granted to others. You should also consider placing your IP within a Special Purpose Vehicle (SPV), a company set up to hold assets outside your main company structure.

### GROWTH

Don't fall prey to growing pains.

As your business grows, it is important to monitor the market and keep an eye on your competitors. Keep ahead of the competition by:

- Monitoring the market for new IP which may infringe yours
- Looking at patent mapping to find relevant patents so that potential infringements can be identified
- Assessing the threat risk of any potential infringements
- Taking action to enforce your IP swiftly.

Our team of IP specialists can help monitor the market for you, keeping an eye on IP applications which may impact on your ideas. Using a specialist to do this allows you to focus on running the business and for any issues to be identified and resolved quickly.



### SUPPORT

Specialist support can help you identify, protect and commercialise your IP, leaving you time to run the business itself.

There is lots of support available to help you protect your ideas, from the Intellectual Property Office (IPO) and business support organisations such as your Local Enterprise Partnership (LEP) to specialist legal advisers like HCR who can help. Other partners you may benefit from working with include:

- Developers
- Academics
- Engineers
- Investors.



As specialists in their fields, they can advise on your existing idea, suggest ways to improve or develop it as well as highlight any obstacles or issues that you may not have identified.

### STRATEGIC REVIEW

Once your network is in place, review your approach.

Your IP plan should form part of your overall business plan and will be influenced by a range of factors including:

- Your brand and who owns it
- Whether you have a head start in the market
- NDAs or other agreements that you have in place
- The sector you are in
- Your future plans, including any planned exit strategies.



## WHAT IS IP?

### TRADEMARKS

A trademark needs to be registered and can be used to protect product or brand names and logos.

It can include words, sounds and colours and there are strict rules around what cannot be registered including generic statements and offensive language.

Once registered, you can use the R symbol (®) to demonstrate that it is protected. You must use the mark as registered and it will need to be renewed every ten years.

### PATENTS

Patents are used to protect an invention and last for 20 years providing they are renewed annually.

To get a patent, your invention must be new and not a variation of an existing product or process. It must not already be in the public domain or discussed in a publication.

The process of obtaining a patent is complex and it can take several years to protect your invention.

### DESIGN RIGHTS

Design rights protect the unique characteristics of an object. Some protection is afforded without registration if the design is new and not dictated by its function.

Design rights can include how something is configured, unique patterns, decorations or colours, or the physical shape of your design.

If the design right is registered, initial protection is for five years and can be renewed up to a maximum of 25 years.

### COPYRIGHT

Copyright is unusual as it is granted automatically when you create certain types of material including film and TV, software, music, photography and literature.

It is good practice to use the copyright symbol (©) with your name and the date when the material was created however your work is still protected without this.

Most copyright lasts for 50 years for written and theatrical work and 25 years minimum for photography.

## Talk to us

Our IP experts are on hand to support you with your ideas, as well as helping you protect your IP.

**Steven Murray**  
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A PASSION FOR PEOPLE



## IP JOURNEY

### IDEA

You've had a brilliant idea for a new product or service but what do you need to do (and when) to make sure that your idea is protected and successful?

### WHAT IS IP?

Intellectual Property (IP) protection helps to prevent others from stealing or copying your ideas.

### IDENTIFICATION

Identify what ideas can be protected, talk to specialists for additional support, review your overall strategy and be aware of growth potential.

### EXPLOITATION

Build value and commercialise your ideas, maintain your competitive advantage and make sure you can achieve the maximum value should you wish to sell or exit the business.

### PROTECTION

Use the most effective methods to protect your IP, keep on top of renewals and monitor the marketplace. Defend your own IP and yourself if you are accused of infringing others.

### FUTURE PLANS

It's time to move on... or start the journey again with your latest idea?

# COMMERCIALISING OR EXPLOITING YOUR ASSETS

# PROTECTING YOUR IP IS CENTRAL TO YOUR SUCCESS

## BUILD VALUE

Building value in the IP you have protected is the stage all businesses want to achieve. Once protected it is time to review your assets and how they can work for you.

IP can create value by:

- Creating a scalable business, with regular income, by licensing or franchising your idea
- Expanding production, perhaps by selling via wholesalers, and increasing revenue and profit
- Leveraging finance, or investment, to fund development of new ideas, or evolve existing ones to the next level.



We regularly advise clients on the potential value of their IP and the impact this will have on their business and wider strategy. In conjunction with our wider network including accountants and tax advisors, we can work with your management team to ensure that your IP is used to its full advantage.

## OPPORTUNITIES

Having secured your IP (and potentially funding), it is important to understand your options and how best to exploit them. Ignoring an opportunity may allow others to capitalise on the situation and leave you in a vulnerable position.

Potential opportunities may include:

- Developing associated products
- Creating product variants for specific industries or uses
- Acquiring a competing or complementary brand to extend or complete your product offering
- Licensing or franchising your product or service to retain a regular income but with reduced day to day responsibilities.



Keeping your legal advisor up to date with your plans will allow us to advise you on these growth areas from carrying out due diligence on potential acquisitions to putting in place a comprehensive licensing/franchise agreement to ensure the brand or product you have worked hard to build continues to operate in the way you intended.

## EXIT STRATEGY

### Reaping the benefits of your investment

When the time comes to sell or exit the business, you want to achieve the maximum value you can for the work you have put in over the years.

Investor readiness should start well ahead of your planned exit and include:

- Confirming ownership of IP and knowhow within the business
- Reviewing employment contracts, particularly of key personnel who could take valuable information or knowhow with them
- Appropriate company structure and shareholding
- Contractual policies on the use of data
- Clarity on how inward investment is being raised.



We can work alongside your other professional advisors to ensure that the business is prepared ahead of time and that you achieve the maximum value when you exit or sell.

## PROTECTION

### STRATEGY

#### Protecting your IP is critical to success

Similar products or brands can create confusion or negative association amongst customers, reducing the value of the asset you have worked hard to protect.

Key things to consider include:

- Whether protection of your asset is actually enforceable
- Whether the investment needed to protect your asset is cost effective
- Alternative means of protecting your ideas including rights, formal registrations and maintaining 'trade secrets'
- Using an IP holding company to reduce the risk of the IP being lost if the trading company fails
- Keeping a close eye on key renewal dates to make sure that your idea remains protected.



The IP team at HCR offers a range of services to support and protect your ideas. This includes an advisory service helping you to identify whether you can enforce the protection you have and whether it is financially worthwhile to enforce as well as monitoring your existing protection and ensuring that renewal dates are adhered to, and protection is not lost.

### ENFORCEMENT

#### Once established, enforcing the protection of your idea or brand is vital

You may have already invested significant time and money protecting your brand or idea. If someone else tries to imitate it, the implications, both in terms of brand reputation and commercial losses, can be huge. Getting early advice allows you to assess whether you can take action to stop the other party.

Steps to consider include:

- Using a monitoring service to flag any potential infringements
- Taking action immediately against any infringements, before your own IP rights are affected. There are many options from sending a cease and desist letter through to court action.



Our monitoring service allows us to notify you promptly of any potential issues. Once an issue is identified, we have significant experience acting on behalf of clients to enforce their IP, ensuring that the other party stops their infringement and obtaining compensation if, for example, there has been reputational damage or commercial losses as a result.

### INFRINGEMENT

#### What should you do if you infringe someone else's IP?

Whether your infringement is intentional or accidental there are specific processes to follow:

- It is likely that you will receive a letter alleging that you have copied a design or that your brand or product is too similar to one that already exists
- Anyone pursuing infringements and breaches of IP must follow specific procedures, giving you the opportunity to defend yourself
- You must provide the information requested within the required timeframes or risk action being taken against you.



Speaking to one of our IP specialists can take some of the pressure off the situation. A member of our team will review your position, ensure that you are providing the information and evidence requested and make sure that you comply with the process to resolve the matter as effectively as possible.