

## Tech Sector Tool Kit: Brand Management



### Practical advice on how to protect, use and exploit your brands.

A strong brand helps distinguish your goods and/or services from your competitors'. It therefore adds value to your business by increasing customer loyalty. That makes it a valuable commercial asset.

#### Early stages

- Take early advice to ensure your brand is protectable and doesn't infringe other people's rights.
- If using a brand consultant, make sure they sign an NDA and transfer all IP rights in their work to you – not all IP automatically vests in the customer upon payment of agreed fees.
- Carry out as much research as you can to check that nothing similar to your proposed brand is already being used by another business – formal trademark searches are useful on this front and there are a number of good local search agents you can use.
- Keep full records of the creation of your brand – meeting dates, date of circulation of drafts, etc. If there are claims of infringement later, this sort of information can prove invaluable.

#### Protection of the Brand

- If the brand is original creative work, it should attract copyright. This provides automatic protection to original work against other people copying the work without permission.
- The brand can be formally registered as a trade mark or left as an unregistered right by virtue of your use of it. Both can help you protect things like logos, strap lines and colours.
- It is generally accepted that the best means of protecting your brand is to register it. Filing an application is no guarantee of the mark being granted and your application will be tested, both on its own merits (is it inherently registerable on the basis of being distinctive for the goods and/services you want to use it for) and against existing third party rights.
- Registration will give you the exclusive right to use your brand for your designated goods/services and to enforce that right against anyone using it without your permission. It is much easier to enforce a registered trademark than an unregistered one.
- You can lose your brand protection and suffer a weakening of your brand if you ignore unauthorised use of your mark but third parties, however minor. It's therefore prudent to monitor for potential infringers on an ongoing basis.

#### Using your brand

- You should always use your brand consistently and in the form registered. Even minor changes in a brand can create a new right that will need to be protected in addition to the rights you already have and this can prove expensive over time.
- Using copyright the © and ™ symbols are sensible and can warn off potential infringers.
- To retain protection you must make actual use of your brand – other businesses can challenge your right to protect a brand which is effectively mothballed.

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