

## Tech Sector Tool Kit: Intellectual Property Rights Overview



An understanding of the various types of intellectual property will help you ensure that you:

- protect the IP your business creates;
- use it as a resource to maximise your market position;
- avoid infringing the IP of other businesses.

### Types of IP rights

- Registered rights have to be applied for and are generally monopoly rights so that once registered, you can stop others from using the right without your permission. They include patents, trade marks and registered designs.
- Unregistered rights arise automatically if the requisite conditions are met and include copyright, unregistered trade marks, unregistered design rights and confidential information.

### A closer look at Patents

- Patents provide inventors with a legally protectable monopoly over their inventions and protect new and inventive technical features of products and processes. They last for a limited period (20 years in most countries).
- To qualify for protection, an invention must be new, involve an inventive step, be capable of industrial application and not be specifically excluded from protection (for example, methods of doing business).
- To get your patent, you file an application with the Patent Office of the country where the inventor works.
- Whilst a good form of protection, patents are expensive to obtain and maintain. They also involve public disclosure of your invention, which could help your competitor develop a competing product without infringing your patent.

### A closer look at Trade Marks

- A trade mark is a sign or symbol which you use to distinguish your goods/services from those of your competitors and can be a brand name, a logo, even packaging, colours, sounds, smells and slogans. However, some of these are easier to register than others.
- Depending on where you intend to trade, you can apply for a UK or a Community trade mark (CTM) but a UK trade mark will only be enforceable in the UK, while a CTM is enforceable throughout the EU. Both registrations last for ten years, but are renewable for further ten-year periods.
- To be registrable, a trade mark must be capable of being represented graphically, distinctive, capable of distinguishing your goods/services and not excluded by law.

### A closer look at Copyright

- Copyright protects original artistic, musical, dramatic and literary works (including computer programs), sound recordings, films, broadcasts and typographical arrangements of published works.
- It arises automatically on creation of your work and (subject to a few exceptions) lasts for 70 years after the death of the author.
- Copyright doesn't stop someone independently developing a similar idea – it only protects against the actual copying of your work.
- Copyright allows you to prevent unauthorised use of your work, principally the copying of it.

### A closer look at Design Rights

- Design rights protect the appearance of the whole or part of a product.
- A registered design provides a relatively low cost legal monopoly and you can apply for a UK or a Community Registered Design.
- A registered design must be novel, of individual character and not excluded by law.
- Protection lasts a maximum of 25 years, with registrations renewed every five years.
- An unregistered design gives you a right to object to copying of your design and applies both in the UK and EU although the latter is broader in scope but only lasts for three years. Under the UK right, protection lasts for the lesser of 15 years from first recording or ten years from first marketing of the design.

### A Closer look at Confidential Information

- You can protect commercially sensitive information including know-how and trade secrets, by treating it as confidential information.
- To successfully do so it must be:
  - genuinely of a confidential nature;
  - it must have been disclosed in circumstances where an obligation of confidence arose; and
  - its use by a third party would cause harm to your business.

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