



what you need to know to start and grow your business

## intellectual property

### What is IP?

Intellectual Property, or "IP", is any creation of the mind, including books, blogs, artwork, designs, logos, trade marks, music, film, software, technical inventions, information, know how and data. IP rights (such as copyright, trademarks and patents) are the legal rights used to protect and exploit them. They can be extremely valuable assets that you can assign, license, or even use as security for a loan. IP rights can help you develop and defend an exclusive or preferential position in the market, but it cuts both ways: others' IP rights can potentially block your business.

### Protect & Profit

Create a strong portfolio of IP rights to fully profit from your creations, technology and brands and attract investors, partners or customers. Enforce your rights if they are infringed by others to maintain your exclusive position, or license or assign your rights for some benefit in return (£\$€ or access to their IP).

CREATIVE	TECHNOLOGY	BRAND
Copyright © in original 'literary (written - books, blogs, software code etc.), artistic (2D - photos, film, artworks, designs; 3D - architecture, sculpture etc.), musical or dramatic works': arises automatically, no registration, creator's life + 70 years	Trade secret: keep your invention secret until you patent/if not patentable, or if you want to protect for more than 20 years	Registered trade marks ®: logos, names, even shapes and colours - must be distinctive and not descriptive, can last forever if renew every 10 years (use it or possibly lose it after 5 years' non-use)
Unregistered Design Rights: 2D or 3D shapes, patterns, surface decoration, arises automatically, 3 years OR 3D functional configurations/shapes only in UK, arises automatically, up to 15 years	Patent your idea if 'novel' (not published), inventive and industrially applicable. Exclusive right for up to 20 years	Unregistered trade marks ™: protect your 'good will' by preventing others 'passing off' their goods/services as yours, need to bring claim within 6 years
Registered Design Right: novel 2D or 3D shapes, patterns, surface decoration, need to register, up to 25 years	Database Rights protect investment in obtaining, verifying or presenting database contents - up to 15 years	Domain name using your brand name for your website, no time limit if renew
	Plant Breeder's Rights: distinct, uniform, stable and new varieties of plant, up to 25-30 years	Set up company with your brand name or register trading name at Companies House

### Share With Care

Until you decide how you will protect and exploit your idea, keep it secret - don't let someone else benefit from it. This applies to a huge range of ideas, creations and information that are valuable by virtue of being known to you but not everyone, all protected under laws of confidence (see examples in the boxes below).

In most countries, once shared without secrecy, an invention can't be patented, and you only have a short time to register your design. If you really need to share with others, only do so with care under a non-disclosure agreement ("NDA") imposing appropriate secrecy and restricted use obligations on the recipient. Investors usually won't sign NDAs. Even if you share sensitive financial info, keep your trade secret technology to yourself and just show successful results of using it: they will appreciate you are protecting key business assets.

Also RECEIVE with care. Don't accept confidential information from others unless you need to: if it gets mixed up with your own information which you then make publicly available, you may expose yourself to potential breach of confidence claims from the party that shared their information with you.

Trade secrets (technical inventions, software, algorithms, formulae or recipes eg coca cola)	Sensitive commercial information (example: customer lists, pricing)	'Know-how' of you or your staff	Other data or technical info
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### Look Before Launch

All those great things you can do to profit from your IP rights? Other people can do the same thing, potentially against you.

Look carefully at what competitors, customers and partners are doing and what IP protection they have, before you launch your own products or services or file your own applications to register IP rights.

### Other people's registered IP rights

Search public databases of registered IP rights (patents, registered trade marks, registered designs): if you find someone has already registered a right covering your invention, trade mark or design, do not use your idea or creation without getting the IP right owner's consent - even if you have not copied and have developed your idea independently - and consider designing a non-infringing work around.

Also, consider carefully what IP rights you can apply to register yourself. What part of your design or invention is novel or inventive, or which goods/services are relevant for your trademark?

### Other people's unregistered IP rights

Don't copy anything covered by an unregistered right (copyright, unregistered design right), or pass off your goods and services as someone else's (unregistered trade marks) but you're probably OK if you have created your idea independently or sell under your own brand - and can show it

ASK AN IP ATTORNEY TO DO DETAILED SEARCHES	JUST BECAUSE SOMETHING'S ON THE INTERNET, IT DOESN'T MEAN YOU CAN COPY IT: GET CONSENT FROM THE COPYRIGHT OWNER
JUST BECAUSE YOU HAVE A PATENT, DON'T ASSUME YOU ARE FREE TO PRACTISE YOUR INVENTION: CHECK WHETHER OTHER PATENTS COVER ANY PART OF WHAT YOU WANT TO DO.	DON'T ASSUME YOU ARE FREE TO MAKE AND SELL NEW PRODUCTS USING BRANDED MATERIALS THAT YOU PAID FOR: CHECK THE PURCHASE TERMS FOR THE SCOPE OF ANY LICENCE.

### IP Strategy

Think about what you want to protect, how you want to exploit it, where and for how long. This informs your decision about the appropriate IP rights you should seek, and perhaps then enforce against others - bearing in mind what IP rights they may have. Thinking should start upon first creation of your idea, if not before.

Make sure you own the relevant IP rights. Employers own IP created by employees but you need to get contractors or founders to assign ownership to your business - or get an appropriate licence.

### Also think about

- Copyright • Design rights • Trade marks • Patents • Trade Secrets & Confidentiality
- Licensing Your Creations, Technology & Brands
- Online Copying • Contracts • Disputes



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