

## IP for business

In the increasingly knowledge-driven economy, intellectual property (IP) is a valuable collection of business assets. New products, processes, designs, and brands appear almost daily on the market, the result of human innovation and creativity. Small and medium-sized enterprises (SMEs) are often the driving force behind such innovations; however this innovative capacity is not always fully exploited.

Regardless of what product an SME makes or the service it provides, it will encounter, create, and use IP. To survive and grow, an entrepreneur needs to know how to protect, manage, and exploit IP assets and how to avoid conflict with somebody else's IP rights.

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## The value of intellectual property assets

Being aware of the IP system empowers companies to profit from their innovative capacity. IP registration not only records ownership, it provides exclusive legal rights to exploit the asset to its maximum commercial potential. Forward-looking SMEs face the challenge of extracting value from their IP and making it a key component in their business strategy.

Developing and managing IP allows a company to align and focus its activities and enhance its competitiveness. IP protection helps in:

- preventing competitors from copying or closely imitating a company's products, technical processes, or business services
- avoiding wasteful investment in research and development (R & D) and marketing
- creating a corporate identity through a branding strategy
- negotiating licensing, franchising, and other IP-based contractual agreements
- increasing the market value of the company, acquiring venture capital and enhancing access to finance
- obtaining access to new markets.

## IP as an investment

Investing in a strong IP portfolio is more than just a defensive act against competitors. With strategic use of IP assets, an SME can increase its revenue, gain a competitive edge, and position itself well in the marketplace.

Acquiring and protecting IP can enhance market value and future profitability. IP assets such as a well-known trade mark or a market-leading patent can be worth more than physical company assets. Income can be generated through the licensing, sale, and commercialisation of the IP-protected products, processes, or services. IP assets can also be used to attract business partners and customers or raise capital.

Without IP protection others can copy a successful innovation at minimal cost. The original inventor or creator may not receive any financial benefit or reward. Without a patent to protect the technical aspects of the invention, an SME can be out-competed by competitors who are in a better position to commercialise the product or process at a more affordable price or volume, rapidly meeting customer demand.

## The cost of protection

IP protection and enforcement can be expensive. Whether or not to protect or enforce IP rights is a commercial decision and there has to be a balance between the costs associated with achieving strong protection and potential commercial returns.

A successful entrepreneur learns from the experience of others. Assistance from an IP professional, patent attorney and business mentor familiar with IP can be invaluable in developing a management plan. A full list of registered patent attorneys is available from the IPONZ website. To find a lawyer, check your local phone book.

## Capturing IP

Capturing IP essentially involves establishing a culture of identifying and cultivating IP assets. IP opportunities should be considered when devising a business plan or researching a new project. Keeping an innovation journal to track developments, and copyright works (e.g. drawings and documents), and to record details of those individuals who contributed to the innovation is useful for the technical and legal aspects of IP protection.

Secrecy is important when considering protecting inventions, technical know-how and design aesthetics. For example, public trials, pre-launch market research, and taking orders before filing can invalidate a patent or design application if the application is filed after the invention or design became known to the public.

Employment contracts can include confidentiality clauses to prevent the release of commercially sensitive information and to clarify IP ownership. Tailored agreements can be prepared for outside developers and manufacturers.

IP matters can be a complex and specialist area. IPONZ recommends you consider seeking the advice of a business professional to assist you in your business planning.

## Getting the best out of intellectual property protection

- Check carefully to make sure that your SME does not infringe the rights of others.
- Develop and manage your IP portfolio.
- Be prepared to enforce your IP rights. Know when to seek expert help.
- Use, or make reference to, your IP rights in your advertisements and promotional materials to make customers and potential business partners aware of the IP protection of your products and services.
- Monitor the market to find a gap in the market or a potential business partner.
- Consider related issues such as domain names and company names.

## Further Information

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