

A Brief Guide: Intellectual Property

We are a leading European full-service IP firm, offering an innovative, bespoke service through our team of expert European and UK patent, trade mark, and design attorneys, as well as IP solicitors.

Following our recent combination with the IP firm AA Thornton, our team of over 230, including 46 partners, is based across six UK offices - London, Cambridge, Guildford, Manchester, Tunbridge Wells, and Oxford - as well as EU offices in Madrid and Munich.

For the past eight years, we have been OBN's Patent and Trade Mark Attorney Sponsor, proudly supporting innovation in the UK's Life Sciences sector.

Intellectual Property (IP) is the intangible assets created by the mind. It encompasses a variety of creations, including technical inventions, designs, words, phrases and symbols, as well as artistic works. Intellectual property rights (IPRs) provide the right to prevent unauthorised use of the IP and, depending on the type of IPR, this may involve preventing any use or just direct and deliberate copying.

Common IP Rights Include:

- Patents protect technical inventions including products & processes
- Trade Marks protect words, symbols, logos and other designations used to indicate the origin of a product or service
- Design Rights protect the visual appearance of a product
- Copyright protects against reproduction of an original literary, artistic, musical or dramatic work

IPRs are tangible assets. They are commercial tools and they can be used in a variety of different ways:

- **Building a commercial space free from competitors** - IPRs can help to ensure that a particular product or process is exclusively available from just one source. This can be crucial for building market share, acquiring a loyal customer base and for being able to charge a premium.
- **Creating an income stream** - IPRs can be sold, mortgaged or licensed to provide a royalty. Ownership of IPRs can also attract investment.
- **Adding to the value of a business** - IPRs are recognised as being important assets and they can add significantly to both the value and reputation of a company. Owning IPRs can also strengthen one's position in negotiations.

Even if you decide not to protect or enforce your own IP, you must still consider the possibility that IPRs belonging to 3rd parties may exist, which your proposed commercial activities could

infringe. Before launching a new product or service, or implementing a new process, an analysis of the relevant IPRs can be undertaken to assess whether the planned activities have the potential to infringe 3rd party rights.

Patents:

A patent is an exclusive right that can be used to prevent third parties from manufacturing, selling or using a patented product or process.

For a patent to be valid, an invention must not have been disclosed to the public before the date on which the patent application was filed. For this reason, it is good practice to keep details of any new products or processes confidential until a decision has been taken whether to file any related patent applications.

A patent only protects the invention in the country in which it was granted. If protection is required in multiple countries, it will be necessary to obtain a separate patent in each country.

Design Rights:

Unlike a patent, which has the potential to cover any product that operates in the same way as the patented invention, a design right protects the visual appearance of a particular product. A design right can be used to prevent competitors from copying the design of your product.

Design rights are often used to protect the three dimensional shape of a product, but can also be used to protect a two-dimensional design such as a textile pattern or user interface screen.

Design rights can be registered or unregistered, however, as with trade marks, the strongest protection will be provided by a registered design right.

Trade Marks:

A trade mark is a sign that is used to signify goods or services as originating from a particular source. Trade marks can be used to protect against counterfeit goods, as well as preventing a competitor from marketing their own products with similar markings to your own trade mark.

Any name or logo may function as a trade mark, provided that it is distinctive, and not descriptive for the goods or services in question. In some cases, it may even be possible to register the shape and colour of a product as a trade mark. Trade marks do not have to be registered but unregistered rights are usually difficult and expensive to enforce. A registered trade mark provides strong and enforceable protection for its owner, even if the infringer was unaware of the existence of the registration.

Copyright:

Copyright arises automatically whenever an original literary, artistic, musical or dramatic work is created, and can be used to prevent a 3rd party from making copies of the protected work. The right does not have to be registered in the UK.

Works are protected regardless of artistic merit, meaning that an instruction manual, for example, can be protected as a 'literary' work. However, copyright can prove difficult to enforce as it is necessary to prove that the 3rd party has actually copied the work in question, as opposed to independently creating it. For this reason, copyright is often considered to be the weakest type of IPR.

Contact us

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