

INTELLECTUAL PROPERTY

FOR SME FIRMS AND THEIR ACCOUNTANTS

INTELLECTUAL PROPERTY AS A BUSINESS ASSET

Intellectual Property (IP) is a new idea or invention that is commercially (or artistically) useful. IP is an important intangible asset that can complement the tangible assets of a business. It exists in various forms: a brand, new innovative product or process, design or piece of software.

[IP rights](#) protect a business's competitive point of difference and are important when establishing a product or service in the market. Encouraging IP protection as part of your client's overall business model can often be the difference between their success and failure.

IP rights:

- reduce business risks by deterring competitors from using the protected IP
- provide ownership over a business's intangible assets and ability to exploit them to maximum potential
- turn intangible assets into exclusive property rights
- provide a valuable bargaining tool that can be sold for financial gain
- help the owner compete on the basis of the reputation associated with a product rather than on price alone
- give the owner the right to determine who can use the IP and how it can be used
- provide the owner with a number of options in the event that the owner cannot afford to manufacture the IP, or position themselves competitively in all potential markets. The most common way of [commercialising IP](#) is through [licences](#).

INVESTING IN IP RIGHTS

If the key intangible resources of a business, such as innovative ideas, creative designs and powerful brands of the SME are not legally protected by IP rights, they may be freely and legally used by others without limitation. This reduced the business's competitive advantage.

Investing in an IP portfolio can also expand a business's asset base and increase future productivity. Markets will value a business on the basis of its assets, its current business operations, and expectations of future profits, which may be considerably affected by the acquisition of key IP. Investment in developing a good IP portfolio is, therefore, much more than a defensive act against potential competitors. Documenting the evolution of a business's IP over time is important and you should consider developing measurement and documentation approaches with your client to:

- understand how to protect the business and the costs involved
- evaluate the market value of the IP
- embrace valuation methodologies, educational processes and accounting theory
- undertake regular IP audits.

TYPES OF IP

IP rights exist in many forms and each type provides different competitive advantages:

- [trade mark](#): identifies the particular goods or services distinguishing the SME's business from other traders
- [patent](#): protects how an invention works or functions
- [design registration](#): protects the visual appearance of a product
- [plant breeder's right](#): protects new plant varieties
- [copyright](#): automatic right that protects an SME's original expression of ideas, but not the ideas themselves
- [trade secrets](#): a proprietary knowledge that can be protected through confidentiality agreements.

More information on the [types of IP](#) is available on IP Australia's website.

TRADE MARKS AND YOUR CLIENTS

A trade mark is the most common IP right that an SME should consider and can help your clients distinguish their goods and services from those of their competitors. It's usually the words and/or image of their logo, but could also be a letter, number, a shape, or even a smell that distinguishes their business. A trade mark is your client's identity, the way they show their customers who they are and can be their most valuable marketing tool. The more successful a business becomes, the more valuable the trade mark is.

When your client starts a business, they need to register a business name with the Australian Securities and Investments Commission (ASIC) if they plan to operate under a name other than their own. A common misconception is that by registering a business, company or domain name, a customer is protecting their IP. They are not. Only a trade mark can provide the exclusive and legal rights to use that name.

CPA Australia is one of the world's largest accounting bodies with a global membership of more than 160,000 members working in 118 countries around the world, with more than 25,000 members working in senior leadership positions.

About the author

IP Australia is the Australian Government agency that administers intellectual property (IP) rights and legislation relating to patents, trade marks, designs and plant breeder's rights.

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March 2019