

Managing Intellectual Property

Nature & Types of IP
Strategies for Protection
IP Categories & Rights

What is Intellectual Property (IP)?

- The property of your mind or intellect
- Examples -
 - Ideas
 - New processes
 - New tangible devices
 - Piece of original creativity
 - Original images

How is IP protected?

- Patents
- Registered designs
- Copyright
- Circuit Layouts Act
- Trade Marks
- Plant Breeders Rights
- Trade secrets / confidential information
- “Know How”

Patents

- Legally enforceable, exclusive rights for life of patent (normally 20 years)
- Guaranteed monopoly
- To be granted must be new, be inventive or novel, be useful & be previously undisclosed
- Not granted for things illegal / public menace or if infringes existing patent

Registered designs

- Protects the visual appearance of manufactured products
- Protects industrial rather than artistic designs
- Only appearance, rather than function / workings of article is protected
- Up to 16 years protection

Circuit Layouts Act

- Protects computer chips and electronic / electrical circuit layouts
- Protects original design and manufacture
- Operates, like copyright, without formal registration

Trade Marks

- Prevents deception and confusion about sources of g's & s's
- Enables orderly marketing

Copyright

- Protects artistic & literary works - books, music, all visual arts
- Extended to computer programs
- Also engineering drawings
- Protection is automatic - no official registration system.
- Exists when first created, recorded, written.

Plant Breeders Rights

- Protection of new varieties of plants
- Exclusive commercial rights to market new variety or its reproductive material
- Of interest when examining ‘biological harvesting’ of previously unnamed varieties and in genetic modification (GM) of varieties

Web Domain Names

- Register online
- Enables commercial entities to have a domain name closely aligned with their commercial name
- Place names, names of g's & s's not licensed for .com.au domain names

Trade secrets / confidential information

- Information not divulged to aid competitiveness
- Precise nature of invention hard to exactly replicate
- Often recipe or chemical composition - foods, fragrances, beverages

“Know How”

- Organisational processes, systems, training
- Tacit & explicit knowledge of staff
- Competitive advantage through difficulty to exactly replicate

Benefits of an IP strategy

- Reward for work of research and invention
- Encourages further research
- Credits ideas to originators
- Patents are published to disseminate information
- Investment may attracted to inventors & their ideas - commercialisation

Why not rely on trade secrets?

- Trade secrets are cheap form of protection - reliant on effective security measures
- Do not offer protection from fair & honest discovery (independent invention, accidental disclosure, reverse engineering) & then patenting

Defensive Publication

- Avoids competitors claiming an invention
- May involve a formal patent application
- Where novelty is not sought, publication in a technical journal will protect a development from future infringement - common practice.

Assignment & licensing

- Assignment - selling of your IP rights
- Licensing - selling the right to use, but not to own, the IP

Obtaining a Patent

- Filing for patent - priority date
- Submission of specifications (within 1 year)
 - description of invention, claim of monopoly sought
- Examination by patent office (IP Aust) - fullness of specs., actual industrial use, application of ingenuity, newness - within 5 years
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Obtaining a Patent con't.

- Acceptance, opposition & sealing
- Costs
- Petty patents (up to 6 years), innovation patents (8 years)- faster, cheaper but less coverage

International IP protection

- World IP Organisation (WIPO) - develops cooperation with developing countries
- Paris Convention- international protection for patents of signatory countries
- Patent Cooperation Treaty - single filing for signatory countries
- File in individual countries

What IP strategy?

- Must be prepared to take legal action against infringement
- Patenting expensive option over life of patent
- Must use patent or risk compulsory licensing
- Patent documents as source of technical information - technology strategy, avoid duplication of effort