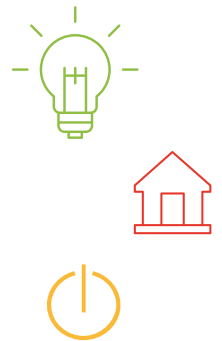


FACT SHEET

Protecting your Intellectual Property

Quick Summary

- If you have the rights to intellectual property (IP) – which can include certain products, services or processes – then you can acquire IP protection to safeguard it from theft or replication.
- Failure to recognise the importance of IP could see your hard work turning profits for your competition.
- Infringing on intellectual property can result in repayments, a loss of trust and confidence in your own customer base, or even a criminal record.
- All members of your workforce are representing your business. If they commit infringement, the business is committing infringement.



Introduction

It's important to protect your business by securing your intellectual property rights. Failure to do so could result in your products, services or ideas being 'stolen' by your competitors to make progress and/or profit with.

However, it's equally important to avoid infringing the rights held by other businesses. Ignoring this protection could land you in hot water with the authorities. Intellectual property can be very valuable, and there are businesses, such as computer game companies, that exist simply to develop intellectual property or even take advantage of it. These type of companies naturally take IP very seriously.

What you can protect

The intellectual property you can protect are the following:

- Brands and logos
- Inventions
- Software
- Designs
- Music
- Books
- Poems
- Paintings
- Photography
- Other kinds of creative work

You own intellectual property if you:

- Created it
- Bought intellectual property rights from the original creator or a previous owner
- Have a brand that could be trade marked

Intellectual property can:

- Have more than one owner
- Belong to people or businesses
- Be sold or transferred

Self-employed intellectual property property

Even if you're commissioned by someone else to produce some work, you will still own that intellectual property, unless it's otherwise stated in the contract you've signed with the commissioner.

To this end it's vital that if you are self-employed that you mention intellectual property in your contract. Although the 'creator' is usually the one with the IP rights, it's best practice not to leave this up for debate with your client, as it could potentially damage your working relationship and/or lead to legal proceedings.

Various types of protection

The way you can protect your intellectual property depends on what exactly it is:

Copyright – This is granted to the person or organisation that creates published artistic work, which includes writing, web content, films, TV, music, photography, sound recordings. Copyright is granted automatically when the work is first published.

Design right – This is used for any of your design work as it protects the "shapes of objects". Similar to copyright, this is granted automatically when the work is first published.

The following types of protection you need to apply for:

Patents – These protect inventions, including the features and processes that make things work. Time to allow for application – around 5 years

Trade marks – These are symbols that differentiate between goods and services and can be logos or brand names. Time to allow for application – 4 months

Digital intellectual property - Can be protected in additional ways other than by law, such as encryption and using digital signatures. Time to allow for application – 1 month

It's worth noting that you can use a number of these types of protection for a single product.

Intellectual property infringement

It's good practice to make sure that you and your team are aware of how someone might infringe intellectual property rights, especially as it's possible to accidentally breach these rights.

Copyright infringement

- The main forms of copyright infringement are the following:
- Copying the work
- Deliver copies of the work to the public (free or as purchase)
- Rent the work to the public
- Perform the work in public
- Adapting the work or any of the both with an adapted version

For a full breakdown on breaching copyright protection, take a look at the acts outlined on the website:

<http://www.legislation.gov.uk/ukpga/1988/48/part/II/chapter/II/crossheading/the-acts-restricted-by-copyright>

Other key terms

Patent infringement

Producing, using, importing or making profit of a patented product – or service – without the owner's permission. You could be facing legal action by the owner and claim any damages from you caused by your infringement.

Design infringement

Re-produce, sell, import or export the design. The owner obtains the rights for 25 years, unless renewal fees are paid every 5 years. In this case, it's important to understand that if you wish to use an old design, that you check to see if it's still under protection or not. Do not assume that because it's old, it means it is not IP protected.

Trade mark infringement

Using identical or similar brand logos to sell similar products that "creates a likelihood of confusion on the part of the public." This confusion can lead to customers misidentifying the 'knock-off' brand and purchasing their products instead.

Trade mark infringement can also arise where similar brand logos have been used for products that are not similar. The unregistered trade marks are still taking advantage of the reputation of the registered trade mark, and 'piggy backing' off their established brand awareness to boost company performance.

What should I do if I was accused of infringing someone's IP rights?

Never ignore an accusation of infringing intellectual property. Also, never automatically assume that every accusation is 100% valid, as there are some individuals that might make false claims to make money from legal settlements. Take your time and make sure the claim is valid before responding.

What could they do if they accuse me?

- Take you to court - The holder of the rights might take immediate action against you through the civil courts.
- 'Cease and desist' letters – These might be sent to you to halt any further copyright breaches. If the claim is valid and you fail to respect the wishes of these letters, then civil court might well be the next step for the rights holder.
- Settle an agreement to allow you to use the rights.

Be aware though that you may be accountable for damages in connection to any proven infringement.

Risks to your business

If any member of your workforce infringes copyright and a valid claim is made against your business, then you could be open to court suits and forced to pay for any damages. You could be liable for criminal action which can lead to fines or a custodial sentence (maximum of 10 years) or be vulnerable to threats from computer viruses and malware.

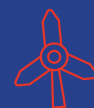
Another severe consequence of infringing copyright is the loss of trust and consumer confidence from your customers. This can cause your business serious damages for an extended period of time.

Remember, any member of your workforce is representing your business. If they commit infringement, the business is committing infringement.



Need more support?

Get in touch!



For more information visit www.businesslincolnshire.com where you can request support from one of our advisers by filling in the online contact form.

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