

# IP for start-ups

1. Consider your IP (Intellectual Property) investment as long-term wealth. IP rights are valuable assets for your business. From a branding point of view this means safeguarding such things as company and product names, packaging, advertising, web content, domain names and potentially the product itself. Trade marks, designs, copyright and patents are key IP rights, making sure returns on your investments in product quality and reputation may be captured by you, not your competitors. IP rights also bring value when selling all or part of the business.
2. IP is a complex and skilled area of law. It is therefore important to engage the services of an IP expert to help you identify and obtain the optimum IP rights for your particular business. IP is quite specific so special skills are required, beyond general legal skills. In building a brand, it is important to understand the signs that consumers are likely to use to identify your products and whether they can be protected. These signs may go beyond company name and logo and include colours, shapes, designs, sounds and other features. You may not appreciate all the different aspects of your business that you can protect.
3. For designs, there are novelty requirements and the sooner this is captured the surer you are that it would qualify for protection.
4. As ever, strength lies in the foundations you lay from the start. It is worth doing things properly from the outset to determine how best to identify and protect your important IP. It is not worth taking shortcuts or doing things on the cheap as errors or oversights might come back to bite and haunt if not well planned.
5. Before using any sign in your business, start with a clearance search to ensure no-one else is using it. This is prudent, to make sure the new sign is available for use and to avoid legal action if someone else owns the rights. Your IP expert will have the tools to do this, be able to identify where litigation risks may lie and advise on how to avoid them.
6. Is the new name, logo and other signs defensible? Trade marks are strong IP rights but must be capable of distinguishing your goods/services from those of another. Your IP expert can advise on whether a sign is likely to be eligible for trade mark registration and, if it is not, what approaches may be taken to make it so.
7. Trade Marks can lose their power and die if not used properly. Proper use of a trade mark means you should ensure to use the trade mark as an adjective. If a sentence makes sense even if the trade mark is removed, you are using it correctly. For example, in "Have a glass of EVIAN water", the sentence still makes sense even when the trade mark "EVIAN" is removed. Saying, "Have a glass of EVIAN" weakens the trade mark and is best avoided. That will amount to improper use of your trade mark and could eventually result in your trade mark become a generic term. For example, ASPIRIN, once a distinctive trade mark, has now become generic, thus reducing its economic value in trade.
8. Know the Do's and Don'ts of a trade mark. Do you know these? You can find more in our ["Guide to Brand Protection"](#) (see page 12).
9. As always, prevention is better than cure. Putting the right IP rights in place from the start will put you in a stronger position should you run into problems when attempts are made by competitors and others to encroach on your business.

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