



Writing IP Right



Intellectual property (IP) continues to grow in importance as a significant business issue and a subject of interest to broad sections of the community. For this reason it is important for journalists to understand the terms associated with IP and the IP system to ensure accurate reporting.

What is Intellectual property?

Intellectual property (IP) is a broad term that is used to describe various exclusive legal rights around names, inventions and the output of other creative efforts.

Main types of IP include:

Patents	Protect inventions, eg the Hills Hoist.
Trade Marks	Protect words, phrases, logos and a range of other branding elements that distinguish the goods and services of one trader from those of another, eg Vegemite.
Designs	Protect the shape or appearance of manufactured goods, eg Speedos swimwear.
Copyright	Protects original material in literary, artistic, dramatic or musical works, films, broadcasts, multimedia and computer programs, eg Tim Flannery's book 'The Weather Makers'.
Plant Breeder's Rights	For new plant varieties, eg new varieties of Kangaroo Paw.

The IP System

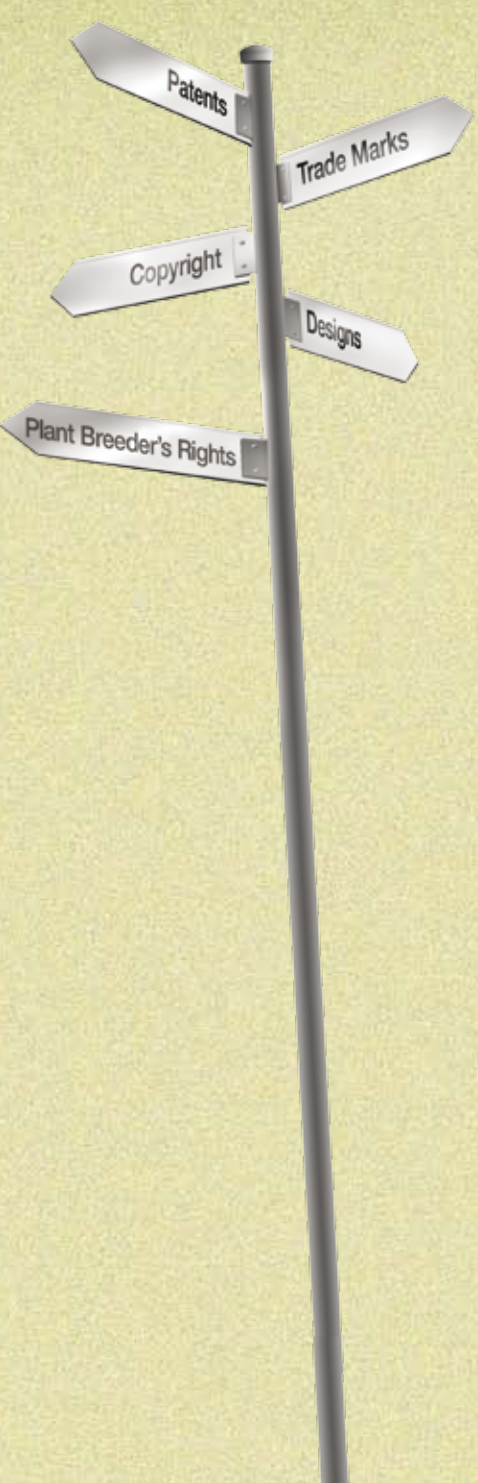
IP Australia administers registered IP rights such as patents, trade marks, designs and plant breeder's rights. To gain one of these rights you must submit an application in order to gain registration. Copyright is controlled by the Attorney General's Department and registration is not required.

Common misconceptions when reporting on IP

Terminology can be a source of confusion when journalists report on IP. It is important for journalists to take care when reporting on whether something has been patented, registered as a trade mark or a design or is protected by copyright. If a wrong term is used, the meaning of the entire story can change.

Common mistakes include statements such as:

- **"Copyrighting an invention"** – an invention cannot be copyrighted, an invention is normally patented, or protected by a patent. Inventions that are protected by patents will usually display patent numbers.
- **"Patenting a trade mark"** – patents protect inventions not a trade mark. Trade marks protect branding components such as a logo or product name. Trade marks will nearly always feature a TM or ® symbol to indicate the user is showing they own the trade mark.
- **"Patenting a name"** – Names cannot be patented; names are protected through trade mark registration where applicable.
- **"Copyrighting the name"** – Names cannot generally be copyrighted, they are generally protected through trade mark registration.
- **"Filing for a world patent"** – There is no such thing as a world patent. A Patent Cooperation Treaty (PCT) application can be filed, where a single application is filed in multiple countries, however the application is still examined and registered in each country where patent protection is required.





So what is right...

How to express something that has a patent?

- A product, method or process that has a patent should be referred to as being patented, have a patent, have patent protection or be protected by a patent.

What does patent pending mean?

- Where a patent application has been filed but is not yet granted.

What's the difference between a trade mark and a business name?

- Registering a business name does not give any common law trade mark rights. Registering a business name records contact name and details of the owner/s. Trade marks however give the owner of the mark the legal right to use, license and sell it within Australia for the goods and services it is registered for.

What's the difference between someone using TM compared to ® and ©?

- Many people are confused by those often used symbols of TM, ® and © that accompany a name, logo or brand. The symbol ® may only be used with a registered trade mark. This lets others know that you have registered the mark and have the right to use that brand or logo.
- The symbol TM can be used alongside a mark at any time regardless of whether it is registered or not. It indicates that the logo or brand is being claimed as a trade mark.
- The © symbol on the other hand indicates a claim to copyright ownership which is a different intellectual property right. Copyright allows the owner to exclusively control and exploit the use of that work. Copyright covers such things as books, art, music, photographs and software.

How to express something that has a trade mark?

- The item in question should be referred to as being registered as a trade mark.

How to express something that has design registration?

- A design can be registered or certified and a protected design should be referred to in this way.



Need more?

If you need more information, have a media enquiry or require a quote on a specific IP issue, contact the Marketing section at IP Australia either by phone on **(02) 6283 2999** or via email on marketing@ipaustralia.gov.au