



Australian Government
IP Australia



IP is *your* business

Intellectual Property (IP) is one of your most important assets.





What is Intellectual Property?

Intellectual property (IP) is a term that describes the application of the mind to develop something new or original. IP can exist in various forms; a new invention, brand, design or artistic creation. There are various types of IP available.

Every small business has some kind of valuable IP, including:

- Your **invention**
- Your **original design**
- Your **secret recipe**
- Your **brand**
- Your **point of difference from your competitors**

Protecting and managing your IP assets is critical when establishing your presence in the market. It can mean the difference between the success or failure of your business.

There are a number of different ways to protect these important business assets. They are called IP rights.



What are IP rights?

IP rights protect what you have created. Some IP rights require a formal process of application, examination and registration, while others do not need to be registered. In general, you must pay fees for the registrable IP rights, while there are no fees for the non-registrable IP rights.

Registrable IP rights are:

- Patents
- Designs
- Trade marks
- Plant breeder's rights

Non-registrable IP rights are:

- Copyright
- Circuit layout rights

Each type of IP right provides different competitive advantages for its owners.

Learn more by watching our YouTube series 'IP Basics for Business', visit:

[youtube.com/user/ipaustralia](https://www.youtube.com/user/ipaustralia)

Why are IP rights important to you?

IP rights encourage and reward your hard work and innovation. IP rights are important business assets which can be owned, sold or licensed. When you create something new and innovative, IP rights can give you the ability to protect it, and profit from it.

When you create IP, make sure you get the correct type of IP protection. You may need to talk with a business advisor or an IP professional to work out the best IP strategy for your business.

How can you start to protect your IP?

First, identify the IP in your business. As a business owner, it is important for you to identify all your assets and what can be protected. Protection of your IP may be even more important than protecting the physical assets of your business.

Then, do your research to find out what IP protection will meet your business needs. A good place to start is IP Australia's website.

Once you have determined what you need, stay on our website to:

read stories about businesses who have profited from their IP

search IP Australia's databases to check for IP that is already registered

apply online for IP rights.

If you need business or legal advice, consider contacting an IP professional. You can find some contact details for IP professionals, such as patent attorneys, on our website.

Is your business hiring independent contractors, such as industrial designers?

Did you know that without a written agreement giving you ownership of any IP generated, the independent contractor will own the IP they create?

To find out more about ownership of IP, visit:

ipaustralia.gov.au/ownership



Trade marks ~ Company names ~ Business names ~ Domain names

What's the difference?

People often get confused between business, company and domain names and trade marks. These are very different things.

Only a registered trade mark gives you the exclusive legal right to use your trade mark throughout Australia. If someone infringes your trade mark, by copying it, or using it without your permission, you have legal grounds to stop them.

Business, company and domain names do not provide this sort of protection.

To build your brand identity, try to secure the same name for your trade mark, and your business, company and domain names.

Search the Australian trade mark register before you register your business, company or domain name – otherwise you might unknowingly infringe someone else's registered trade mark. Searching can be a specialised skill, you may want to consider using our TM Headstart (pre-application service), where an examiner will conduct a search for you.

At a glance

- **A trade mark** distinguishes your goods and services from those of other traders. It is an important business asset and is yours to sell or license to others as you like.
- **A business name** is the name under which your business operates. You should register your business before you start trading.
- **A company name** is the name you can choose to give your company when you register it. Although you must register your company, you don't have to give it a name.
- **A domain name** is a unique name given to every website on the internet. IP Australia's domain name is: **ipaustrialia.gov.au**.



“IP protection is an important business asset and can help your business leverage the greatest potential from your innovative ideas and products. To boost your IP knowledge and learn about how to protect your designs, trade marks and products, visit our website”

Patricia Kelly – Director General – IP Australia



“Patent protection is essential – it’s the difference between you making money from your blood, sweat and tears, or someone else profiting from your efforts.”

Chris Trewin – Managing Director – 300K Enterprises
Winner and People’s Choice – New Inventors (ABC 1 – 2010)

Patents

Think CSIRO's WLAN (Wireless Local Area Network), the Gardasil vaccine for cervical cancer, and the Cochlear bionic ear.

A standard patent is granted for any device, substance, method or process which is new, inventive and useful.

A patent holder is granted a monopoly so others cannot make, use or sell their invention. In exchange, the details of the patent are published to encourage follow-on innovation and to allow others to use the invention once the patent expires.

Don't go public before you apply – if you show, sell or discuss your invention in public, you may not be able to get a patent.

How can I apply?

Apply online – go to Online Services on IP Australia's website.

Applying for a patent can be complex. You may like to use the services of a patent attorney or IP lawyer.

To get the earliest possible priority date for your patent, you can file a **provisional application**. This can give you time to see if your patent is worth further investment.

You can find out more about the patent application process on IP Australia's website.

How long will my patent be protected?

In Australia, there are two types of patents; a standard patent and an innovation patent. Standard patents protect breakthrough inventions and can last up to 20 years if you pay the annual renewal fees. Innovation patents protect more obvious inventions, but only last up to eight years.

How much will it cost?

To understand fees for patent applications, visit:
ipaustralia.gov.au/patents

Trade Marks

Think **'Bunnings Warehouse'** for hardware, **'Mortein'** for pest control, and **'Woolworths'** for groceries. Not to mention **Qantas, Boost Juice, Penfolds and Weet-Bix.**

Your trade mark is the identity of your business. As your business grows, your trade mark can increase in value.

A trade mark is used commercially, and can be a letter, number, word, slogan, sound, smell, shape, logo, picture, aspect of packaging, or a combination of these.

How can I apply?

Apply online – go to Online Services on IP Australia's website.

Use our **TM Headstart (pre-application service)** to help you assess if your trade mark can be registered, before you file a full application. Go to Online Services on our website to access this service.

How long will my trade mark be registered?

Your trade mark can be registered forever, so long as you pay the renewal fee every 10 years.

How much will it cost?

To understand fees for trade mark applications, visit:
ipaustralia.gov.au/trade-marks



“Protecting your brand goes hand-in-hand with protecting your product. This is one thing I’ve learned along the way. Protecting your brand name is every bit as important as protecting your product design.”

Adam Dubrich – Director – Cricket Cooler®



“As a creative, it’s devastating when your work gets copied. A registered design deters copycats and helps you to defend your original products.”

Kate Anderson – Head Designer
Finders Keepers® – Australian Fashion Labels

Designs

Think the fashion of Forever New, the patterns on Ken Done bed linen and the look of Breville appliances.

A design right protects the overall appearance of a product. Design registration is intended to protect designs which have industrial or commercial uses. Your design can be registered if it is new and distinctive.

A registered design can be a valuable commercial asset. Once it has been certified after examination, you can stop others from using or copying your design.

Design registration protects how a product looks, while patents protect how the product works.

Don't go public before you apply – you should not show your design to the public before you seek registration. If you want to apply for a trade mark that features your design, apply to register your design first, and then apply for your trade mark.

How can I apply?

Apply online – go to Online Services on IP Australia's website.

How long will my design be registered?

Your design will be registered for up to 10 years, so long as you pay the renewal fee after five years.

How much will it cost?

To understand fees for design applications, visit:
ipaustralia.gov.au/designs

Plant Breeder's Rights

Think the 'Pink Iceberg' rose, the Cripps Pink ('Pink Lady') apple and 'Drysdale' wheat.

A Plant Breeder's Right (PBR) gives you exclusive rights to commercially use and sell your new plant variety. PBRs are used to protect new varieties of plants that are distinct, uniform and stable. If you are developing a new plant variety, consider a PBR as a key part of your overall business strategy.

Your registered PBR enables you to control the production, sale and distribution of your new variety, or to license others to do so. You may also negotiate royalties from the sale of your PBR.

How can I apply?

Apply online – go to Online Services on IP Australia's website.

How long will my PBR be registered?

Your PBR will be protected for up to 20 years for most species, or 25 years for trees and vines, so long as you pay the annual renewal fees.

How much will it cost?

To understand fees for plant breeder's rights applications, visit:

ipaustralia.gov.au/plant-breeders-rights



“The benefit of Plant Breeder’s Rights is that people who come up with a new plant variety have exclusive ownership. They can sell it and recoup their investment of time and money.”

Tom Damin – Manager, Research & Technical Services
Seed Distributors®

IP is **your** business

Other types of protection your business may need

Copyright

Copyright protects your original works of art, literature, music, film, sound recordings, broadcasts and computer programs from unauthorised copying.

In Australia, copyright is automatic. You can put the ©, and the year, at the end of your work, to let others know you are claiming copyright.

Trade Secrets & Confidentiality Agreements

Trade secrets include manufacturing or industrial secrets and commercial secrets. Trade secrets exist for as long as the information remains confidential. They may be a good business strategy if your product is difficult to reverse engineer, making it difficult to copy.

Use confidentiality agreements where trade secrets and other confidential information represent a risk for your business. If you rely on trade secrets to protect your IP, make sure you set up legally binding confidentiality agreements with your employees.





How to register other aspects of your business

Business names

Register online at the Australian Securities and Investments Commission (ASIC) website (asic.gov.au).

Company names

Register online at the Australian Securities and Investments Commission (ASIC) website (asic.gov.au).

Domain names

Register online for the .au domain space - go to the .au Domain Administration Ltd (auDA) (auda.org.au).

Useful links

ipaustralia.gov.au – patents, trade marks, designs, plant breeder's rights

copyright.org.au – copyright

communications.gov.au – copyright, circuit layout rights

asic.gov.au – business name, company names

auda.org.au – domain names for .au



Grants and assistance for your business

There are programmes to help your business innovate, grow and succeed.

Business.gov.au is a resource for the Australian business community, and offers simple and convenient access to government information, forms and services, it's a whole-of-government service providing essential information on planning, starting and growing your business. You can use the Grant Finder to help you locate the grants and assistance programmes most relevant to your business.

Find grants and assistance – go to **business.gov.au/grants**

Who is IP Australia?

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

We have over 110 years experience driving innovation by helping you to protect your ideas.

Contact Us

Web: ipaustralia.gov.au

Phone: 1300 651 010

 facebook.com/ipaustralia.gov.au

 twitter.com/IPAustralia

 linkedin.com/company/ip-australia

 youtube.com/user/ipaustralia

Disclaimer

This booklet is designed to help you understand intellectual property issues.

You should not regard this publication as an authoritative statement on the relevant law and procedure.

While we can't give you advice about your particular circumstances, we can provide general information and answer questions about our processes and fees. Commercial legal advice is best sought from a registered patent or trade mark attorney or experienced IP professional.

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Patents



Trade Marks



Designs



**Plant Breeder's
Rights**

ipaustralia.gov.au