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Your Essential Guide to Intellectual Property



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Your Essential Guide to Intellectual Property

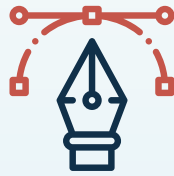
You probably have an idea of what you want your product to look like. You'll also need to come up with a product name, logo, general designs and any marketing 'collateral' you might have such as a website.

This is a three-step process:



1

New ideas



2

Creating them



3

Protecting them

This is what's known as your 'IP' (intellectual property) and although it's not usually the first legal issue that comes to mind, it can be extremely valuable and therefore worth safeguarding.

What are the main forms of IP?

- 1 Trademarks are elements of branding
- 2 Copyrights protect original expression
- 3 Design law protects the appearance of products
- 4 Patents protect inventions



Starting your business or launching a new product

There are many different approaches here. Whilst this isn't 'a guide to branding and marketing' we can certainly help you out with how to do it legally, so you don't run into any problems later down the line. On many occasions, there have been companies that have been incorporated and then launched, only to receive a letter of complaint from another business that is already trading under that name

(or something very similar) or a trademark that has already been registered. Common complaints centre around confusing the market and they must cease using the name (and sometimes even reimburse for damages with an infringement claim). The best and most effective trademarks are those that bear absolutely no relation to the products or services they're used for. Completely invented words are ideal.

Make sure you follow these simple steps:

- ✓ Make sure it's not already registered with [Companies House](#) and it's actually allowed to be used in the marketplace.
- ✓ Check it's not already registered as a trademark. You can check this by using the Intellectual Property Office (IPO) '[Search for a Trademark](#)' page.
- ✓ Check if the website address/domain name is available. (Okay, this is not specifically a 'legal' consideration and you can actually buy these off the domain's owner, but that can be costly, and you might not want the hassle). Easily check here using [123-reg](#) or [GoDaddy](#).

Do keep in mind, that you [cannot trademark certain things](#), so you might not be able to protect your brand entirely. Have a look at these [brief guidelines on the government's IP website](#) before deciding on a name.

Logos and other designs:

Another part of the 'branding exercise' is creating the look and feel of your product. Unless you have fantastic design and branding skills, you might want to hire a freelance graphic designer or an agency to create a logo and any other marketing collateral. If you do hire a designer or an agency, make sure you have a [contract](#) in place which specifies precisely who owns the intellectual property in whatever they create, as well as stating a deadline for the project and the costs involved. A '[Supply of Services](#)' style contract would be a good place to start.



Again, bear in mind some images and phrases will not be able to be trademarked (an important step outlined below) so check the [government's Intellectual Property website](#) before making any final decisions.

Once you have your new branding squared away, you should think about protecting them and this means registering a [trademark](#).

Having a trademark allows you to:

- Take appropriate legal action against people using your brand without prior consent.
- Sell and license your brand assets.
- Use the famous ® symbol next to images of your brand which will act as a deterrent for those wishing to use it without your knowledge.

So how much does it cost to register a trademark? ®

The price for registering a trademark in one category ('class') is £170. Each additional 'class' costs an extra £50. These are the 'official' government fees (you can find more information on the [IPO/GOV site](#)) though you might be interested in seeking professional help as the forms are quite complicated to fill out. LawBite offers a full range of Trademark products specially designed to help you safeguard your business. Find the right Trademark product for you [here](#).

Copyright

- [Copyright](#) protects original artistic, musical, dramatic and literary works, including computer programmes and also broadcasts and recordings.
- [Copyright exists automatically when you create something original.](#)
- Copyright protects the expression of an idea, not the idea itself, it stops people “copying” another’s work.
- If your business creates data, you might find it useful to know that the Courts have given copyright protection to certain types of lists of data such as tables, compilations and databases. This could be helpful if you are in the software and IT sector. But you should note it can require meeting a higher threshold

SMEs with registered IPRs are **21%** more likely to experience a growth period



Source: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/IP_sme_scoreboard_study_2019/IP_sme_scoreboard_study_2019_en.pdf

Steps to protect your copyright



You can take a number of immediate, practical steps to identify and safeguard copyright work:

- ✓ Identify all materials that are likely to have copyright protection.
- ✓ Ensure that the company is the owner of the work. This involves identifying the authors of the relevant work (check if non-employees such as contractors or commissioned artists/authors produced works) and obtain copyright assignments and waivers of moral rights from them in favour of the Company.
- ✓ Keep proper records of the results of the steps set out in the first and second bullet points above. Authors should sign and date their works and, where relevant to the term of copyright, the date of first marketing of articles should be recorded.
- ✓ Apply a copyright notice in accordance with the Universal Copyright Convention, for example "Copyright © YourCo 2021". Although this is not necessary as a matter of law to gain protection, it is a useful notice and warning to anyone using the work that copyright exists, and that action may be taken if the work is copied.



Good practices

Additional text can be included, this might include:

- Text stating that reproduction of any material is prohibited. It is sensible to state 'by photocopying or storing in any medium by electronic means or otherwise'. This is useful in preventing someone from arguing that there was an implied licence in permitting any copying or storage.
- Warnings stipulating that the doing of any unauthorised act in relation to the work will result in both civil and criminal liability.
- Warnings that any copying will result in criminal or civil action.
- Disclaimer to provide protection for the author and the publisher if use is made of opinions or views expressed in written material.

10%

of SMEs with registered IPRs are more likely to become a high-growth firm

Source: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/IP_sme_scoreboard_study_2019/IP_sme_scoreboard_study_2019_en.pdf

Design Right

Another useful protection that can overlap with Copyright is “Design Right”. [Design rights](#) protect the appearance of the whole or part of a product. They can be registered or unregistered. A registered design provides a legal monopoly.

Design Rights protect the texture, contours, shape, materials and decoration of a design.

They can apply to a wide range of products including packaging, graphics, logos and the ‘look and feel’ of products.

Like a Trademark, you can apply for a UK registered design or an (EU) Community Registered Design. Your design must be novel and of individual character and protection lasts a maximum of 25 years, with registrations renewed every five years.

Design registration process

- ✔ Check whether your design is unique to the UK, EU or Worldwide. You can do this yourself or use the support of an [IP solicitor](#), as searching can be demanding and mistakes can be made.
- ✔ If you are eligible to register your design(s), specific documentation has to be prepared to submit your design. You can add illustrations to your application and also register just part of a design, but this will need to be specified on your application.
- ✔ After your application has been sent, you can expect the Intellectual Property Office to examine your case within approximately two weeks. If there are no objections, your design will be resisted.
- ✔ If there are objections or if your registration has been deferred, you can request a hearing to dispute the decision within two months.
- ✔ Please note that you will have to renew your design registration every five years to keep it protected.



Patents

- [Patents](#) provide inventors with a monopoly over their inventions and last for a limited period (20 years in most countries).
- The invention must be new, involve an inventive step and be capable of industrial application.
- You must file an application for a patent with the Patent Office of the country that you work in.
- [Patents](#) are expensive to obtain and maintain and it means public disclosure of your technology, so a competitor could benefit without from useful insight.

Patents:
only
1 in 20
are successfully
granted without
professional
assistance

How to make a patent application in the UK

- ✓ Establish whether your invention is eligible for a patent. What can be patented? To qualify your invention must be new, involve an inventive step, be capable of industrial application.
- ✓ Apply for a patent. Applications for a UK patent must be filed at the Intellectual Property Office (IPO) and provide:
 - Request granting of a patent using the appropriate forms.
 - Your contact details.
 - A description of the invention (the specification) or reference to an earlier application.
 - The applicable filing fee.
- ✓ Wait for publication and apply for substantive examination.
- ✓ Receive your patent.

Source: https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/IP_sme_scoreboard_study_2019/IP_sme_scoreboard_study_2019_en.pdf

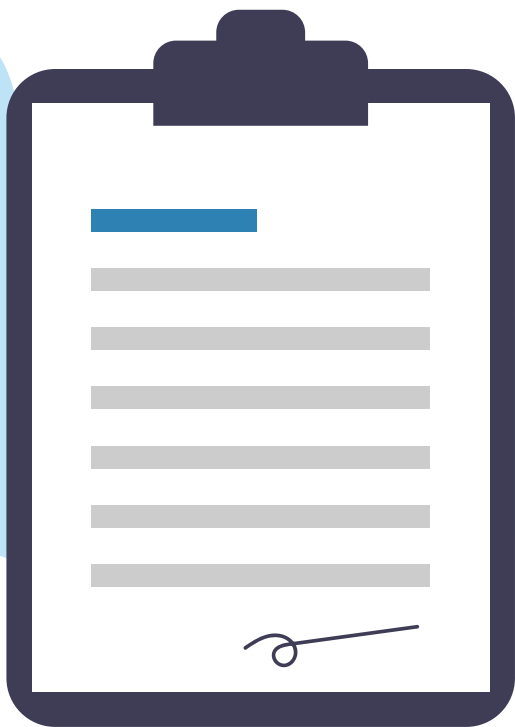
Exploiting your Copyright and Intellectual Property

Copyright can be exploited either by selling, transferring it (legally we call this assignment) or by licensing. You might use assignment if you were entering into a joint venture, contributing Intellectual Property.

The much more common way of exploiting Intellectual Property is by licensing, which presents huge flexibility. A licence can apply to specific countries (territories is the usual term) and/or specific markets.

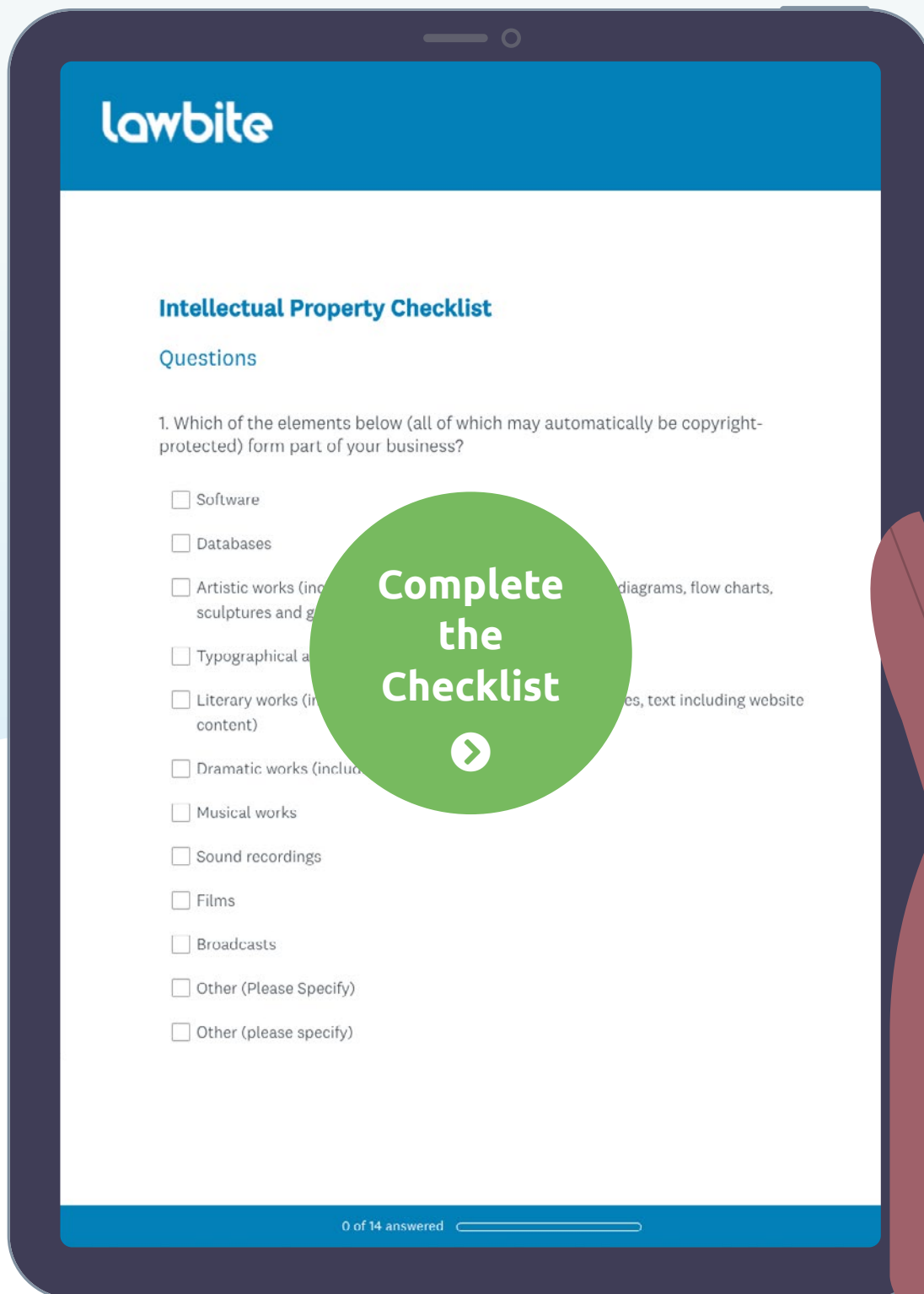
Licences can extend for short or long periods and incorporate a wide range of remuneration methods including up-front fees, revenue sharing, subscriptions and royalties.

There is no particular form for a licence of copyright and even oral or implied agreements can be effective. However, you are much better off having a written licence agreement for certainty and also because a written agreement gives you the benefit of extra exclusivity rights under the [Copyright, Designs and Patents Act 1988 \(CPDA\)](#).



Source: <https://www.ipo.gov.uk/p-apply-before.htm#:~:text=Only%201%20in%2020%20applications,before%20applying%20for%20a%20patent.&text=If%20you%20would%20like%20to,us%20on%20300%20300%202000.>

Intellectual Property Checklist:



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Intellectual Property Checklist

Questions

1. Which of the elements below (all of which may automatically be copyright-protected) form part of your business?

- Software
- Databases
- Artistic works (including photographs, diagrams, flow charts, sculptures and graphics)
- Typographical arrangements
- Literary works (including e-books, e-mails, text including website content)
- Dramatic works (including plays and screenplays)
- Musical works
- Sound recordings
- Films
- Broadcasts
- Other (Please Specify)
- Other (please specify)

0 of 14 answered

Complete the Checklist



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