

INTELLECTUAL PROPERTY

Every single technology, product, improvement to our lives, begins as an idea - as intellectual property.

Every business also begins with ideas but often we miss the wood for the trees: we focus on the tangible products and forget about where they all began: the ideas, the intellectual property.

Numerous studies have established that 80% of most businesses' value now resides in intangible assets, or intellectual property (IP). IP (in its broadest sense - not just patents but confidential information, copyright, trademarks, know how etc. - all the IP rights) is now fundamental to business success.

However despite this many New Zealand organisations see IP as a secondary or even tertiary consideration. For example: most companies have a Fixed Asset register listing cars, desks and LCD monitors, but few have any record, let alone active management, of potentially high value IP such as trade secrets, copyright, trademarks or inventions.

WHAT IS IP?

IP includes both registered forms (such as patents and trademarks), and the forgotten but often more important, unregistered forms, such as confidential information and trade secrets. Your carefully-cultivated distribution channels, the fact that you have to add X before Y in the manufacturing process, the customer details in your database or the code in your software platform are all pieces of IP which provide you with competitive advantage and enable your business to run. Try this simple experiment: can you run your business for one week without relying on any of these things - without any intellectual property?

The answer is no and that is why intellectual property is so important.

In short, intellectual property is critical.

WHY IS IP IMPORTANT?

No one copies failed products, but successful products with weak IP are rapidly duplicated by competitors. In fact the more successful the product is, the more likely it will be copied. To add insult to injury the imitators have not had to bear the cost and risk of R&D. More competitors producing more copies reduces market share and lowers margins. Over time, without strong IP the innovation will be reduced to a commodity and the original innovator just one of many suppliers in a crowded market.

In other words, regardless of the industry you are in or the product or service you produce, the strength (or weakness) of your IP directly impacts:

1. the margins your products are able to command (by reducing competitive pressure)
2. the size of the commercial opportunity that can be exploited (by preserving market share)
3. the options available to make money (by opening strategies such as IP sale or licensing)

HOW SHOULD I MAKE SENSE OF IP?

So what should New Zealand companies do? The solution is twofold. Firstly, increase awareness and understanding of IP. You can't make effective decisions about IP or leverage its value if you don't understand what it is, how it works and its role in your industry. Starting questions include:

- How much innovation or IP do we have?
- How much are we creating on a daily basis?
- Is it being used? If it is not being used what is happening to it?
- What is our true spend on IP protection?
- Are we generating revenue or value from that IP?

Addressing these questions helps management take a measured view of how the business manages and utilises IP.

Second, if the conclusion is - "we don't know" then you need to connect to an advisor who can help answer these questions and develop a robust and importantly, commercially orientated, IP strategy. In practice (and logically) this means your IP strategy should not be defined by the person filing your patents or trademarks. It's critical to seek independent and objective advice.

The take-home message here is that intellectual property is fundamental to long term business growth and success.

IP IS OFTEN THE DIFFERENCE BETWEEN AN ALSO RAN AND A TRULY SUCCESSFUL BUSINESS.

Understanding what IP your business has, its strength and scope, how to use and leverage IP is a prerequisite for every aspiring business.