

# 12 Intellectual Property



## Intellectual Property

By AJ Park

**AJ Park is a leading provider of intellectual property services in New Zealand, Australia, and the Pacific region. We act for a diverse range of world-class organisations and individuals, including many of New Zealand's most successful exporters. We understand the challenges and opportunities associated with protecting and enforcing valuable IP overseas and work with our clients to ensure they have the right strategy and protection in place before they leap into export markets.**

Intellectual property (IP) is an umbrella term for a range of ownership rights you can claim over your brands, designs, ideas, inventions, and processes. It generally falls into two categories: registered and unregistered.

### Registered IP

Registered IP comes in the form of patents, designs, registered trade marks and plant variety rights – all requiring you to follow a registration process in order to secure the legal rights they provide. These rights can help you to stop someone else from using your ideas.

### Trade marks

A trade mark is the legal term for a brand or logo which links products or services with their supplier. A trade mark may be a word, logo, label, picture, colour, sound or shape, or a combination of these. It must be represented graphically to be registrable. Trade marks must also be distinctive to be registered.

### Patents

Patents are one of the stronger forms of registered IP available. Granted by the government, a patent provides an exclusive right for a specific term (20 years in New Zealand) to prevent others from using your invention or idea. Patents are predominantly used in industries that require heavy investment in research and development (R&D), such as pharmaceuticals and engineering.

However, you may patent new products, machines, electronics, compositions, business methods or processes, and implemented inventions.

You cannot get a patent for a basic idea on its own without explaining how to put the idea into practice. Inventions should be protected if they are likely to be commercially popular or important to industry.

However, getting a patent for your invention is a complex, technical legal process. You need expert help from an IP specialist to give you the best chance of securing good protection.

It is critical that you do not reveal your invention

to anyone before speaking to an IP specialist. If you tell anyone about your invention before filing a patent application, you may not be able to get a valid patent. If you need a third party to assess or help with the invention, make sure they sign a confidentiality agreement before revealing your invention.

The date you file your patent application becomes the 'priority date'. You may reveal your invention after the priority date is established. It's important to note however, that patent protection is jurisdictional. If you wish to prevent your product from being copied, manufactured, or sold in other markets, you need to secure protection in each market.

### Designs

A design registration can be used to protect the appearance of your products and is a stronger form of protection than copyright. In New Zealand, a registered design provides exclusive ownership for up to 15 years.

### Plant variety rights (PVRs)

Also known as plant breeder rights (PBRs) or plant patents, this is a specialised type of IP used to protect new varieties of plants. A PVR grants the owner the right to grow and license their particular variety of plant.

### Unregistered IP

Unregistered forms of IP include copyright, trade secrets and unregistered trade marks. These rights can stop others copying your ideas, but only in very limited circumstances – circumstances that are usually difficult and costly to prove, and easy to circumvent.

### Copyright

Copyright exists automatically in company documents, marketing collateral, and designs. It protects original pieces of work such as photographs, sound recordings, and prototype drawings and is exclusive to the creator. Copyright protection has a limited lifespan, which varies in duration depending on the type of work.



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