

## INTELLECTUAL PROPERTY RIGHTS

FOR EVERY BUSINESS

### WHAT IS INTELLECTUAL PROPERTY AND WHAT INTELLECTUAL PROPERTY RIGHTS ARE?

Intellectual Property (IP) can be understood as “creations of the human mind”, i.e., the result from intellectual efforts - creating or producing something, new and useful, for the better utilization of global resources.

Intellectual Property Rights (IPR's) are the legal property rights governing such creations. As such, to sell, purchase, hire or license this property requires protection.

The importance of IPR has greatly increased with E-commerce, which involves several IP, such as:

- Trademarks
- Web design
- Graphic design
- Logos
- Colors
- Patterns
- Trade dress
- Software
- Music
- And so on...

Whether or not your business has a budget for IP protection or has some financial resources to invest in it, you should bear in mind that the investment is worthy: protecting the IP from a business, from its very early stages, is a fundamental (and foundational) step to start and longevity of the same.

### WHY EVERY BUSINESS NEEDS IP PROTECTION?

Whether or not your business has a budget for IP protection or has some financial resources to invest in it, you should bear in mind that the investment is worthy: protecting the IP from a business, from its very early stages, is a fundamental (and foundational) step to start and longevity of the same.

The main advantages to IP protection are as follows:

- Exclusive property right and helps businesses to do better than it otherwise would, or it can kick-start a new business.
- Turning knowledge/idea into a tangible asset capable of assignment, transfer, and licensing.
- IP can be used as a leverage for attracting investors, as collateral for obtaining finance.
- Reduces the risks associated with commercialization by deterring competitors from using the protected IP.
- Generation of royalty income from licensing.
- Legal means to react against IP infringement.

## HOW SHOULD BUSINESSES START?

When considering protecting the IP of your business, you should consider designing an IPR strategy based on the following roadmap:

- Identify business goals
- Identify any IP that it may have
- Formulate a plan to protect that IP and accomplish its business goals.

It is also noteworthy that IP makes E-commerce work. This is, because IP brings life to the Internet, software, networks, designs, integrated circuits, routers and switches, the user interface, among others. These are elements of IP often protected by IPR's.

There are several types of IPR's, which result in different forms of IP protection, and are divided in:

I) **Industrial property rights** and II) **Copyright**.

This article stands out the key ideas on the protection of Industrial Property rights, namely Trademarks, Industrial Design, Patents and Utility Models.

## WHAT IS INDUSTRIAL PROPERTY?

Industrial Property refers to an exclusive right over signs that identify products and services or, for example, designs for the outward appearance of a product, or protecting inventions. It includes trademarks, patents and utility models, industrial designs, trade secret, and a few other forms of protection, although less common.

## TRADEMARK

### Branding and marketing

The branding and marketing of a company is one of a business 'most strategic IP assets, even more so when it is a startup. Among other functions, a trademark serves as a precious vehicle for advertising a product or service. Thus, registering the trademark should be the first step on the IPR protection journey of a business.

## WHAT IS A TRADEMARK?

A trademark is a sign that distinguishes the products and services of a business from those of your competitors. Trademarks may be words, characters, numbers, figurative elements, patterns, combinations of different colors, or any combination of these and sounds, a movement, or a change in the position of the elements of a mark. Also, the trademark may be three-dimensional, such as a container of goods and the shape of the packaging of goods.

A registered trademark gives its owner an exclusive right to use the trademark and a right to prevent others from using confusingly similar marks, as well as to commercially exploit it (e.g., licensing).

In most of the countries, the registration is granted for ten years, and can be renewed an infinity of times.

## WHAT ARE THE REQUIREMENTS FOR REGISTERING A TRADEMARK?

As a rule, a registered trademark must be distinctive, i.e., it may not be descriptive of the product or service it represents. A registered trademark must also be distinguishable from others' similar products or services without creating a likelihood for confusion.

A business should start registering its primary brand as a trademark and, according to the business needs, secondary brands may as well be registered (for example, for new products or services).

Examples of Trademarks: ADIDAS (word),  (figurative),  (shape),  (word and shape)

,  (pattern).

Trademarks are territorial rights, and they can be obtained may be protected at a national level, at EU level, through EUIPO (European Union for Intellectual Property Office) or at the international level, through WIPO (World Intellectual Property Organization), via the Madrid System – The International Trademark System (file a single application and pay one set of fees to apply for protection in up to 124 countries).

## INDUSTRIAL DESIGN

### WHAT IS AN INDUSTRIAL DESIGN RIGHT?

A registered Industrial Design, or registration of the look of an industrial or artisanal product (for example, the pattern on a fabric or the shape of a cookie box), provides an exclusive right to a specific design for a limited term.

Registered designs are granted to protect the appearance of a product or a part of a product, or even the design of a detail in a product. The product may be any functional or decorative article (such as a mobile phone, a drill, a toothbrush, a vase, a piece of jewelry, and so on). Also, graphical symbols, logos, computer icons, user interface graphics, even typefaces can be protected with a design right.

In general, the protection of Industrial Designs is granted for a maximum of 25 years, provided it is renewed every 5 years.

Like registered trademarks, Industrial Designs gives its owner an exclusive right to use the design and a right to prevent others from using confusingly similar designs, as well as to commercially exploit it (e.g. licensing).

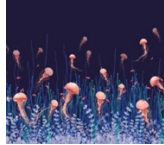
**WHAT ARE THE REQUIREMENTS FOR OBTAINING AN INDUSTRIAL DESIGN RIGHT?**

To be registered, a design must be new and own individual character (singular, unique) in comparison with prior industrial designs.

Examples of Industrial Designs:



(computer icons),



(graphic design),



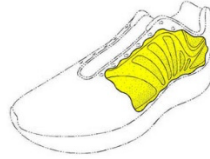
(web design),



(get-ups),



(packaging of products),



(parts of products),



(jewelry).

Industrial Designs may be protected at a national level, at EU level, through EUIPO (European Union for Intellectual Property Office) or at the international level, through WIPO, via the Hague System for the International Registration of Industrial Designs.

**PATENT**

**WHAT IS A PATENT?**

Patents refer to the exclusive right granted by a government to an inventor to use an invention, such as to sell and manufacture a patented product and use a patented method, for a certain number of years. As such, patents are temporary monopolies granted to inventors for the economic exploitation (producing, selling, importing, etc.) of technological innovations.

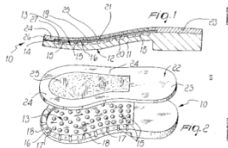
There are two different categories of patents: inventions and utility models.

Patents are territorial, and must be obtained at a national level, through the European Patent Office or by filing one international patent application through WIPO under the Patent Cooperation Treaty (PCT), where applicants can simultaneously seek protection for an invention in a large number of countries.

**WHAT ARE THE REQUIREMENTS FOR OBTAINING A (INVENTION) PATENT?**

The invention must be new, involve an inventive step and be susceptible of industrial application.

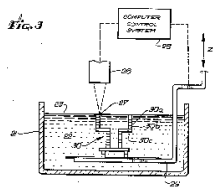
Examples of Patents:



( steam permeable and waterproof sole for shoes),



(electronic device),



(impressora 3D),  (tecido *Suberis*).

## UTILITY MODELS

### WHAT IS A UTILITY MODEL?

A Utility Model is an exclusive right, similar to the (invention) Patent, to use an invention commercially, more suited for inventions with a short commercial life. The process for registering a utility model is faster than with patents. In comparison with patents, utility models are also less costly due to their shorter term of protection and a lower requirement of inventive step.

Invention patents last a maximum of 20 years from the date the application is submitted. Nonetheless, the protection of pharmaceutical inventions may be extended by up to 27 years to compensate the patent owner for the time he may have to wait for marketing approval for his product. Utility models last a maximum of 10 years. The protection will only renew if the annual fees are paid.

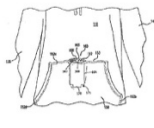
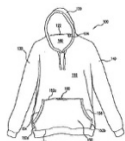
### WHAT ARE THE REQUIREMENTS FOR OBTAINING A UTILITY MODEL?

The invention must be new and industrially applicable, but the requirement of inventive step is lower than with patents (for example, the improved shape of a shaving razor, or other 3-dimensional objects).

Examples of Utility Models:



(razor ),



(apparel with pocket).