

Matheson

IP: What to think about when launching a New Product or Service onto the market.

Today is World IP Day, a day on which we celebrate intellectual property and the innovators and creators of the world. The theme of World IP Day 2021 is “IP & SMEs: Taking your ideas to market”.

We at Matheson enjoy working with new ideas and concepts. Over the years we have worked with teams that have grown their businesses to be world leading. Every new business starts with a clever concept or idea. Here are some tips to consider when launching a new product or service, and how to use intellectual property to maximise its value.



Concept / Initial Stage

- **Capture Founder IP:** Any intellectual property created pre-incorporation or in the early stages of a business should be transferred to the company via written agreement.
- **Steer Clear of Infringement:** Use publicly available information and conduct searches to identify any risk of infringement of third party intellectual property rights in implementing the new business idea:
 - Search and clear trade marks;
 - Carry out “freedom to operate” reviews of relevant patents;
 - Obtain third party IP licences if necessary.
- **Keep Track:** Product innovation is fast-moving and agile, but it is still important to keep records of what you use in your asset and who created it.
- **Retain control of your ideas:** Sometimes the “first to market advantage” is very important. Take care to keep your plans and information secret where appropriate – understand the laws on trade secrets, and use NDAs and confidentiality agreements.



Think about your IP Strategy

In diverse projects over the last number of year, we have seen first-hand the key role that intellectual property rights play in modelling the arrangements required to achieve both the desired green and business results. Our teams have supported clients in projects and deals involving energy efficiency and renewable energy, water purification, recycling of waste and products, alternatives to fossil fuel and carbon generation, CleanTech, pollution remediation and safety and health discoveries.

Some of the principal IP rights relevant to supporting innovation are:

- **IP as an Asset:** How do you build and create IP to support your business objectives? Consider your budget and priorities, and have a clear understanding of what IP rights can bring your new business additional value.
- **What rights are available to your business:** Take time to understand your options and make an informed choice around the creation of IP rights. Are you looking for product exclusivity, do you want a “springboard period” before competitors also enter the market place? Is branding of paramount importance?
- **Consider your Audience:** Do you want to concentrate on national markets or look to expand out to additional territories and marketplaces? IP rights are territorial in nature. Consider the locations where your customers and value chain are when developing strategy.



Protecting Your IP and Ensuring Ownership of the IP Rights in the New Product

- **Carry out a Product IP Audit:** Examine the core aspects of your product to decide on the appropriate protections for you. Consider what registrations should be made. Consider less obvious IP rights such as domain names, social media handles and design rights in product labelling and packaging.
- **Secure rights from third parties before they start work:** All consultants and / or independent contractors should sign agreements clearly stating their obligation to assign any IP developed for you to your company, or to give appropriate licences.

- **Stay Vigilant:** Watch out for and police infringing conduct by others after the new product or service launches. Have an IP enforcement strategy that makes business sense.

- **Ensure that your employees understand their role:** Ensure that employees respect, protect and maintain the value of your IP. Create and implement policies that support value creation and IP protection and enforcement in the workplace. Consider carrying out training and exit policies to reduce infringement risk, and IP loss.



The Importance of Written Agreements

- **Develop Core Contracts:** If you are building a business using IP you will have third party relationships. Develop a set of core business appropriate contracts to suit your business. Review these regularly.

- **IP Creation:** It is not the case that “if you pay for it you own it”. You must ensure that you have appropriate written agreements for those that create your products and services to secure IP ownership.

- **Read the Small Print:** New businesses will use existing tools, services and will collaborate with others. It is important to understand the documents on which your relationships are built, including any distribution or revenue generation channels.



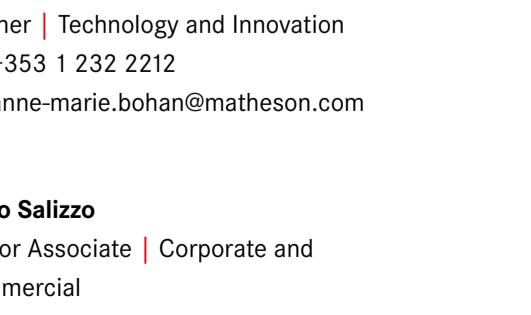
Make Use of Resources

- The Intellectual Property Office of Ireland has user friendly guides to IP in Ireland
- The European Commission 2020 IP Action Plan focuses on supporting IP for SMEs.

- Science Foundation Ireland, the Irish Development Agency and Enterprise Ireland all implement programmes supporting research and IP development by means of various grant arrangements.

What is World Intellectual Property day? 26 April marks the annual World Intellectual Property day, an occasion designed to spread awareness on the role of Intellectual Property rights in encouraging innovation and creativity. This year, while the celebration of World IP Day has moved to a virtual setting in light of the coronavirus pandemic, a number of events are taking place to mark the importance of IP in supporting a green future.

Should you have any questions or comments on the topics we cover in this update please do not hesitate to contact [Deirdre Kilroy](#), [Anne-Marie Bohan](#) or your usual Matheson contact.



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