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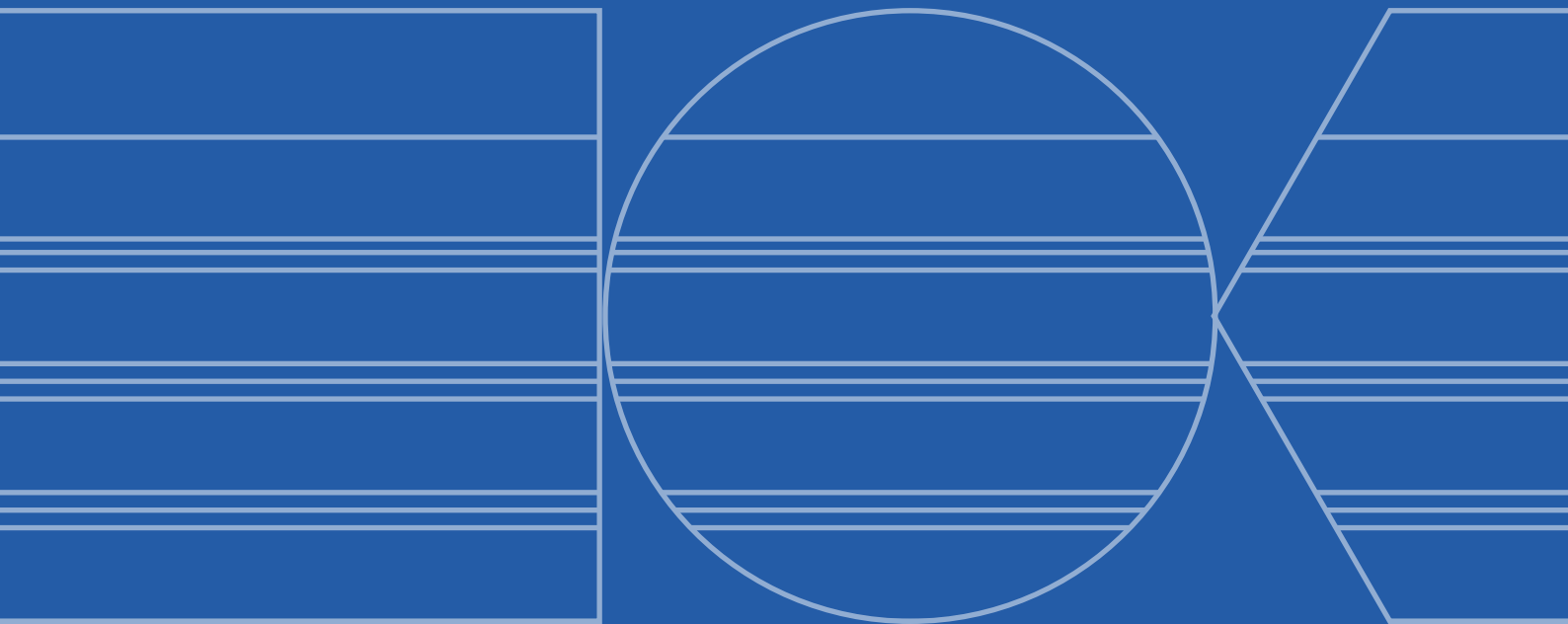
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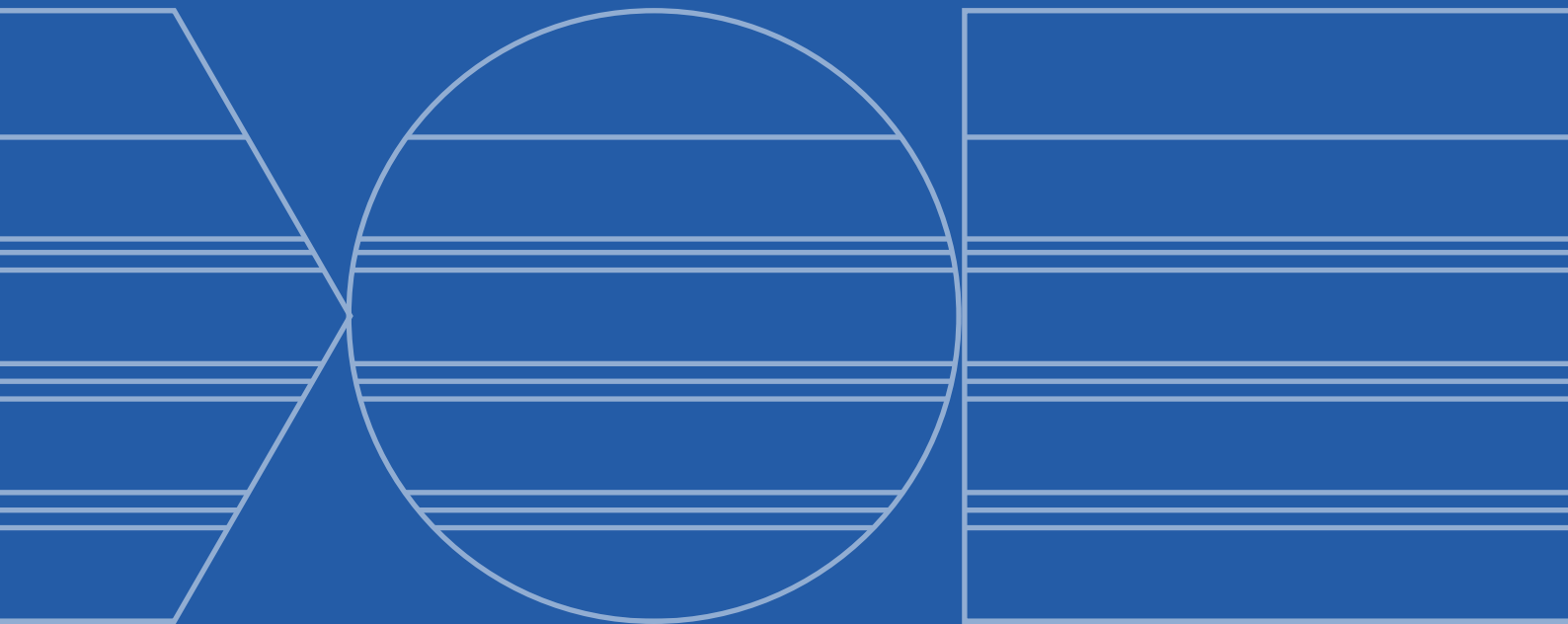
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Be Brave To Create





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Introduction

- Do you have a company in Kosovo?
- Do you manufacture products or deliver services?
- Do you want to improve your business and make it stronger?
- Do you want to export to other countries?

If the answer to some or all of these questions is positive, then
THIS BOOKLET IS FOR YOU!

If you are reading this booklet,

■ It is probably because you are a representative of a Kosovar company or SME manufacturing or selling products or delivering services, and, most definitely, you are Kosovar.

■ It is also because you realize that unfortunately "business as usual" is no longer an option: increased competition from all over the world, new restrictions imposed by the pandemic, increased quality standards, etc. are making your job more and more challenging and potentially at risk. You have therefore recognized that you have to gain a competitive edge vis-à-vis your competitors.

This Booklet is designed to assist businesspeople, representatives of companies and SMEs from Kosovo, with concise information presented in a user-friendly manner, and in particular with:

■ Hints, suggestions and tips on how to strengthen your business to an unprecedented level, by taking advantage of all existing IP and IP-related tools.

■ Practical knowledge and the skills necessary to make your company more successful by creating an effective brand for your products and services, by focusing more on innovation or on the value and attractiveness of your products, by taking advantage of the other IPRs, by protecting and efficiently exploiting your various assets, in Kosovo and abroad.

What IP is and main IPRs

Intellectual Property (IP) can be defined as a set of exclusive rights granted¹ by State authorities to creators of new ideas.

Under the general concept of IP, there are different types of exclusive rights, which can protect the different innovative practices and creations of your company. By way of example:

TRADEMARKS: these are signs that distinguish the goods and/or services of an undertaking (physical or moral persons) from those of competitors. They can take the form of a logo, one or more words (with or without colours, and with or without a special script), an image or a mixture of all these elements.

PATENTS: these are exclusive rights granted by the State to protect new inventions, i.e. new products or processes that represent a technical solution to existing technical problems.

INDUSTRIAL DESIGNS: these are exclusive rights granted by the State over the aesthetic shapes of utilitarian products. They protect your efforts to improve the visual appeal of your products or their packaging.

GEOGRAPHICAL INDICATIONS: these are exclusive rights granted by the State over the use of signs that indicate that a product (and at times also a service) originates in a certain geographical area and its qualities, reputation, or other characteristics are essentially due to its geographical origin.

DOMAIN NAMES: these exclusive rights protect the core part of your internet address, after the "www".

The last three types of IP rights do not necessitate the filing of an application with the relevant Government authority in order to be protected.

As mentioned, IP rights bring incredible advantages for their owners: EXCLUSIVE RIGHTS over the outcome of their innovation and over their exploitation.

COPYRIGHT: is a set of exclusive rights recognized by the State to authors of original creations in the artistic and literary field (e.g. a company's brochures, advertisements, reports, software programs, etc.). In short, any work which is written or drawn with a pen or a computer is automatically protected under copyright.

NEIGHBOURING (OR RELATED) RIGHTS: these are the exclusive rights of physical or moral persons that contribute to the spreading and commercialization of copyrighted works, and they include Performers, Phonogram Producers and Broadcasting Organisations.

TRADE SECRETS: this type of IP right does not need to be registered and it protects confidential business information that gives undertaking certain competitive advantages, precisely because and as long as it is kept secret. For instance, lists of customers with contact details and purchasing history, an effective marketing strategy or a successful after-sales policy, etc. would qualify for protection as trade secrets.

Or "recognized" in the case of copyright (in view of the principle of automatic protection).

This means that:

- Their creations will be protected from their competitors in the market;
 - No one else can use their innovation, unless authorized by the legitimate owner; and
 - If they want, IP owners can authorize others to use them ... of course not for free.
- In other words, they will be able to determine the economic conditions under which others can use their IPRs and be compensated for them.

These exclusive rights represent the reward for their innovative efforts, which require not only capacity and creativity, but also substantial costs.

In other words, your IPRs, once registered, are equivalent to “LAND WITH A FENCE: YOU OWN WHAT IS INSIDE!”

However, you should keep in mind that IP rights are territorial. The principle of TERRITORIALITY entails that (with the exception of copyright and trade secrets) your IP rights are protected only in those countries where you have filed and successfully registered them.

An important consequence for you is: if you intend to export to any other country outside of Kosovo, please make sure to protect your IPRs there before commencing commercialisation. If you don't do it, anyone would be able to copy you!

The validity of IPRs

Each IPR needs to comply with certain specific legal requirements in order to be valid in Kosovo and in other countries. The good news is that, in view of membership in IP international treaties, such requirements are more or less the same in most of the countries.

Let's analyze one by one.

TRADEMARKS

In order to be valid, a trademark must comply with the following legal requirements:

Distinctive Character

Trademarks must possess “distinctiveness” in the sense that they must be able to distinguish the goods and/or services of a company (or an individual) from those of other companies (or individuals). National trademark laws often do not define or explain such a concept but rather simply indicate that trademarks should not be, among other criteria, “mainly descriptive” or “generic”.

These notions are based on the “principle of SPECIALTY” (or “specificity”): marks are considered distinctive, descriptive or generic depending on the specific goods and/or services for which they are filed and registered. For information, goods and services are classified in accordance with the Nice Classification, that consists of 45 classes (34 for products and 9 for services). For more information, please refer to: <http://www.wipo.int/classifications/nice/en/>.

Real life examples might help with understanding the difference between a “distinctive mark” (which means that the mark is valid, strong), a “descriptive mark” (meaning that the mark is non-valid or at least weak) and a “generic mark” (which is obviously non-valid).

By way of example, the invented mark PEAR (with a logo representing a pear) would be:

Distinctive if used for ... electronic appliances;

Generic if used to sell ... pears;

Descriptive for fruit juices.

Similarly, the invented trademark DROMEDARY would be:

Distinctive for cigarettes;

Generic if used to trade camels and dromedaries;

Descriptive if used to sell dromedary-related products (e.g. dromedary milk and leather).

Obviously, trademarks that have no meaning (such as KODAK®) cannot be descriptive or generic.

The analysis has to be carried out using as a reference point the average consumer of that particular product of Kosovo (or other countries where protection is sought). If the average consumer knows the meaning of the mark and he/she esteems that there is a direct relationship between the meaning/message of the mark and the goods/services covered by the mark, then the proposed mark is descriptive.

However, not all descriptive marks are unlawful, but only those that are mainly or essentially descriptive. Other considerations may make a partly descriptive mark more distinctive, e.g.:

- A non-descriptive word and / or a logo may be added to the word mark;
- The mark may be filed and used in a special script (and not in standard capital letters) or in a special colour (and not in black and white).

Finally, it should be recalled that the level of distinctiveness of a mark is not constant over time. It may increase or decrease, depending on a number of occurrences including the type and frequency of utilization of the mark.

NOT DESCRIPTIVE

As already mentioned, a trademark should not mainly describe the qualities, characteristics, the origin, the intended purposes, etc. of the goods/services the following terms might be problematic as almost systematically descriptive:

- Adjectives (such as: cheap, faster, beautiful, future, etc.);
- Laudatory expressions (such as: the best, number one, super, the king of ... etc.);
- Geographical terms (the name of a town, village, or place, as this would describe the origin of the products in question).

However, if coupled with other highly distinctive terms or logos, the mark may become at least partially distinctive.

NOT MISLEADING

A mark should not mislead or deceive the relevant public as to the qualities, characteristics, or origin of the products/

services covered by mark. In other words, a trademark cannot ... lie!

By way of example, a mark that hints to the "freshness" of the milk contained in the packaging, while the product consists of powdered milk would be considered as misleading.

NOT GENERIC

As already mentioned, a generic mark is a term that corresponds to the customary and normal term used by the average consumer to refer to a particular product/service. Such terms should remain available for use by all traders of the sector concerned. By way of example, a producer of tables could never obtain a trademark on the word "table" as such.

NOT CONTRARY TO PUBLIC ORDER, MORALITY

Trademarks should not offend domestic customers, their sensitivity, their values, their religion, and they cannot violate any domestic law or regulation. By way of example, names of drugs, weapons, names of terrorist organizations and organized crime, words or images that are vulgar or too provocative may be refused as trademarks (e.g. MAFIA for garments).

NOT identical to a national flag and other State emblems

No one can adopt a trademark that corresponds to the name of a country, its flag, or other national emblems, etc. Only Governments can decide who is entitled to use such symbols and under what circumstances. Please stay away!

NOT IN CONFLICT WITH PRIOR RIGHTS

A proposed trademark cannot not infringe the exclusive rights of owners of prior marks or of other IP rights. A trademark is not considered as available, because in conflict with prior marks, if in the same country:

- There are prior identical or similar signs,
- For identical or similar goods and/or services.

The notion of "identical" signs (or goods/services) is quite obvious, and it does not require discussion. On the other hand, some explanations are necessary for the concept of "similarity" between signs or between goods/services. In particular, two signs may be similar from a:

VISUAL viewpoint because, for example, they have similarities in terms of shapes, colours, letters, etc.;

PHONETIC viewpoint because the two marks sound similar when pronounced;

CONCEPTUAL viewpoint because the meaning of the two signs is the same (e.g. the English word "house" and the Kosovar term "shtëpi" have the same meaning and

therefore if used as marks, they would be conceptually similar).

On the other hand, two products (or services) would be considered as similar if they have the same purpose or the same public; the same channels of distribution or they are inherently linked (like a wheel of a motorbike and a scooter). They can also be deemed as similar if one can replace the other, should the first not be available.

In order to find out if your proposed mark is available, a trademark search should be conducted in the database of your national IP office or by using a reliable databank such as:

TMView, available at <https://www.tmdn.org/tmview/welcome>. This database will allow you to verify if a mark is available in all EU countries and in numerous other partner offices.

WIPO Global Brands database, covering trademarks registered in a wide number of countries parties to WIPO, and available at: <https://www.wipo.int/branddb/en/index.jsp>

COPYRIGHT

Copyright provides protection to original creations in the artistic and literary fields. This means that the only legal criterion for protection under copyright is ORIGINALITY of the creation. In general, there is no originality if the author has copied somebody else's work.

PATENTS

In order to be valid, a patent must refer to an invention which:

Refers to a patentable subject matter: by way of example, methods for doing business, games, discoveries, mathematical methods, plants and animals are excluded from patentability. You should therefore check the precise list of non-patentable subject matters in the patent laws of all the countries where you intent to protect your invention.

Is new: this implies that invention should not be anticipated by the "prior art". This means that the invention should not have already been disclosed to the public anywhere in the world by way of written or oral disclosures. For example, a patent will not be granted for lack of novelty if the invention:

- o is already protected by another earlier patent (registered or applied for), or
- o was described in detail in an article, a conference, etc., or
- o was simply used by someone somewhere around the world.

To find out if an invention is new, a "novelty research" should be carried out by a technical specialist in a specialized database.

Has industrial applicability: this implies that the invention must be capable, at least potentially, of being reproduced on a large scale.

Has an inventive step: this will be the case if the invention is considered as non-obvious by the "man skilled in the art". This means that only inventions that bring about a real technological advance as compared to what already exists will qualify for patent protection.

Is fully disclosed: the invention must describe in detail in the patent, failing which the patent will not be granted or it may be canceled at any time.

INDUSTRIAL DESIGNS

Most countries provide that industrial designs, whether 2-D or 3-D, can be registered if they are:

New: an ornamental shape is new if it has not been disclosed to the public, anywhere around the world, by publication, display or simply used, before the filing date. To determine if a particular design is new or not, you have to carry out an availability search in databases such as that of your IP Office or the DesignView database available at: <https://www.tmdn.org/tmdsview-web/welcome>.

Not essentially dictated by technical considerations: shapes that are essentially functional or technical cannot enjoy protection as industrial designs (they may instead be protected as patents).

Not contrary to public order or morality: the particular shape cannot offend people, values and beliefs.

How IPRs can support companies and SMEs and improve their business

When it comes to business, the sky is the limit: good businesspeople can take advantage of the opening up of markets and new regional business opportunities to develop their businesses to an unprecedented level. However, globalization and regional trade agreements also imply some new challenges that if not adequately tackled may adversely affect your business. These include:

- a. **More competition from worldwide companies:** you can sell your products and services virtually anywhere in the world. However, this also means that extremely competitive companies can do business on your doorstep.
- b. **Need to reduce costs**
- c. **Shorter life-cycle for products:** your company constantly needs to innovate to be able to improve its existing products and attract consumers with newer and more well-performing products.
- d. **Stricter legislative requirements:** the wild-wild west is over. Now everything is regulated.
- e. **Enhanced awareness and expectations by customers:** consumers in your country know what is available worldwide and if you cannot provide it, they will seek other sources, possibly also in other countries.

However, the opening up of new markets also implies numerous advantages and incredible opportunities. You just need to be able to grab them. There is only one thing that will enable you not only to survive and overcome these challenges, but also to be ahead of your competitors: INNOVATION.



You should be innovative in all segments and components of your business:

1. Identification of the market for your products/services, and analysis of customers (identifying their needs, new trends and possible niches)
2. Prototyping of your products
3. Production
4. Marketing
5. Licensing
6. After-sale services
7. Monitoring and improving

In other words, your entire business cycle should be innovative!

Your innovative efforts may result in some or (hopefully) all of the following:

- Your products or services are new,
- Your products are more attractive and eye-catching,
- Your products or services enjoy higher quality, or possess more functionalities,
- Their branding is improved,
- Their price is lower,
- Your marketing strategy is well-conceived and successful,
- Your after-sale services are excellent and well-thought-out.

However, innovating comes with a cost, as it involves either in-house R&D, or the acquisition of technologies, know-how, brands, etc. This systematically involves significant human and financial resources. The only way in which you can ensure that nobody exploits your innovation without your authorization is by embracing a comprehensive approach to Intellectual Property (IP) and commence a strategic use of the various IP rights.

By way of example,

Steps No 1, 2 and 3 could be significantly enhanced with a forward-looking and effective use of patents, trademarks, industrial designs, GIs, copyright;

Steps No 4 and 6 would be enhanced by the strategic use of trade secrets and copyright;

Step 5 requires a profound knowledge of ALL relevant IPRs, as well as by strong negotiation skills (see section of Licensing).



More in particular, if you have:

Created and used a new brand (name, logo, etc.) for your products or services capable of distinguishing them from those of your competitors, then make sure you protect it as **TRADEMARK**;

Improved the ornamental appearance of your products, you should protect this new shape as **INDUSTRIAL DESIGN**;

Discovered ways to enhance the quality of your products or services or improve their functionalities, or found more efficient ways to produce them while reducing costs, you should try to protect these innovations as inventions through a **PATENT**

Adopted creative marketing techniques and after sale services that gave you a competitive advantage, you should treat them as **TRADE SECRETS**;

Drafted brochures for your company, internal manuals, advertisements, and any other written documents, you should be aware that these creations enjoy automatic protection under **COPYRIGHT**.

From the previous Section, you will remember that patents, utility models, trademarks, industrial designs, and copyright are among the most important IP rights. In other words, Intellectual Property is THE answer to your innovation problems, as it provides with the exclusive rights over the outcome of your innovative efforts. Go for it!

Let's now examine the other advantages of IP, particularly for SMEs in a country like Kosovo:

First of all, as mentioned above, IP **protects the outcome of your creativity** and innovation. This means that, subject to some exceptions:

- Nobody can utilize it without your authorization,
- Nobody can copy your new or enhanced products or services,

- You can establish the conditions for the sale of your products or services (and often this implies a premium price),

In short: your creations and innovative solutions are yours and only yours! This will give you both an excellent return on investment, and an enhanced market position.

Your IP rights can be licensed-out to numerous licensees (producers, distributors, agents, etc.) in your country and abroad. This means that your IPRs can be exploited at the same time in several countries, with consequent positive consequences in terms of income that you will receive. (see Section C.2 on Licensing).

Having protected IPRs will make your company more attractive to potential business partners with which you could enter into a series of contractual agreements (see section C). These forms of partnership will enable you to strengthen your resources and expertise, and to overcome many of your challenges and limitations. Thanks to your IPRs you will be in a better negotiating position.

Having IPRs will your company more attractive to potential investors and more reliable for banks and financial institutions, as IPRs can nowadays be used as collateral to guarantee loans. In other words, IP will enhance the company's capacity to access capitals.

At the end of the day, the more protected IPRs your company has, the more this will increase its commercial value.

Last but not least, if you have to go to court, your chances of success will be much higher if you have IPRs and if these are registered.

A. First steps for commercialisation

Market analysis

Analyzing both the geographical market and the specific product market where a new product or service will be commercialized is essential to commence increasing the chances of success of your business. This is true for all companies, but even more so for SMEs: conducting a thorough market analysis may prove fundamental help them identify their competitive position and their niche in comparison to other players. By way of example, you could try to understand:

- The size of your potential market (i.e. is it made up of over 100 million potential consumers, or just over 5 million?)
- The number and size of your potential competitors (i.e. is the market dominated by two large players, or is it a fragmented market with numerous small actors?)
- The potential geographical scope of your market (i.e. is it only at home or also in other countries?)
- The branding capacity of your main competitors (i.e. what IPRs do they have? How strong are they?), etc.

There are essentially three ways to carry out a market analysis:

1 The SWOT Analysis consists of the identification and analysis of the combination of four major internal factors: your competitive strengths and weaknesses in the market, the environmental and external opportunities that can help you become successful and, last but not least, all external threats that might limit your chances of success.

2 The following external factors are also taken into account by the second method that can be used to carry out a market analysis: the so-called PESTL Analysis. It considers the Political environment and stability; economic factors that might affect businesses and daily life; social behaviours, traditions, values, beliefs, religion, language and demographics; the level of

technological development of a country, as well as the legislative and regulatory environment, including domestic policies and regulations affecting business.

3 Finally, the third method consists of the Competitive Forces Model that analyses the intensity of industry rivalry, the threat of new potential competitors entering the market, the bargaining power of both suppliers and buyers, as well as threats of substitute goods and services.

The results of such a market analysis will constitute the basis for your business plan, which should encompass all relevant IP considerations.

IP Audit

Taking a multifaceted look at your company's intangible assets is necessary and helpful. An IP Audit consists of a systematic review of all existing IPRs, including those that are owned or simply used by you, and those that are licensed to you. The goal of an IP Audit is to take stock of all that you have, understand what rights need to be renewed or abandoned, what other rights may be needed, what rights may be the subject of infringements. This may pave the way for a valuation of your IP rights (see section below).

This review should cover:

Trademarks

- business name of your company
- signs you use to sell your prod./services

Know how / Trade secrets

- list of clients
- internal confidential information

Patents

- inventions, large and small

Industrial Designs

- ornamental shape of your products
- packaging

Copyright

- any literary or artistic works
- all written documents

IP Valuation

The IPRs identified in the above-mentioned IP Audit have a definite economic value, at times even extremely high and often higher than those of your tangible assets (e.g. plants, machinery, etc.). An IP Valuation helps to assess and quantify this economic value, in relation to the current and/or future/potential economic benefits that can or might derive from such rights.

There are two different approaches to carry out an IP Valuation:

Quantitative approaches	Qualitative approaches
Cost-based method , taking a look at direct expenditures needed to develop a new and different product.	These focus on the analysis and consideration of more abstract characteristics of IPRs, such as:
Market-based method , analysing similar market transactions relating to comparable IPRs.	Legal strength (i.e. registration of the IPR, geographical coverage, duration, market size, etc.).
Income-based method , assessing the value of IP assets on the basis of the amount of economic income that they are expected to generate, adjusted to present-day value	Vulnerability to attack.

B. Getting protected

Protecting IPRs at home

Most IPRs (like patents, designs, trademarks, GIs) require registration in order to obtain protection. Copyright is an exception, as registration is optional, not mandatory. Copyright automatically protects works from the moment of their creation. However, their deposit with your national Copyright Office is advisable particularly if, at some point, you have to prove that you are the author of a certain work or the owner of that copyrighted work.

For all other IPRs, you have to file an application for registration with your national IP Office. If your registration process is successful you will be granted exclusive rights over the use of your invention, trademark, work or design. This also means that you will be able to prevent anyone else from using them. Registration is also helpful to strengthen and prove your own position in case of infringement: registered IPRs are yours and only yours, and courts will more easily judge in your favor in case of violation.

Most IP offices nowadays provide facilities for online registration of your IPRs. You will have to fill in a form providing general information about you, as IP owner, and about the IP right for which you seek protection. The procedure will vary depending on whether you are registering a mark, an invention or a design. It might be advisable to contact a local IP lawyer or agent who will be able to provide you with customized help, if necessary.

In the case of TRADEMARKS, a sample of the mark and a list of products and/or services for which the mark will be used have to be provided. The list of products/services must be classified in accordance with the Nice Classification System, which offers 45 different classes (39 for goods and 7 classes for services). Before filing a trademark application, you should be sure your proposed mark is available, and that it does not violate any prior registered marks. The following tools might be helpful for a first, preliminary research on the "availability" of your sign:

TMView, available at <https://www.tmdn.org/tmview/welcome> to check the availability of your proposed mark in all EU countries and in numerous other partner offices, or

WIPO Global Brands database, covering trademarks registered in a wide number of countries parties to WIPO, and available at: <https://www.wipo.int/brandddb/en/index.jsp>

Kosovo database for trademark application and registrations available at <http://213.163.122.85/wopublish-search/public/home?5>

The application for INDUSTRIAL DESIGNS includes drawings, photographs or other adequate graphic representations of the industrial design in question, and an indication of the kinds of products for which the industrial design will be used, classified in accordance with the Locarno Classification. In this context, we suggest using the following tools:

EUROLOCARNO, available at: <https://oami.europa.eu/eurolocarno/> to easily identify the relevant class/es of the Locarno Classification in which your products are classified, and

DesignView available at: <https://www.tmdn.org/tmdsview-web/welcome> to assess if your proposed design is new or not (if it is not "new", it would obviously not be eligible to be registered as industrial design).

In the case of PATENTS, the so-called "claims" are crucial to define the scope of protection that you intend to seek for the invention. The creation and correct wording of these claims is a challenging and very technical task and definitely requires the help of a patent specialist. Once the claims are finalized, they need to be included in your application, together with a description of the invention, drawings if appropriate, and an abstract. You will also have to indicate the relevant class of the Strasbourg Classification (available at: <https://www.wipo.int/classifications/ipc/en/>) in which your invention falls.

Please keep in mind that, as already mentioned, the Principle of Territoriality limits the scope of protection of your application and registration with your national IP office to your country only. In other words, your IP registrations will only be protected domestically, and NOT in other countries. Therefore, if you want to do business abroad, you should also seek protection for your IPRs abroad before exporting to other countries.

Protecting IPRs abroad

Doing business abroad – including manufacturing or exporting products – requires the protection of all your IPRs in the relevant countries. This protection is necessary before you enter the foreign market, because the territorial nature of IPRs only grants protection abroad if you have explicitly filed for it. There are essentially three possible routes to protect a patent, an industrial design or a trademark in other countries:



The National Route is only advisable if your business is either limited to your home country and you don't intend to operate in other countries; or the countries where you plan to do business and would like to obtain protection do not belong to any of the regional or international systems described below. In this case, you will have to consult a local expert in each country to file a national application, complying with the requirements of the various domestic legislative frameworks, and paying fees in the local currency. It is challenging, but doable.

The International Route consists of three international registration systems administered by WIPO, namely:

System	IPR covered
Madrid System	Trademarks
Hague System	Industrial designs
Patent Cooperation Treaty (PCT)	Patents

These international systems allow you to file for protection in any country party to the relevant international treaties. The biggest advantage is that you will need to file only one application, in one language (including English), with one set of fees in one currency (Swiss francs) and comply with only one set of formal requirements. This makes the three systems very agile and cost-effective. However, you should recall that these systems provide for merely **formal** / procedural mechanisms to facilitate the filing process. After the filing of one international application, the national laws of each designated contracting party set the **substantive** conditions and the domestic designated IP Office verifies these requirements before actual granting protection.

For more information about the functioning of the Madrid, the Hague and the PCT systems, their advantages and list of Contracting Parties, please refer to the following links:

<https://www.wipo.int/madrid/en/>

<https://www.wipo.int/hague/en/>

<https://www.wipo.int/pct/en/>

The **Regional Route** is represented by a number of regional systems, with different levels of integration, which allow you to obtain protection in a group of countries. These include:

Regime	Territorial Scope
EUIPO	European Union
ARIPO	all anglophone African countries
ANDEAN	Bolivia, Colombia, Ecuador and Perú
OAPI	17 francophone African countries

Given your close proximity to the European Union, your business partners and your potential export markets, the EU system is certainly most relevant for you and you should learn how to use it if you intent to obtain protection for your marks and designs in the 27 countries of the EU. The system can be used by anybody, without restrictions as to nationality or state of incorporation. However, non-EU companies/citizens have to appoint a representative in the EU to file the application with EUIPO.

The EU system is completely integrated. To obtain your EU registration certificate, your marks and designs need to be valid in all 27 countries. The EUIPO will refuse your application for the European Union as a whole, if there is a problem with the validity of your IPR even in only one Member State. However, should your EU application be refused, it is still possible to convert it into a number of national registrations, in the countries where the mark would have been approved.

For more information about the EUIPO system please refer to the following website:
<https://euipo.europa.eu/ohimportal/en>

Finally, you need to keep in mind that you can file applications for your trademarks in any country at any time. However, this is not the case for patents and industrial designs for which certain time limits must be observed in order to obtain protection abroad. More in particular, you can validly file patent applications in other countries within 12 months from the moment you filed your first national application. The time limit for industrial designs is 6 months from the first filing.

Protecting Unregistered IPRs

Some IPRs – like trade secrets and know how – cannot be registered, and yet can be protected.

Trade secrets are the confidential business information that you use in your business. The commercial value of these secrets must rely on the fact that they are not known to your competitors. They include information relating to suppliers and customers (their contact details and commercial preferences), but also strategic information about marketing techniques, technical and also financial information, i.e. about pricing of your products and services.

Trade secrets are only protected as long as they are kept secret. As a result, you need to take whatever reasonable precautions that may be necessary to maintain the confidentiality of your trade secrets. If somebody, without violating any law, notices your products on the market and succeeds in understanding your secret, your trade secrets will be lost forever. This is the case unless you can prove that your trade secrets were acquired through an abusive or illegal act.

This underlines the importance of reasonable precautions to secure the secrecy of any trade secrets. However, it also demonstrates that any substantial innovation or invention should be filed and protected as patent, and not only as trade secrets.

C. Contracts to help you exploit your IPRs

Non-disclosure agreements

While negotiating with potential new business partners, you might have to disclose sensitive information on your IPRs, on the results of your R&D, etc. To effectively safeguard your IPRs before sharing any kind of information (secret or not), it is therefore necessary to make sure that your (potential) business partners maintain the secrecy of the information you will disclose, particularly if the two of you decide not to move ahead with a partnership or other agreement. The right way to proceed is to require them to sign a Non-Disclosure Agreement (NDA). These agreements are designed to prevent your potential business partners from disclosing any confidential information relating to your business that you have shared with them.

A typical NDA contains the followings clauses:

- definition of "Confidential Information",
- purposes for which the information can be used by the other party,
- entities with which the confidential information can be shared under certain specified conditions,
- choice of law and jurisdiction,
- provision of damages in case of unlawful disclosure of confidential information,
- specification of the duration of the NDA.

This is especially crucial in relation to patents, as inventions are only patentable if they are absolutely "new" and therefore not already disclosed to the public. If you expose your invention before filing a patent application, and without previously entering into an NDA, you may "kill" the novelty of your own invention. The same applies to your industrial designs.

As already stated, trade secrets and know-how are also only protected as long as they remain confidential.



Licensing agreements

IP Licensing is a process whereby the holder of an IP right (e.g. a registered patent, a trademark, copyright, etc.) grants permission to third parties to utilize it for a specified duration, for a specific purpose, within a particular territory, and under specific conditions. These terms are agreed upon between both the parties and are stated in a licensing agreement.

The advantages of licensing are numerous: the licensor earns money in terms of licensing fees and royalties and may expand his/her business to new markets in other countries by capitalizing on the licensees' local knowledge, network and expertise and also their distribution and/or manufacturing capacity. Nevertheless the Licensor maintains oversight and control over the way in which his/her IPRs are used.

On the other hand, the licensee profits from advanced technological know-how and/or valuable branding without having to create his/her own business from scratch. The licensee is therefore saving both time and money entering a new market and might learn new skills to develop his / her business strategy.

While negotiating a licensing agreement, you should keep an eye on both your own interests, but also the needs of the counterpart, in order to create a WIN-WIN situation, as your monetary reward will depend on the commercial success of your counterpart: the more he/she earns from the license, the more you will receive in terms of royalties.

IP licenses can be granted on an exclusive or non-exclusive basis. An exclusive license authorizes only one Licensee to use the IPRs in a given territory. The Licensor will neither authorize any other person to use its IPRs within the same territory, nor will he/she be able to use them within that territory himself/herself. A softer version – which still provides exclusive rights to the licensee but does not exclude the licensor to use his/her own IPRs – is called "sole license".

In a non-exclusive license, the Licensor retains the right to appoint other Licensees to use its IPRs potentially in the same territory. In other words, the Licensor is at the liberty to further license its IPRs to other parties, and of course to use them itself.

As compensation, licensing agreements usually provide for royalties that the Licensee will pay to the Licensor for the privilege of using its IPRs. Calculating these royalties represents a major part of the licensing agreement. However, it is very common to include, in addition to royalty fees, also the payment of a lump sum.

To avoid any conflict the parties to the licensing agreement should agree not only on the amount of the financial compensation, but also on the details such as when and how the payment/s will be made and the currency for payments.



A standard IP licensing agreement should therefore include the following (non-exhaustive list of) contractual clauses:

1. Precise identification and definition of the IPRs licensed
2. Precise description of the rights granted under the license to the Licensee
3. Type of license: Exclusive, Non-Exclusive or Sole license
4. Compensation (type, modalities, amount, etc.)
5. Duration of the contract
6. Right for the Licensee to sublicense
7. Precise indication of the geographical scope of use for the licensed IPRs
8. Rights on possible improvements of the licensed IPRs and their ownership
9. Confidentiality
10. Infringement of licensing agreement.

As licensing agreements are very complex, it is highly advisable to consult an IP lawyer for their drafting.

Technology transfer agreements

Technology transfers are contractual relationships whereby one party transfers its technology to another party for commercial purposes or for developing some new products. Technology transfer agreements therefore are considered as a specific type of licensing agreement (often more complex due to their technical and/or scientific nature and content).

Major issues to be considered here relate to the use and exploitation of the particular technology. In addition, the issue of eventual improvements made particularly by the licensee has to be carefully dealt with. The duration of technology transfer agreements is normally shorter than other types of licenses, due to the often short life-cycle of technologies that sometimes become obsolete within few years.

As technologies are often embodied in products that perhaps have an attractive shape, and that almost systematically carry a name and/or a logo, you should keep in mind to negotiate also in the same agreement the possibility of using the registered trademark and/or the registered industrial design that are going to be instrumental for the successful exploitation of the newly acquired technology.

Similarly, in cases where the effective operation of the transferred technology requires the disclosure of trade secrets and know-how, you should include specific clauses in the same technology transfer agreement.

Franchising agreements

Franchising is a special type of licensing agreement that allows for business expansion and product distribution, by enabling the replication of a particular business format that has already been shown to be particularly successful. Therefore the Franchisor not only licenses to one or more Franchisees the right to use its IPRs in return for royalty payments, but also it provides assistance to Franchisees (for example, by sharing the necessary know-how, training them on selling techniques, window dressing, account keeping, etc.) and enjoys significant control over the Franchisee's operations.

Franchising is generally a very interesting option both for the Franchisor and for the Franchisees. A Franchisee saves time in the development of a business from scratch, and will benefit from the Franchisor's goodwill and reputation, as well as the use of the intangible assets of the Franchisor, including its trademark and logo. On the other hand, the Franchisor benefits from an expansion of its business to other geographical areas with limited investment, while continuing to maintain a significant degree of control over the way in which the Franchisees carry out the business while generating a revenue stream in terms of royalties.

While Franchising might sound like a tempting option, it is not always a guaranteed model for success. Firstly, it might not be suitable for all types of businesses. Secondly, the trademark of the Franchisor should be well-known enough to immediately attract customers for the Franchisees.

Many countries have specific legislation on Franchising, and this might be quite stringent. Franchising also requires strict monitoring from the Franchisor: even a small incidence of negligence or poor business conduct may have a severe negative impact on the Franchisor's name and goodwill, and of course, on the value of the Franchisor's IPRs. Thus, both parties need to be cautious!

Joint ventures agreements

When two or more companies come together to undertake a new project and share specific goals, this cooperation is called "Joint Venture" (JV). JVs are often formed by creating a new entity, but can also be established by signing a contract, whereby all parties agree to work together and allocate roles and responsibilities. When entering into a Joint Venture, partners start sharing risks, profits, assets, results, etc. Their initial contributions may take the form of tangible and intangible assets, and many times they also create new (tangible and intangible) assets in the process. In both instances, one should pay particular attention to the IPRs that were brought in by the partners or produced by the JV.

As some countries limit the possibility for foreigners to independently carry out business, entering into a JV with a local business actor may be the only possibility to enter these specific national markets.

However, the establishment of a JV can be a complicated task. You should conduct a thorough due diligence of all aspects relating to your potential partners and seek legal advice (especially in relation to antitrust law), if needed.

D. Tips to effectively use your IPRs

Make sure you don't lose your IPRs

The principle "use it or lose it" applies to IP in general and in particular to trademarks. Trademark law provides that owners of trademarks have five years from the registration date to start using their mark. If within these five years no use is recorded, anyone can initiate a cancellation action against these signs and possibly register them in their own name.

The principle exists for patents in a partly similar way (though unused patents are not cancelled): if you do not use your patented invention in a given country, the Government may commence proceedings to issue a "compulsory license" through which you will in fact lose the right to enforce your patent for a certain period of time. The Government in question will appoint a local company to produce your invention. This is however quite rare.

Go for Secondary meaning & avoid Genericization

The level of distinctiveness of your mark, and therefore its market power and capacity to be enforced, may change over time. Extensive and consistent use over the years increases the distinctiveness of your mark. This process is called "secondary meaning", also known as "acquired distinctiveness".

The opposite of secondary meaning is called "genericization" (also known as "vulgarization"). This term describes a process where a mark's distinctiveness may fade and even disappear, because the average consumer of a country starts using the mark not only to refer to your own products or services, but as a general term to indicate any product/service of the same category (e.g. in some countries: "Jacuzzi" for whirlpools, zip, scotch, yoyo, etc.).

Should this be the case, any court could in principle declare the "genericization" of the mark in question, as it would have lost its capacity to distinguish the goods / services of one specific undertaking.

Here are some tips to make sure that your mark does not lose its distinctiveness:

The more you use your mark – as a mark, and not as a verb, noun or adjective – the more likely you are to increase its distinctiveness (by way of example, Google® is fighting to prevent the genericization of its mark, by systematically opposing the utilization of “to Google” as a verb to indicate “to research on the internet”).

Use your mark consistently without major variations as compared to the version that you originally filed.

If you fear the risk of genericization, it might be wise to invent a generic term to indicate such a product. You will then use it together with your trademark. This will clearly indicate that the mark is not the generic name, and as such, it maintains its distinctive character (e.g. the term “instant coffee” helped Nestlé to prevent the vulgarization of the mark Nescafé®).

If you notice that your mark is being used in any context (tv, newspapers, etc.) as a generic term, you should take steps to inform the party in question that the term is a registered and protected mark, and should only be used as such by its legitimate owner or with his/her consent.

watch out!

The most important rule to prevent business competitors from infringing your IPRs is to be fully aware of the market (both at home and abroad) in which you offer your products and services. In this way, you will be aware if anyone is trying to copy / imitate your IPRs, i.e. by selling products bearing your mark.

You should also monitor new products entering the market as they might contain (parts of) your technology. In this context, not only shops and malls where products carrying your mark, design or patent may be illegally sold should be checked, but also the press, social media and the websites of your competitors.

You can also use some online tools to help you monitor the market, like Google alerts. This tool will inform you every time words or phrases similar to your mark are mentioned online. In addition, there are private sector companies that offer nation-wide or world-wide watch-dog services.

Official gazettes and journals where various IPRs are published after filing or after registration are another important source of information. To prevent anyone from protecting an IPR which infringes upon your own registered IPR, you should also keep an eye on them.

Once you detect a possible violation of one of your IPRs, you have to defend and enforce your rights – first attempting an amicable solution and, if this does not work, in court. You should consult an IP lawyer / expert for more detailed information.

Use of “R”, “TM”, “©” signs

Using the following symbols in relation to your registered (not only applied for) IPRs is highly advisable:

- ® or TM (or even “Registered Trademark”) for trademarks;
- ID or “Registered Design” for industrial designs;
- “Registered Patent” for registered inventions; and
- © for copyrighted works.

If your IPRs are only applied for but not yet registered, you may nonetheless indicate this in your business transaction. By way of example, you may use:

- TM for trademarks;
- “Design Pending” for industrial designs;
- “Patent Pending” for inventions.

This is not only a powerful message to potential infringers of your IPRs, but also informs your customers of the fact that your IPRs are duly protected.



E. IPRs in e-commerce

Domain names

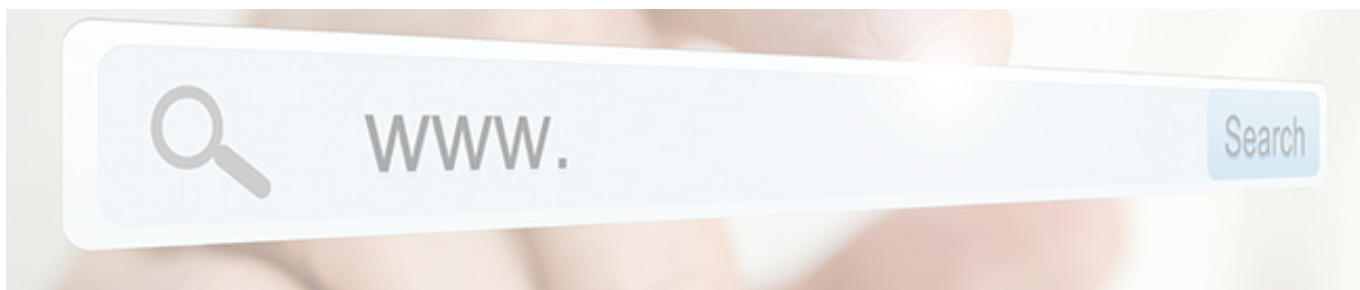
A "domain name" describes the part of your business' website after the www. and before the extension .com, .net, .org, .countrycode (such as .ko, .it, .fr, ect.), and many others. The choice of your domain name has a similar importance as the choice of your business name or trademarks: anyone trying to locate you online will enter the name of your company or the name of your product/s or service/s in a search engine in the anticipation that such name/s correspond to your domain name.

You can start selecting a domain name even before the registration of your company and of your trademarks. Ideally, these three choices should be made at the same time!

A domain name can be any combination of letters and/or numbers. One has an option of combining these names/numbers with various extensions, such as .com, .org, .net, etc.

Before finalizing the selection of your new domain name, you must check that it is not a trademark or domain name already in use by someone else. In many jurisdictions, registering someone else's trademark as a domain name is considered as an infringement, called "cybersquatting", and it may be punishable under the law.

If by any chance you noticed one of your trademarks is being used by someone else in a way that may fall under cybersquatting, you should check the 'WHOIS' information for such a domain name. This will provide you with the name, address and contact information of the person who has registered that domain name. You may then contact the person and inform him/her about the use of your trademark, and request him/her to transfer the domain name to you. You can also simply request its cancellation. In case he/she refuses to transfer back to your domain name, you can follow a simple online procedure administered by the World Intellectual Property Organization (WIPO), called "Domain Name Dispute Resolution", whereby an independent expert will decide if the domain name should be returned to you or not or if it should be cancelled. This procedure is available at: <https://www.wipo.int/amc/en/domains/>.



After choosing your domain name, the registration is a fairly fast and easy task. There are many domain name registrars who provide specific registration services for domain names. If your domain name is available, you will be required to provide certain general details about you as the registrant and future owner and pay a specified and often modest fee for registration. Generally, a domain name is registered for a specific time period, after which you will have to renew it by paying renewal fees. In Kosovo, there is not yet an agency to register domain names.

Website

While you are developing your website, make sure that you own the content that you display on it, and you don't violate third party's IPRs on elements such as pictures, texts, documents, a database, links, music, videos, technical tools, etc. If the content is not "yours", then you cannot use it, unless you have explicit and written permission from the rightsholders.

The original content appearing on your website generally enjoys automatic copyright protection. Nevertheless, it is highly advisable to insert a copyright notice on your website indicating that the content available on your website is IP protected and no one may use it without your explicit permission. This notice may also be placed at the end of every page of the site, to remind users that you are the exclusive owner of the content, format, and appearance of your website. The notice could indicate the name of a contact person in case someone wishes to obtain authorization to use part of the content of your website.

Deep-linking and embedding may also require prior authorization.

If your website collects consumers' personal data such as names, email addresses, profession, preferences, etc. make sure you comply with the personal data protection legislation, and adequately ensure the privacy and confidentiality of such information. You may need an explicit privacy policy on your site, and train and supervise all your employees with access to such information.

Be careful not to damage your IPRs when displaying your products on the internet

Once you have your website, you have to decide what to present on it, and what you want to keep secret. This decision is important, particularly because in some cases it may have legal repercussions precisely related to your IPRs. Your IPRs should be fully protected before disclosing your products on the internet.

In many countries, public disclosure of your invention will lead to the refusal of your patent application, if filed subsequently, for lack of novelty. Similarly, if you have Trade Secrets, take care not to disclose them on your website, as they lose protection the second in which they become available to the public. Thus, it is advisable to consult a lawyer regarding what should and what should not be disclosed on your website.

Trademarks and the internet

Generally, there are no restrictions on using your trademark on your website. However, the internet has one significant difference in comparison to the physical world: there are no territorial boundaries. Moreover, as mentioned in the Introduction of this booklet, all IPRs are territorial in nature, i.e. a trademark is protected only in the countries where it is filed and registered. In other words, the same or similar marks may be registered in different countries by different people or entities.

As a result, you need to be careful when you receive orders from clients based in a country where the mark is not registered by you, but by a third party. In such cases, selling your goods – under this mark – may lead to trademark infringement of third parties' marks.

Whenever you face such a situation, first check the nature of the business for which the similar trademark is registered in the other country. If it is different from yours, you may proceed to sell your products to the client based in that country. Instead, if it is similar, or if the prior mark is well-known, you should not sell your goods in that country without seeking prior legal advice.

This shows again how important it is to register and protect your IPRs in all relevant countries, especially if your brand is gaining popularity, or if you plan to expand your business abroad.

F. Promoting your products and services through your IPRs

Branding

Similar products and services of several different companies might vary not only in terms of quality, materials, production methods, etc., but also in their capacity to establish lasting bonds with their consumers and in the kind of thoughts and feelings that they manage to provoke in them. The keyword in this context is branding, a generic term for all the techniques that producers and businesspeople adopt to differentiate their products or services from those of their competitors, and to attract and keep consumers, by capitalizing on their strengths.

Branding consists of targeting (positive) associations of a particular product (or service) in the mind of current and potential consumers and establishes a connection between the “personality” and values of your company and the wishes and needs of consumers.

As consumers can choose their products or services from a wide variety of sources, the criteria guiding their choice include price, technical features, aesthetical considerations, better quality, and so on. Once consumers have had a positive experience with a given product or service,

they might develop a level of trust and some sort of loyalty. This relationship of loyalty and trust is essential for your commercial success and a crucial component of branding.

Consumers will buy a particular product when its brand conveys a message to which they can and want to relate; that is, when they share a certain set of values, a lifestyle and approach embodied in the brand. In other words, if you want to improve the chances of success for your company, make sure you embrace a carefully conceived branding strategy.

This will include the adoption of a trademark and a clear focus on the ornamental and aesthetic shape of your product, making it as attractive as possible and therefore a preferable choice for consumers around the world. In some specific sectors, you may also take advantages of the image and reputation associated with a given geographical indication. Undoubtedly, you will have to adopt a domain name, possibly somewhat linked to your trademark to enable consumers to locate your business online.

Trademarks (including a word and often a logo) are certainly central to any branding strategy, and crucial to promote a company's uniqueness, reputation and image. However, other IPRs may play a crucial role in a successful branding strategy. These include:

Industrial designs: ornamental shapes of utilitarian products, as nowadays success depends to a large extent on the appearance and ornamental appeal of products;

Geographical indications: particular types of distinctive signs for very particular products that possess specific quality, characteristics or reputation because they originate in a particular country, region, place;

Domain names: they are the core of your address on the internet.
(See the introduction for more explanations on these concepts)

However, branding is not only about IP and IPRs. It also requires the capacity to effectively market your products or services through the most appropriate means (including advertisement in traditional media such a TV, radio and newspapers, as well as digital marketing), adopting the right type of packaging, and sending out the right kind of message that you want to have associated with your product/service and its mark.

Marketing

Marketing does not only consist of advertising and selling products/services. Marketing is much more and includes the entire management process of getting the right goods or services to the right people (consumers) at the right place, time and price, by using the right promotion techniques and the right people to provide the appropriate customer services.

Marketing strategies must be customised to the needs of every single entity, taking in consideration not only their size, needs and capabilities, but also regional differences from country to country. As a result, good marketing may be a recipe for your individual success, or, if not mastered, the reason for your failure.

It is therefore helpful to be aware of the key features of an effective marketing strategy, as described below in the short explanation of Jerome McCarthy's famous "5Ps of Marketing":

People	Product	Price	Place	Promotion
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(1) People

Know your people – this includes not only your customers, but also your workers/staff.

Understanding your current and potential customers is crucial. You should focus on what your customers need, what they are willing to buy, and how much they can pay (i.e. their purchasing power), at a given time and in a particular country/place. This also includes the customers' attitude towards you as a company, and how well you treat your customers (i.e. customer services). Through detailed market research, you should be able to identify the target consumer before you start production.

Please, do not forget to focus as well on your staff/workers. You should also investigate the general morale and motivation of your employees, those who are in charge of producing and delivering the goods or providing services to your consumers. Rethink (if necessary) the staff capacity, training, and safety, etc., especially where and when there is direct and continuous contact between them and the clients. After all, your workers are your main ambassadors!

(2) Product

It is not only about deciding what kind of products you want to produce / sell. You should also think about the presentation of the product, its appearance, quality, labelling and packaging, its design and branding – these efforts are crucial to keep up with today's conditions in a fast-changing, brand and environment conscious world.

To enhance the confidence of consumers in the quality of your products, you should think about their certification, if possible. In certain cases, certification of products can be a legal requirement. It also increases the traceability of products: i.e. it informs consumers of where they were produced, when, by whom, what they contain, etc.

(3) Price

The price itself should be set in a way to balance not only the production costs, but also the amount that consumers are willing to pay. To set the right price, the customers' purchasing power has to be kept in mind. You should also consider the pricing behaviour of your competitors in relation to alternative products, as well as the quality and additional traits of the product.

Another crucial element to bear in mind to establish the right price for your products/services is the consumers' demand: when demand is high, and supply is limited, then higher prices can be set. Evidently, if your products contain or carry your IPRs on which you have exclusive rights, you will be able to apply a premium price.

There are several pricing strategies, depending on the type of product, its characteristics, and the intended market. For example, you may adopt a "penetration pricing strategy" to facilitate your entry in a new market: this means lowering the selling prices in order to attract consumers.

In other cases, it might be more beneficial to start with a higher price from the very beginning – for example if you want to create a luxurious image of your product.

To encourage your customers' loyalty (and depending on the type of products or services you sell/provide) you should also consider offering promotions and discounts from time to time, as well as fidelity customer subscriptions.

(4) Place

This "P" relates to your geographical market and to the venues (physical or online) where you will sell your products or provide your services. It also shows the importance of a customized marketing strategy: what might make you successful in one country might be disastrous in other countries.

Are you going to sell your products mainly in supermarkets? Or only bio-organic shops? In particular sections of large department stores or in deluxe boutiques? These are all considerations that you will need to carefully consider. By way of example, if your products are sold in different shops, it is also crucial to think about details like where exactly your product will be placed in the store aisles, and how the retail stores will promote your product.

In addition, the bigger your company gets and the more your business expands, the more important it will be to take logistical considerations, accessibility and geographical locations into account. Different warehouses, storages or shops might be an option.

However, e-commerce is currently facilitating the meeting of sellers and buyers by reducing physical barriers. You should therefore consider tapping into the world of ICT, by selling your products by using all online services and social platforms, such as Facebook and Instagram, etc.

(5) Promotion

Promotion is another component of a good marketing strategy – an important one but not the only one, as described above. The main goal is to inform customers about you and your products/services and influence them to purchase your product/services (instead of those offered by your competitors).

As mentioned above, new technologies and platforms like YouTube, Twitter, Facebook and Instagram offer unlimited opportunities to promote your business. You should consider...

Organizing ...	Sales, Public events & Marketing events
Focusing on ...	Public relations, networking, digital marketing
Investing in ...	Radio and Television, as well as commercial advertising on social media
Creating ...	Win-win partnerships with businesses producing complementary products
"Guerilla marketing"...	By leveraging creativity, imagination and originality

After choosing the optimal way of promoting your business, you should also focus on its content: what idea do you want to promote about your products or services? What kind of emotional connection do you wish to establish with your potential consumers? What is "your message" to the world?

CONCLUSION:

As you can see, the 5Ps of marketing are inseparable, interlinked and interdependent. As a result, you must consider all five elements in an effort to capture as many customers as possible by meeting their current and future needs, overcoming geographical and cultural differences and taking into account sector specific characteristics. Good luck!

Social media marketing

In today's world, social media is on everyone's lips (and in everyone's pocket!). Promoting your business on social media is therefore the next logical step to inform customers about your products / services.

Social media does not only allows you to reach a high degree of attention online and potentially acquire customers worldwide, but also to track the number of views, identify trends, collect data and information on the demographics of the users that have engaged with the post, including location, age, etc. In addition, you will be able to spread your messages to your target audiences at a very minimal cost.

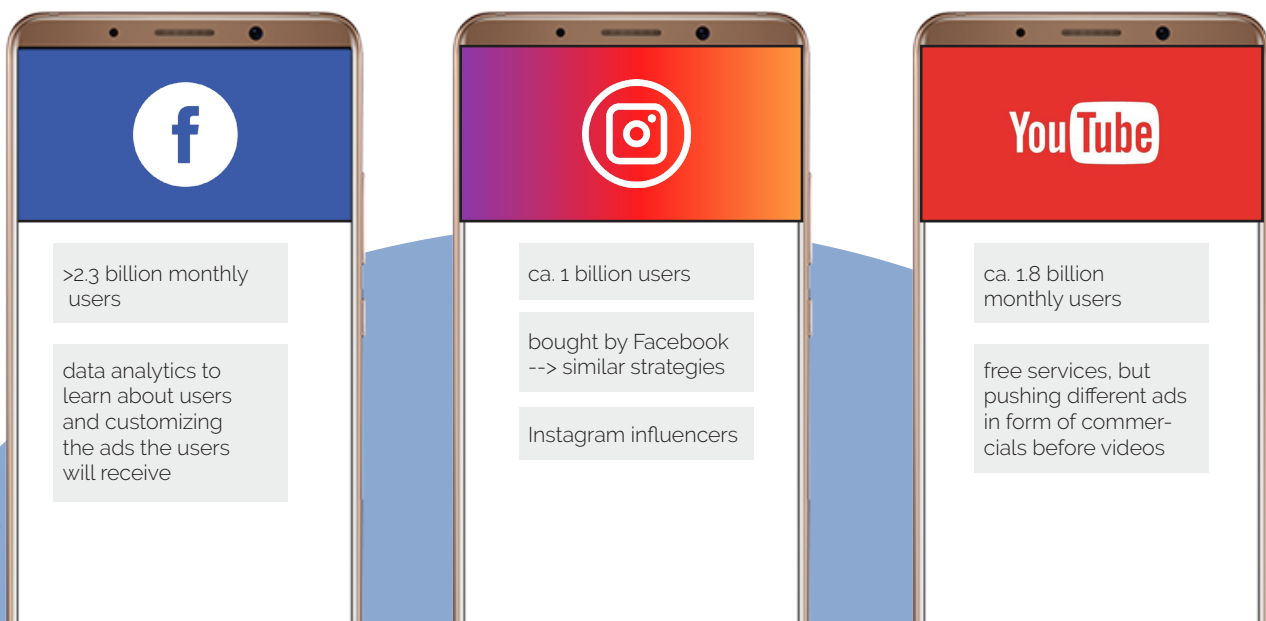
Social media offers the opportunity to interact in real time: every post will get "feedback" in the form of likes, comments, reviews, etc. Platforms also allow users to "re-post", "share", or "re-tweet" information about the products and services. This will further increase the online traffic related to your business and especially your products and services.

Most of these platforms allow you to analyze how many times an original post was shared, and monitor how many views it has received, which gives a good indication of the audience reached and of the interest raised in a certain message.

An interesting new trend is potential cooperation with "social media influencers". These influencers usually have a great number of online "followers". As a result, their posts are viewed by a large audience of potential customers for you and your products/services.

In 2014, SocialMediaToday reported that "social networking is used by about 76% of businesses in order to achieve their marketing objectives ... Business retailers experienced about 133% increase in revenues ... The majority of successful brands have a social media page in order to widen their marketing coverage of making their brand more accessible among the social media users." (<https://www.socialmediatoday.com/content/impact-social-media-marketing-trends-digital-marketing>). These numbers are of course much higher today!

You should therefore not underestimate the power and possibilities offered by promoting your products and services via social media. The most famous and widespread social media platforms include:



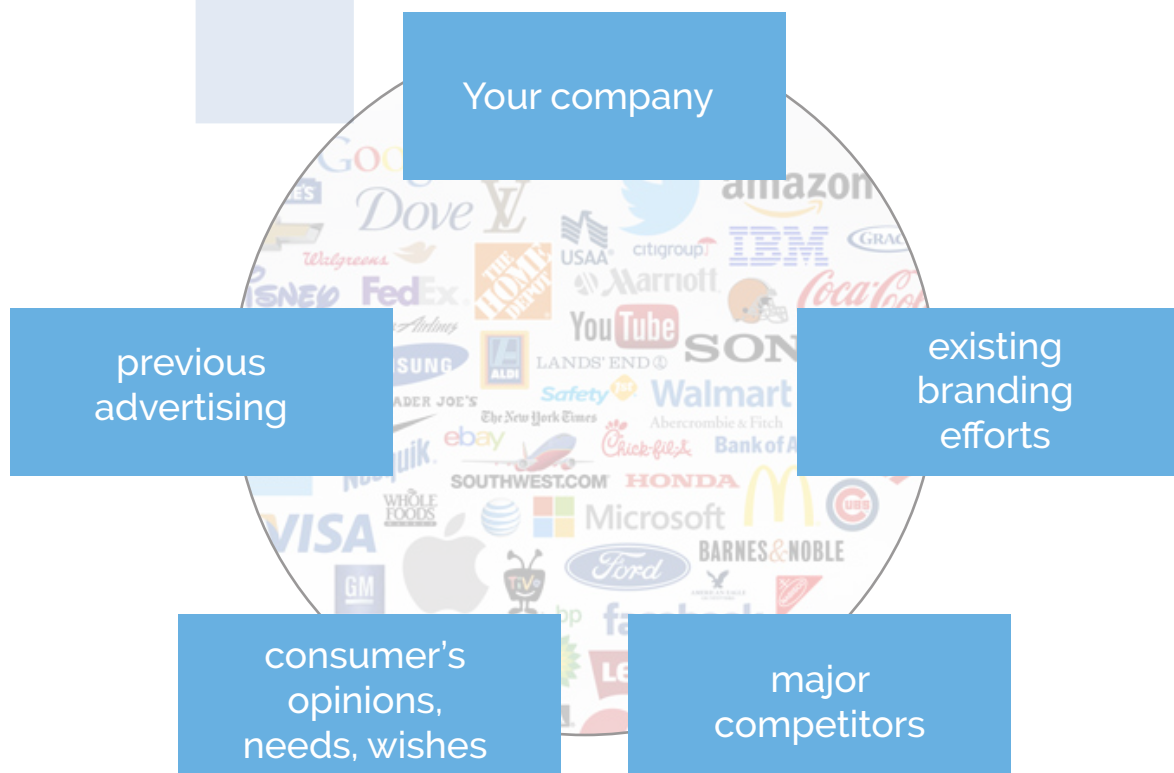
To manage different social networks in a more effective and less time-intensive way, a variety of "social media management tools", that automatically aggregate all the platforms that you would like to utilize for your online marketing, are helpful. These tools allow you to push new content and information to your customers either all at the same time, or in a sequenced manner. They also optimize ways to post and react to posts to improve efficiency and effectiveness.

Advertising

Advertising does not have one unique definition, but in general it can be understood as a process of catching people's attention, drawing them towards certain products or services with the goal of increasing your sales.

Advertisement is therefore designed to spread your message and publish information about your business, through various media. It is therefore a crucial component of a marketing strategy. As already explained the use of social media and in general digital advertisement has become a fundamental tool for any company around the world.

To choose the right advertising campaign meeting all of your specific needs, you will most probably need to hire an advertising agency as a first step. Together, you will conceive a so-called "creative brief" that encompasses the overall strategy for your next campaign. This document keeps track of the main ideas relating to your product/service, its characteristics, its potential addresses, etc. The advertising agency will then start intensive research covering:



This search can be carried out through a variety of methods and is both intensive in time and money. Therefore, its outcome should be treated in a most confidential manner, and not shared beyond the strictly necessary persons both in the advertising agency and in your company.

The next step is to think about the most frequent and successful modalities to advertise your business, your products and services. Of course, the variations are unlimited: there are traditional and modern ways to communicate with your audience. Some need professional assistance and are quite expensive, others require nothing more than a laptop and your individual creativity and engagement. Please see different types below:



Once your advertisement is launched, you should try to track its impact: how many people were reached? Did you notice an increase in sales? Did you receive any feedback? This information can be crucial to improve your strategy and the design of any new advertising campaigns. A common way to measure the impact of an advertisement on consumers is referred to as "recall measurements". These recalls try to determine what consumers remember and what opinions they have developed about your products/services.

Packaging

The packaging of your products is your first silent ambassador. It is instrumental to establish the initial impression potential customers will develop about your business. It does not only function as a container or as protection for the product, but also as a marketing and promotion tool that can significantly affect the sales of the product it contains. It is therefore crucial for your success in the marketplace, and worthwhile to be carefully considered.

In this context you should be aware of the four main functions of packaging, as well as its five most important characteristics.

a. Main functions of packaging

(1) Protection, Preservation, Storage and Transportation

The most obvious function of packaging is to contain a given product and protect it from possible damages. Packaging should be easy to store, to transport, and to distribute.

Nevertheless, each type of packaging must be adjusted to the type of product that it is destined to contain. For example, food products need more protection and conservation. Its packaging should therefore be able to protect the product from ultraviolet light, heat, humidity, contamination, and other factors that can decrease and damage the quality of food and fresh products.

(2) Easy-to-Use

Packaging should not be too complicated or difficult to use. Rather the opposite: it should offer convenience and comfort to customers. The content of the package should be easily accessed or safely removed. For example, a container holding a drink should be easy to pour, easy to store, easy to consume, etc. It should also be safe to use. Therefore sharp edges and materials that break should be avoided.

(3) Communication

The surface of your packaging is a perfect communication platform and can be used not only to communicate the identity of your products and their origin (i.e. producers, distributors etc.), but also to display your full brand image. Packaging is also a fundamental element of a well-conceived branding and communication strategy and should conform with all requirements of your corporate image in terms of colours, fonts, graphics, messaging, etc.

(4) Information and legal requirements

Furthermore, information displayed on the labels needs to comply with the local legislation in terms of data provided to consumers. By way of example, detailed information on the package should feature the ingredients contained in the product (particularly for food and beverages) along with possible certification marks from health or related agencies, etc.

In addition, you might think of adding possible contact details to enable consumers to get in touch with you (particularly online) and to send questions about the product or file eventual complaints.

b. Characteristics that should be considered

Before choosing the most appropriate packaging for your products, consider the following characteristics to increase your chances of a great first impression that consumers will have of your products and therefore that will influence their attitude towards them:

Shape	Size	Graphics	Colours	Environment
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(1) Shape

The shape of packaging might be influenced by its nature and function. However, there may be room for adopting ornamental elements that respond not only to functional, but also aesthetic considerations. Unique and attractive shapes as well as, for example, ergonomic shapes, can make a big difference among similar products.

(2) Size

The size of a package is related to the product's use, its weight and shape, and the way the product is served and stored by customers. Several products are offered in different sizes to enhance customers' comfort and convenience.

For example, beverages can be found in various sizes to meet the needs of the market. For customers, portable (easy to carry) size proved to be one of the most important considerations in deciding what bottled water to buy. The storing of a product is also crucial (also considering the needs of distributors or resellers).

(3) Graphics

Graphic design (pictures, images, font, colour) is one of the crucial visual elements that may help customers in shaping the image of a particular product. It helps distinguish your products from those of your competitors. Psychologists and marketing specialists suggest that one of the best ways to attract a customer's attention is to combine various graphic elements (such as phrases, lines, and pictures) in horizontal order. Apparently, this makes the movement of a consumer's eyes easier and more comfortable, as compared to a vertical order. A successful packaging implies that just by looking at it, consumers feel excited to imagine the taste, feel, or smell of the product it contains.

(4) Colours

Another fundamental visual element of your packaging is the selection of its colour/s. The goal is to tap into the emotional side of customers and influence their decisions to buy your product. Colours can effectively communicate messages relating to your products, for example about their nature or qualities.

They can also create powerful mental associations (red clearly conveys ideas of energy, dynamism, vitality; conversely, pale blue may be associated with serenity, calmness, etc.). For example, natural health products often use the colour green to convey an image of health.

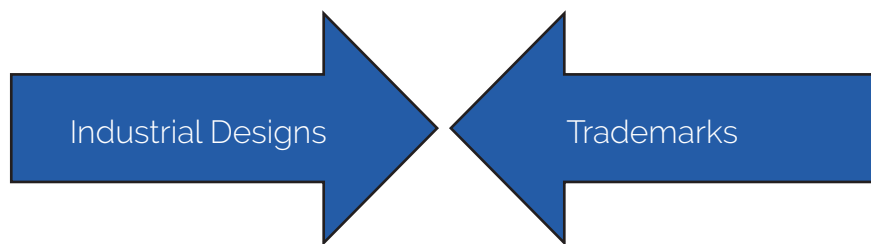
Ultimately, the selection of the colour/s for your packaging should also be adjusted depending on the gender and age of your envisaged consumers, their spending power and cultural background.

(5) Environmental considerations

Recyclable and eco-friendly packaging is a must in today's society of enhanced environmental awareness. You should consider reducing the pollution resulting from your product's packaging to an absolute minimum and – when that goal is successfully reached– inform your customers about your company's contribution to a more sustainable world.

Of course, environmentally-friendly packaging results in higher costs when compared to plastic alternatives. However, these may be off-set through a specific marketing campaign designed to present the products (and the packaging) as green, organic, eco-friendly, etc.

NB: Last but not least, make sure that your selected packaging is duly protected to prevent your competitors from taking advantage of your work and creativity by copying your packaging. There are essentially two ways to protect your packaging through the strategic use of IPRs:



In the context of trademarks you should keep in mind that many IP offices tend to reject 3-D marks (and packaging is typically a 3-D mark) as devoid of sufficient distinctive character, unless you can prove that the particular shape has acquired distinctiveness through use. This means that it might be more advisable to first protect your packaging as industrial design. After a number of years, and certainly before the design expires, you can file the 3-D mark with your IP office, proving acquired distinctiveness through use of the industrial design.

G. IP in specific sectors

1. ICT
2. Creative industries
3. Traditional industries
4. Agricultural businesses

Do you work in the ICT field

If you work in this sector, which is one of the most complex while also being cutting-edge and fascinating, you should be aware that your ideas and the insights of your team are the engine of your business.

A small idea may become a game-changer for a new or enhanced product or service: software, smartphones, mobile applications, artificial intelligence developments and so forth. A never-ending race with your competitors. A winner can only capitalize on efforts if the outcome of the creativity and innovation is duly protected.

How can we protect our products and services in this highly competitive environment? Well, if you have read the previous sections, you should have found the overall answer: IP rights are your “best friend”.

In particular, when in the ICT field, the most relevant IPRs are: copyright, patents, industrial design, trademarks, domain names and trade secrets.

Why copyright?

Think about your brand-new software, that you and your team have developed, spending days and days coding and making sure that it will achieve all its objectives and not crash. Would it be fair to allow one of your competitors to simply copy it, therefore taking advantage of all your efforts? No, of course not!

Copyright is the answer, as it automatically protects software. This is your “weapon” to prevent others from exploiting your work without your authorization. Please see the Introduction of this booklet for more information about copyright.

Why patents?

Innovation is the key to a successful business nowadays. Would you like to watch a movie online with your old 56k modem? I don't think so! Hardware has gone through numerous improvements in the last decades. This required significant innovative and financial efforts. The only way to safeguard and protect new hardware or any innovative instrument used in the ICT field is to protect them as inventions, through patents.

Whether you have invented a totally new device, or only a small but creative component that improved the functioning of the device, as long as legal requirements are met, you can and should apply for patent protection. Patent rights allow you to prevent your competitors from exploiting your inventions without your authorization. Please see the Introduction of this booklet for more information about patents.

Why industrial design?

Do you want your brand-new high-tech device to be ugly? Certainly, not! The appearance of an ICT device is fundamental to drive consumers' choice. Industrial design allows you to protect the aesthetic features of your product to ensure that your competitors cannot copy you. Please see the Introduction of this booklet for more information about industrial design.

Why trademarks?

There is only one way for your clients reach you and to know that they are purchasing your products or your services: your name and your logos. If you do not protect them, anyone can use them, leading the customers to believe that your competitors are the producers/providers of your goods or services. Registering a trademark allows you to prevent your competitors from using your distinctive signs without your authorization. Please see the Introduction of this booklet for more information about trademarks.

Why domain names?

Domain names are fundamental in e-commerce. They allow your customers to reach you and your products/services while the surfing through the web. Please see Section E of this booklet for more information about domain names.

Why trade secrets?

As you might be aware, not every innovation is patentable. Furthermore, patent rights expire after 20 years. Then, what to do? Specific innovative business practices may instead be protected as trade secrets. They potentially last forever (... as long as they remain secret!) and do not involve any registration. However, you should be very careful, considering that:

- you will have to implement measures to maintain confidentiality
- you will not be able to prevent anyone from independently reaching the same result (for instance through reverse engineering) and then exploiting it.

Please see the Introduction of this booklet for more information about trade secrets.

Do you work in the creative industries?

If you work in the field related to the dissemination or distribution of music, art, movies, videos, literature, fashion, household design and other creative and entertainment sectors, you are probably already aware of the importance of having the outcome of your original endeavours protected and not copied by others. You are also probably very conscious of how "the game is changing". This paradigm shift has brought (and is still bringing) movies, music and art online, even if the vinyl and the old good theaters still maintain their appeal and a certain market share.

In order to be successful in the creative sector, you should be aware of and capitalise on the strategic use of several IP rights: copyright, neighbouring (or related) rights, trademarks, industrial designs, domain names and trade secrets.

Why copyright?

Apart from great actors, what makes a movie unforgettable? An amazing subject, a script that keeps your audience's eyes on the screen (or at least ... that keeps them awake!) and an epic music theme that accompanies your favorite hero while he is saving the world! All this content is protected by copyright. If these exclusive rights don't belong to you, then you need to acquire the right to exploit them from the legitimate rightholder.

The same goes for every other area of the creative industries.

Have you discovered a new band that you believe may be the (new) Beatles? The songs written by these new rising stars are protected by copyright. Do you think that the paintings of the young artist you have detected at an alternative festival deserve a shot in the exhibition you are organizing? Then you should negotiate with him/her a license or an assignment agreement. Furthermore, if you have developed a platform for the sharing of creative content or a new creative app, remember that software is protected by copyright. Please see the Introduction of this booklet for more information about copyright.

Why neighbouring rights?

Creators only represent one link in the cultural and entertainment value-chain. When you enjoy content, often this is the result of several contributions: performers (a great actor, an incredible dancer, etc.), phonogram producers and, in certain cases, broadcasters. These three subjects enjoy neighbouring rights (or "related" rights, as is known in the US). Let's analyze one by one.

Performers

Let's go back to the example of movies! Actors are not authors of the script, but they perform it. Their performances are not protected through copyright (which is limited to authors) but by neighbouring rights. Thus, if you wish to produce your own movie or to create your brand new platform with a multitude of material (... have you thought of Netflix®?), you should also negotiate an agreement with the holders of these neighbouring rights.

Again, we can apply the same paradigm to music, where singers and dancers are protected by neighbouring rights.

Phonogram Producers

Producers are those who mainly invest money and time in coordinating all the efforts necessary to the creation and consolidation of musical content into a material object: a disk or a CD. Their activity is protected by neighbouring rights. Make sure to properly handle these rights while conducting your business.

Broadcasters

Broadcasters are entities that provide the services necessary for the spreading of the content and their activities are protected by a third type of neighbouring right. They include mostly TV and radio stations. If you want to re-broadcast the collection of your favorite football matches you should consider these rights and enter into negotiation with their legitimate owners.

Why trademarks?

Trademarks are crucial in the creative industry sector. This is because there are so many providers that consumers need to be able to distinguish them. Trademark is the tool that will achieve this goal. Trademarks will enable users to choose the fashion products they want, the music content provider or the movie platform they wish to subscribe to, etc. Please see the Introduction of this booklet for more information about trademarks.

Why industrial designs?

If you are working in the fashion, luxury products or household industries, this kind of protection is your best ally. It will give you exclusive rights over the ornamental shape of your products. Please see the Introduction of this booklet for more information about industrial design.

Why domain names?

Given the migration of the exploitation of creative content from the analogue to the digital world, having one or (preferably) more domain names helping your customers to reach your platform or to buy your products online is not only desirable, but actually necessary. Make sure you secure ownership of your domain names before your competitors do so. Please see the Part E of this booklet for more information about domain names.

Why trade secrets?

Even if you are not dealing with inventions or discoveries, trade secrets may also be fundamental in conducting your business, allowing you to protect confidential information such as the list of the trendiest artists that you want to add to the roster of your label. Trade secrets may also be crucial to protect your enhanced internal work processes, your creative marketing strategy, and the list of existing and potential customers with their contact details and preferences. Please see the Introduction of this booklet for more information about trade secrets.

Do you work in the Traditional Industries?

Even if one may think that the traditional industries have not been touched by the digital revolution and by enhanced and worldwide competition, this is certainly not true. Whether you work in the manufacturing and retailing sector, in the automotive or in other traditional sectors, innovation is a must for you. As such, you should be aware that IP rights could help your business succeed. Indeed, you need to be aware of them not only to protect them when you create new and innovative products and solutions, but also to make sure that you don't violate third party's IPRs while carrying out your business. Patents, copyright, industrial designs, trademarks, geographical indications, domain names and trade secrets are all relevant for your business.

Why patents?

Let's imagine: you are a small producer of shaving tools and you have developed an improved razor (it might be the enhanced engine for your device, or a new alloy of metals that prevent blade consumption, or a new procedure for manufacturing your products). Similarly, you might have devised an advanced process to produce your shoes or spare parts, and this enables you to reduce costs. If your invention meets the requirements, you should patent it as soon as possible and certainly before you put your new product on the market. This may pave the way for you to become a leader in the market.

Otherwise, if you disclose your creation without having protected it, all your competitors can immediately copy you, nullifying your investments in research & development and all your efforts. Surely, you do not want this to happen. Patent protection allows you to prevent anyone from exploiting your inventions without your authorization. Please see the Introduction of this booklet for more information about patents.

Why trademarks?

Let's stay in the shaving tools and shoes universe and move on from the development of your products. The next step is to market them and inform consumers that these are YOUR products. The primary way to communicate this is to create a brand (name and logo) and to register it as a trademark.

If you don't do it, your competitors could potentially to adopt an identical or similar name to sell their products, leading the public to believe that you are the producer (while in reality your competitors will take all the profits). Furthermore, if their products have a lower level of quality as compared to yours, your reputation could be undermined forever.

Trademark protection allows you to prevent your competitors from using a sign identical or confusingly similar to the one you have registered as trademark, for identical or similar goods/services, and it contributes to making your company unique and recognizable on the market. Please see the Introduction of this booklet for more information about trademarks.

Why Geographical Indications (GI)?

In some cases, the products you produce may be covered by a geographical indication. If you operate in the geographical area to which the GI refers, you are member of the producers' association that owns that GI, and you strictly comply with the qualitative standards provided in the Book of Specifications establishing the GI, you will be entitled to use the GI on your products (often in addition to your own trademark). This may entail incredible advantages in terms of visibility and returns on investment.

Why copyright?

Your amazing products and services need appropriate advertising, marketing, slogans, websites, etc. Let's imagine that after you have manufactured your new amazing shaving device or your shoes, you want the captain of your national football team to sponsor it in a publicity spot, conceived and directed by a local PR company. Furthermore, you may also want to be able to use that song that is the no. 1 on every national chart. Indeed, whether you create them by yourself or you acquire them from other specialized entities, you will have to effectively deal with copyright to ensure that you have exclusive rights over the final product (so as to be able to prevent your competitors from using it without your authorization), and at the same time that you do not violate anyone else's rights.

The same of course goes if you decide to create your own advertising materials, for instance by setting up a stylish photoshoot for your new product and creating stunning banners that will be displayed everywhere on social media. Please see the Introduction of this booklet for more information about copyright.

Why industrial design?

Appearances matter! Nowadays consumers are literally "under attack"! They see thousands of comparable products in terms of performance and price. More often than you might think, the aesthetic element will be decisive to influence their choice towards your products.

If the innovative appearance of your products meets the requirements for industrial design protection, you should register it and prevent your competitors from adopting the same appearance without your authorization. Please see the Introduction of this booklet for more information about industrial design.

Why domain names?

It does not matter whether you produce shaving devices, shoes, cars, guitars or garments ... consumers need to be able to find you in the biggest marketplace of the world: the internet. Securing domain names that help consumers to do so (and preventing your competitors from monopolising a domain name that may mislead and confuse your consumers) should be a key element of your strategy. Please see the Section E of this booklet for more information about domain name.

Why trade secrets?

No matter what you produce, if your business is innovative, you will undoubtedly possess significant confidential business information that, while not qualifying for patent protection, nonetheless gives your company a competitive advantage, precisely because it is not known by your competitors. These are your trade secrets, and you should protect them as such.

Trade secrets may be crucial to protect your enhanced internal work processes, your creative marketing strategy, and the list of existing and potential customers with their contact details and preferences. Please see the Introduction of this booklet for more information about trade secrets.

Do you work in the Agricultural sector?

If you work in the agricultural field, you might think that Intellectual Property has nothing to offer to you, because you do not deal with technology or creative content. We are pleased to inform you that this is not true! While conducting your business, you can rely on several IP rights, namely: plant variety protection, geographical indications, trademarks, patents, domain names and trade secrets.

Why plant variety protection?

Plant variety protection is a kind of IP right developed for breeders who create new plant varieties, allowing them to prevent their competitors from exploiting their creations. Please see the following website for more information about plant varieties: <https://www.upov.int/portal/index.html>.

Why Geographical Indications (GI)?

You may be fortunate enough to operate in a geographical area where your agricultural products are covered by a geographical indication. If that is the case and you are member of the producers' association that owns that GI, you will be able to use it. The advantages are enormous in terms of visibility and returns. However, a crucial element is that you need to strictly comply with the qualitative standards provided by the Book of Specifications establishing the GI, failing which you may destroy the reputation of the entire GI and soon you may be kicked out of the association.

Why patents?

You may have invented a new agricultural process, or new or improved machinery to carry out operations in the field. You might even have created a new biotechnological invention. Should this be the case, patents are the tools to protect your creative efforts. Please see the Introduction of this booklet for more information about patents.

Why trademarks?

Whether you are a breeder of new varieties or a more traditional farmer, you have to help consumers to distinguish your agricultural products from those of your competitors. In order to do so, you should register a trademark and use it to market your product. Once you have registered your trademark, you will be able to prevent your competitors from using the same distinctive sign and exploiting your well-earned reputation! Please see the Introduction of this booklet for more information about trademarks.

Why domain names?

Even if someone might think that Internet and Agricultural business are not related, the former has a huge impact on the latter, representing the first place to find information related to your company and your product. Having a website may even enable you to venture into the world of e-commerce and sell your agricultural products online. For this you need to secure the registration of your domain name to help your customers to reach you easily. Please see the Introduction of this booklet for more information about domain name.

Why trade secrets?

If your agricultural business is somewhat innovative, you will undoubtedly possess significant confidential business information that, while not qualifying for patent protection, nonetheless gives your company a competitive advantage, precisely because such knowledge is not known by your competitors. These are your trade secrets, and you should protect them as such.

Trade secrets may be crucial to protect your enhanced internal work processes, your creative marketing strategy, and the list of existing and potential customers with their contact details and preferences. Please see the Introduction of this booklet for more information about trade secrets.

H. Getting help with your IPR

IP is a rather technical area, and the do-it-yourself approach may be neither sufficient nor advisable. You may need to identify the right expert for the right type of endeavour for which you need support. For example, you may want to find an IP attorney or agent to:

- ensure that your IPRs are duly protected in Kosovo and abroad;
- draft the often-complex contracts that will enable you to exploit your IPRs to the maximum;
- enforce your IPRs.

Selecting the right IP expert is fundamental. The selected individual or entity (company, law firm or consulting firm) must possess experience and a proven track record in this type of work (in other words, an ordinary lawyer may not be the right choice: you need an IP expert). In some cases, you will have to identify more than one expert. For example, in the case of patents, you will need a technical expert (e.g. an engineer) for the filing of the patent, and an IP lawyer for any litigation.

If you are interested in exporting your products/services abroad, then you have to protect your IPRs in those countries. The IP expert/lawyer you select in your country should have a good network of IP associates in the countries where you intend to obtain protection, and practical experience in using WIPO international registration systems (i.e. the Madrid, The Hague and the PCT systems).

As a first step, we would suggest that you contact the IP Office of Kosovo:

Industrial Property Agency

Ministry of Trade and Industry

Address: Str. Muharrem Fejza, Lagja e Spitali, n.n. Prishtina, 10000, Kosova

Tel: +383 38 200 36 582 +383 38 200 36 554; +383 38 200 36 544

<https://kipa.rks-gov.net/>

For copyright issues, please contact:

Office of Copyright and Related Rights

Ministry of Culture Youth and Sport

Mother Theresa Square, n.n. Prishtina, 10000, Kosova

Tel: +381 38 200 22 563

<http://www.mkrs-ks.org/> - <http://autori-ks.com>

Useful Websites

01. **Directory of IP Offices worldwide:** <http://www.wipo.int/directory/en/urls.jsp>
02. **Design view:** <https://www.tmdn.org/tmdsview-web/welcome>
03. **EPO:** <http://www.epo.org/>
04. **EUIPO:** <https://euipo.europa.eu/ohimportal/en>
05. **European Trade Mark and Design Network:** <https://www.tmdn.org/>
06. **International Chamber of Commerce ICC:** www.icc.org
07. **International Trademark Association (INTA):** <http://www.inta.org>
08. **IP office of Australia:** <https://www.ipaustralia.gov.au/>
09. **IP Panorama:** <https://www.wipo.int/sme/en/multimedia/>
10. **Magister Lucentinus - University of Alicante Master of Intellectual Property and Information Society Programme:** <http://www.ml.ua.es>
11. **Max Planck Institute for Intellectual Property, Competition and Tax Law:**
<http://www.intellecprop.mpg.de/enhanced/english/homepage.htm>
12. **Patent Scope:** <https://patentscope.wipo.int/search/en/search.jsf>
13. **TM Class:** <http://tmclass.tmdn.org/ec2/>
14. **TM View:** <https://www.tmdn.org/tmview/welcome>
15. **USPTO:** <https://www.uspto.gov/>
16. **WIPO Arbitration and Mediation Center:** <http://arbitrator.wipo.int>
17. **WIPO Global Brands:** <https://www.wipo.int/branddb/en/>
18. **WIPO SME Division:** www.wipo.int/sme
19. **WIPO:** www.wipo.int
20. **WTO:** <http://www.wto.org>

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IPRproject

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