

Winckworth
Sherwood



Intellectual Property

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Intellectual property is a key consideration in many commercial dealings although it often gets overlooked. Intellectual property also usually constitutes one of the key assets of a business contributing to the goodwill and value of it. Conversely, incorrect or unauthorised use of another's intellectual property can constitute a major liability. Successful organisations therefore need to be aware of their ability to protect, exploit, manage and enforce intellectual property rights in order to stay ahead of their rivals in an increasingly competitive market.

What we do

Our team of experienced solicitors will work closely with your business in order to maximise your intellectual property assets and working arrangements. We do that by gaining an understanding of how your business operates and the reliance it places on intellectual property. We can then advise on how this is best managed and developed to minimise risk and increase commercial return in both the short, medium and long term. That includes a need to secure appropriate licensing arrangements to utilise the intellectual property rights of others where they form a crucial element of an organisation's business strategy, product or marketing campaign and possibly licensing one's own intellectual property to others in exchange for money or an alternative business benefit.

As an owner of intellectual property rights, you are responsible for managing your intellectual property. Over the course of time, you may wish to make changes to the use of your intellectual property, transfer any ownership, or seek protection of your rights. We can assist by managing your intellectual property portfolio, allowing you to focus on your business and leaving the day to day management of your intellectual property assets in the hands of experienced advisors.

When utilising intellectual property owned by others, for example, intellectual property comprised in software, it is crucial that arrangements meet with the requirements and expectations of the business and its customers. We can advise on contractual mechanisms designed to achieve this end together with commercial strategy and participation in negotiations with suppliers and customers to ensure our clients' best interests are protected at all times.

Exploitation of intellectual property rights can take on all forms of appearance, such as standard licensing agreements, distribution agreements, franchising agreements, collaboration agreements and business transfer agreements to name but a few. Such agreements allow you to maximise your assets and assert a degree of control over your intellectual property rights whilst receiving income from others for their use. Our diverse client base means that we have a wealth of experience covering all types of commercial agreements. We are therefore well placed to advise on the most appropriate type of arrangement to meet your needs.

Where you have created any intellectual property, it may be in your best interests to protect that intellectual property to prevent others

exploiting it. In the field of brand protection, we have experience:

- advising on and purchasing domain names;
- lodging applications for trade mark registration (UK, Community and international trade marks); and
- advising on suitable categories for registration.

Unfortunately commercial relationships sometimes turn sour and businesses need to enforce the terms of the commercial agreements in order to protect their intellectual property rights. In certain circumstances, infringement of intellectual property rights occur. We regularly advise clients on how best to enforce their rights and the remedies available to them. Increasingly clients are seeking non litigious ways of resolving disputes, an approach that we embrace wholeheartedly, where appropriate.

Case Studies

We have recent experience:

- advising a publishing party on their rights and their representations in relation to a copyright dispute involving three parties. This dispute involved claims of breach of contract, breach of professional standards of conduct, plagiarism and copyright infringement associated with the publication of an industry technical guide in hard copy and via the internet. We advised on the enforcement of contractual terms appointing a supplier to write the guide, including reliance on indemnities contained therein, the strategy for ensuring mitigation of exposure on costs and damages, and the approach for resolving the dispute between all parties. We were successful in representing our client throughout a mediation which resulted in them recovering damages and resolving the dispute outside of court in a timely manner;
- advising a newly established company heavily dependant on its branding on the manner in which it could best protect its chosen brand logo. This included consideration of the uses to which the logo would be put, the countries it would be used in, the impact of wrongful use by others, registration of the relevant logo as a trademark and advice on licensing arrangements associated with use of the logo;
- advising an entrepreneur wishing to internationally exploit a polymer product within the car and transport industry on the establishment and operation of a franchise network for the use of that product by others. Our advice included the preparation of a suite of franchise arrangements which suitably protected intellectual property rights and provided for a return on capital investment;
- advising on the intellectual property arrangements associated with two parties entering into a joint venture agreement giving rise to a newly created joint venture company. Our advice involved consideration of the intellectual property each party would be contributing to the joint venture, what intellectual property would be created during the lifetime of the joint venture, and how that intellectual property should be distributed when the joint venture came to an end.

Who we act for

We act for a variety of public and private sector clients, including: the Rail Safety and Standards Board; the National Policing Improvements Agency; the National Audit Office; Harwich Haven Authority; the Auditor General for Wales; Barratt Homes (trading as BDW Trading Limited); Redrow Regeneration Limited; S&P Limited; Gray's Inn Estates Group Limited and Fuel for Adventure Limited.

How we can help

Our commercial team provides a comprehensive service, advising on all aspects of intellectual property law. We regard intellectual property rights as an integral part of your business and the protection, management and exploitation of intellectual property rights as fundamental to the success of your organisation. Intellectual property law covers a huge range of topics and can be intimidating in its scope and complexity. We can provide assistance by effectively dealing with those intellectual property issues affecting your organisation, thereby adding value to your business.

Contacts



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Winckworth Sherwood is a highly individual law firm, committed to providing a relevant, competitive and professional service. Our diversity is our strength and our lawyers often have deep personal investment in our clients' sectors. We are at the forefront of the private and public sector interface and our collaborative approach enables us to adapt to our clients' individual needs, providing them with pragmatic solutions to a whole range of requirements.

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