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How Can you protect your Idea

⇒ The topic of intellectual property rights is a specialist area of expertise.

↳ You would be well advised to seek the services of professionals.

⇒ One of the main reasons for doing this, in addition to potentially protecting your own rights, is to make sure that you are not going to infringe someone else's.

⇒ If your business plans involve raising finance from investors, formal protection of your ideas and technology will be very important.

↳ Investors like to see that the technology they are investing in is protected.

⇒ A patent or registered right is also a tradeable asset, meaning that there is potential to sell or grant licences to it in order to generate revenue.

2.1) Loose talk costs lives

⇒ At some point, you are going to have to share your thoughts with potential customers, potential business partners and suppliers.

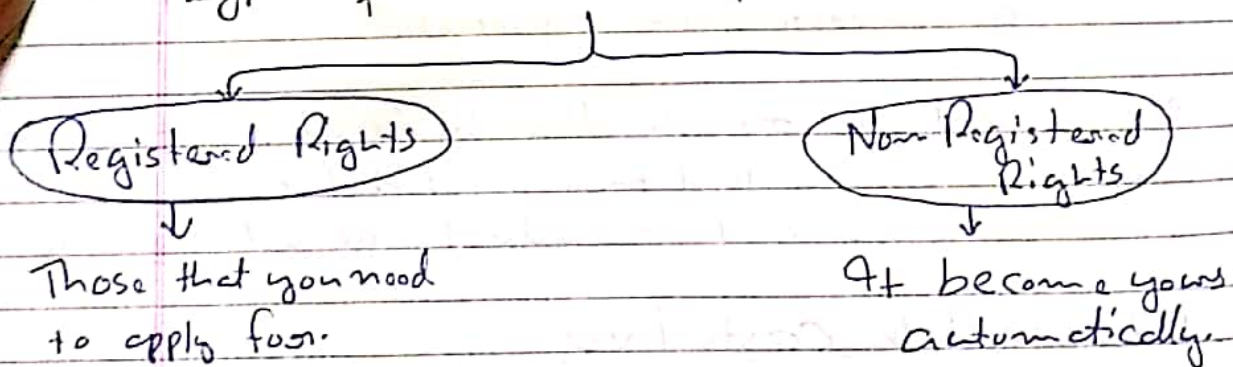
↳ In the early stages, the simple answer is to protect such conversations with a non-disclosure or Confidentiality agreement (NDA).

NDA ⇒ This is a simple legal document, normally only one page in length, which binds the other party to keep your discussion with them secret.

⇒ Lawyers should be able to draft you a document that you can use for a reasonable fee.

↳ Patent agents and corporate lawyers will not generally sign such agreements as they are bound by their professional code of ethics to maintain confidentiality with their clients.

2.2) Types of Intellectual property



⇒ Patents

⇒ Industrial Designs

⇒ Registered Trademark

⇒ Copyright

⇒ Common Law Trademark

⇒ Unregistered Design right

⇒ Trade Secrets

Registered rights

→ All of these requires you to make an application that is scrutinised to ensure that it is novel and practical before being granted.

→ In all cases fees to be paid both as:

- The application stage
- Throughout the life of the protection.

Trade Secrets ⇒ Used to protect processes or methods.

eg ⇒ recipe for Coca-Cola.

⇒ In general, un-registered rights are much cheaper to manage than registered rights but they are much more difficult to enforce and cannot be treated as an asset.

2.3) Patents

→ Commercial law has been established over the centuries to allow free market competition and restrict monopolistic practices that disadvantage consumers and the economy.

⇒ Patent law has been developed in recognition of the fact that technological developments are a good thing for an economy but are very expensive to develop and risky to introduce.

⇒ Patents grant inventors a limited monopoly period in which to exploit their invention in return for a public disclosure of how the technology works.

Novelty and Confidentiality

⇒ In order for a patent to be granted, the invention must be novel.

⇒ Some countries allow a grace period between public disclosure by the inventor and a patent filing date.

eg. USA ⇒ 12 months
JAPAN ⇒ 6 months

⇒ There is also a twelve month grace period for filing international patents following a filing in your home country.

⇒ Academic practice is to publish research results and technologies development as they are achieved.

↳ This can cause severe problem when it comes to protecting and exploiting those same results.

⇒ Example of public disclosure that can affect your chances of obtaining a patent include:

- Conference presentations.
- Conference proceedings & journal paper
- Trade fairs
- Open day, including degree show
- Trade press articles
- Oral disclosure, not covered by an NDA
- TV or radio interview
- Internet website, blogs and Chat-room Conversation.

How far does a patent protect me

⇒ The law surrounding IPR is entirely civil rather than Criminal.

→ This means that if you are granted a patent and someone infringes it, the responsibility is yours to take action.

→ You cannot call the police and you cannot expect anyone else to pay for the legal proceedings.

→ As a small company this can be hard to bear, so many companies take out insurance against the cost of legal fees spent defending their patents.

“If you are granted a UK patent, you have the exclusive right to control the making, selling and using of your invention within the UK, for the duration of the patent's life.”

It does not stop someone in France copying your idea, making product and selling them there, or even exporting them to anywhere else in the world.”

↳ Most patents are therefore filed in multiple countries to provide international protection.

⇒ The monopoly you have brought in filing your patent only remains while you continue to pay for it.

↳ Each year you will have to pay a renewal fee to keep the rights.

↳ If you let the right lapse by not paying the renewal fee, the monopoly is permanently ended.

What can be patented?

“Patents are granted to inventions that solve a technical or industrial problem through an innovative product or process”

⇒ There are four basic criteria that must be satisfied for a patent to be granted:-

- 1) The invention must be new or novel.
- 2) The invention must be inventive or not obvious.
- 3) The invention must be industrially applicable, i.e. capable of being constructed or operated.
- 4) The invention must not be in one of a number of excluded areas.

⇒ When you apply for a patent one of the first actions the patent office will undertake is a search to ensure that the invention is indeed novel.

↳ To ensure each aspect of your invention is new

Excluded areas

- Methods of medical treatment such as surgical techniques or diagnostic processes are not eligible.
- Some technologies related to defense.
- Scientific discoveries, theories etc.
- Aesthetic Creation.
- Computer Program
- Invention which is anti-social in nature

Writing and Submitting a patent application

⇒ Main body Consists of two main sections:-

- 1) Specification
- 2) Claims.

① Specification

- Written description of the invention.
- It should include a description of the problem that the invention is designed to solve.
- A description of prior art and its limitations.
- Finally a description of the invention itself.
- Specification can be short as 1 page and long as 100 page.

② Claims

- In a series of short, numbered statements, the claims define exactly what monopoly is being sought.

⇒ Once the application is written, it is submitted to the national patent office.

- The date it is filed is called the priority date.
- Timing of all the subsequent events refer back to this date.

Patenting Computer Software

"Strictly speaking, Computer Software is not eligible for patent protection in most countries"

Filing international patents

⇒ One method of obtaining protection in multiple countries would therefore be to directly apply to each office for which you need protection.

- Each application would have to satisfy the local regulations.
- Each application is presented in local language.

⇒ If you take this route, you could find all your time is taken up responding and arguing with a large number of different offices.

PCT ⇒ Patent Co-operation Treaty.

How long and how much?

"Applying for patents, especially internationally, can be slow and expensive business"

UK patent Cost \Rightarrow 10,000 - 175,000 \$

\Rightarrow Even once the patent is granted, the costs do not stop there:

\rightarrow Each separate country requires annual renewal fees to be paid.

\rightarrow These start low and increase towards the end of the patent's life.

\rightarrow If you allow a patent to lapse by not paying the renewal fee when it is due, you lose your monopoly permanently.

2.4) Registered design

\Rightarrow Design rights operate in a similar way to patents but are concerned with the appearance of the whole or part of a product.

\rightarrow Can be used to protect appearance of your product that derives from features such as lines, contours, shapes, colours, texture or even use of material.

⇒ Design rights cannot be used to protect a single artistic creation but can be used to protect the shape, form or surface decoration of a product that will be produced in quantities of more than 50 units.

⇒ Unlike patents, design rights exist by default when ever you design and manufacture a product with a new look or feel.

↳ Un-registered design rights

{ It offer limited protection as you would have to prove that anyone producing a similar design had actually copied your design rather than arrived at the same point by coincidence. }

⇒ By registering your design, you are protected against imitations even if they are not the result of copying.

⇒ The process of applying for a registered design is similar to that of applying for a patent.

⇒ Granted rights typically last for twenty five years.

2.5 Trade marks

⇒ Any sign which can distinguish your goods and services from those of other traders.

↳ It can take form of words, logos, pictures or a combination of these.

Un-registered trademark

⇒ The enforcement can be applied if you can prove that you have generated a reputation in the market under the mark.
{Tm}

Registered trademark

⇒ It is usual, though not a requirement, to indicate its registered status by using the ® symbol.

⇒ Trade mark registrations are awarded for specific market sections.

↳ It is therefore possible for two or more organisations have identical trademark names, if they do not compete in the same market.

2.6) Copyright

⇒ Copyright is entirely un-registered

⇒ Copyright is used to protect books
& Software code etc...

⇒ Infringement occurs only if a substantial part of the work has been copied.

⇒ It is a good idea to use the © symbol together with your name and the date on material that you wish to protect.

↳ but is not a legal requirement

2.7) Working with patent agents and IP lawyers

⇒ You should expect to invest a significant amount of time with your agent.

⇒ You will then need to carefully read through the specification and claims that they draft.

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