

Think
Link
Create
Intellectual
Property
Rights
Things
To
Know
HudsonTM
Gavin[©]
Martin[®]



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Intellectual Property Basics

Unregistered vs Registered Rights

- **Unregistered**
 - Copyright
 - Confidential information
- **Registered**
 - Patents
 - Trade marks
 - Designs
- **The “Other IP”**
 - Stickiness
 - The Market

Copyright

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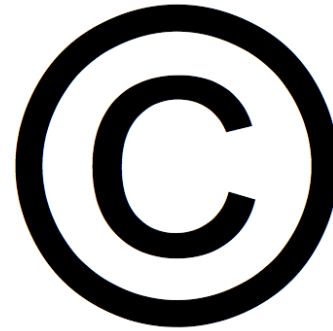
Copyright

- **Protects literary, dramatic, musical and artistic ‘works’**
 - Covers broad range of creativity
 - Writing, software, drawings, films, YouTube montages, clothing designs, photos, statues, three-dimensional objects
- **Requirements**
 - Must be original
 - Low threshold (not copied, not infringing)
 - Not merit based
 - Expression of idea, not idea itself

Copyright

- **Value of copyright**
 - Prohibits unauthorised copying, issuing of copies, communication of works etc.
 - Owner entitled to sue for damages
- **Owner is author unless:**
 - Employee in normal course of employment, in which case the employer is the owner
 - Contractor carrying out a “commissioned work”, in which case the “commissioner” is the owner
 - Transfers copyright by agreement to someone else

Copyright



- **Pros**

- Automatic
- No registration in New Zealand
- Free
- Long duration – life of author plus 50 years

- **Cons**

- Must prove ownership, originality
- Need to keep records to show proof
- Prevents copying not independent creation

Confidential Information

Confidential Information

- **Protects confidential information / trade secrets**
- **Requirements**
 - Information must be of a confidential nature
 - Business plans / ideas, customer lists, financial information
 - Be communicated in confidence
 - If disclosed, be detrimental to the party who communicates the information
- **Protection**
 - Prevents unauthorised use / disclosure



Confidential Information

- **Pros**
 - Can be within your control
 - Not territorial
 - Free
 - Indefinite (potentially)
 - Immediate
- **Cons**
 - Does not prevent independent creation
 - How practical is it – e.g. collaboration?

Registered Trade Marks

Registered Trade Marks

- **Protects brand identity**
- **Requirements**
 - Versatile – can be a word, picture, logo, sound
 - Must be distinctive
 - Cannot be descriptive / words used in the trade
- **Protection**
 - Prevents use of same / similar sign on same / similar goods

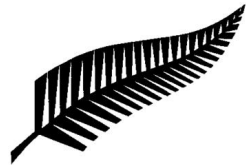


Registered Trade Marks

- **Examples of trade marks**

- Words – e.g. ZESPRI

- Device – e.g.



- Shapes – e.g. Coke bottle



- Colours – e.g. Cadbury purple



- Sound – e.g. Intel jingle

- Smells – e.g. cinnamon for pharmaceutical products

Registered Trade Marks

- **Pros**
 - Indefinite (if pay periodic fees)
 - Relatively cheap to apply for / maintain
 - Powerful marketing tool
- **Cons**
 - Territorial
 - Exclusive right (not monopoly)
 - Market policing

Patents

Patents

- **Protects inventions**
- **Requirements**
 - Be an application (i.e. have utility / use) not just an idea
 - Has to be inventive, not obvious
 - Must be 'new' compared to what's known in the industry
- **Protection**
 - Prohibits unauthorised making, using, selling, importing of the invention



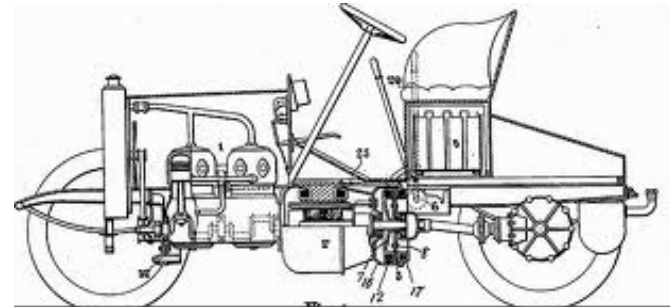
Patents

- **Pros**

- Monopoly (absolute)
- Registered, therefore searchable, therefore deterrent

- **Cons**

- Expensive to obtain / enforce
- Takes time to obtain
- Territorial
- Only 20 years
- Must keep invention secret prior to filing for patent



The “Other IP”

The Value of Stickiness and Owning the Market

- It is about people wanting to be with you.
- Make it easier to stay
- Be where it is relevant.
- Understand your value and continue to deliver it.

Its about the Layers

The Layers

- **No One Right will be the solution.**
 - Coca Cola
 - Sony
 - Apple

Thank You

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