

# 10 Golden Tips for Protecting a New Product

A new idea or product may provide an edge, but how do you keep that edge and stay ahead? Now that the innovation project has matured, you are thinking about the next steps. Your objective may be to distinguish your product from those on the market, or to attract potential investors and partners.

To accomplish your goals, you may benefit from protecting the intellectual property (IP) of your idea. By registering your IP, the idea becomes a tangible legal and economic asset. This enables you to safely share your idea with others, or to make it the subject of commercial or legal transactions.

If you do it right, the decision on whether or not to protect your IP is a conscious decision. This overview presents 10 golden tips which are intended to help you make the best decision for your business, and to set up an effective IP protection policy around your product innovation.

## **1** *Protection? Take a conscious decision*

When you develop high-tech products that involve large investments and associated risks, the decision to register IP rights may be a no-brainer. However, the added value of IP protection may not always be clear. Up front, it is important to decide between IP protection, secrecy or disclosure of your technology. Please consult us if desired.

## **2** *Start thinking about protection now, but choose your timing carefully*

Although focus on IP protection is important from the onset of your innovation project, choosing the right timing for registering IP rights is at least as important. For patents, a good moment for filing a patent application is when a prototype or proof-of-concept is available. For trademarks, you may file an application when entering the market.

## **3** *Keep your idea secret until IP protection has been arranged*

For a number of IP rights, it is important that the product is still secret at the moment an application is filed. A non-disclosure agreement may work, but is not without risks. And how about your employees? Are they aware of confidentiality? Is there a clause in their employment agreement on non-disclosure of company secrets?

## **4** *Budget IP protection in your business plan*

Obtaining IP protection requires an investment as well. Budgeting for this helps you to effectively carry out your IP strategy. Moreover, investors like to see that you are serious about protecting your developments: a well-protected product diminishes the investment risks.

## **5** *Consult a patent or trademark attorney*

A patent or trademark attorney can help you with all questions about how to protect your IP, what it costs, and what types of protection may be considered. To all participants and relations of The Hague Security Delta (HSD), V.O. offers an introductory obligation-free meeting in which we can answer many of your questions.

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## **6** *Make a team member responsible for IP policy*

If innovation is part of your company policy, it is advisable to appoint a team member who is responsible for IP policy. The team member may be tasked with increasing your in-house IP knowledge and awareness, and putting IP within your company 'on the map'.

## **7** *Strengthen IP protection by protecting various aspects or various types of IP rights*

Registering multiple IP rights for various aspects of your idea increases the strength of protection. Consider including aspects that are essential to the idea and cannot be ignored. Each registered IP right – patent, trademark, design or copyright - is an individual economic asset that can add value to your ideas, for example in joint development constructions.

## **8** *Research the online patent and trademark databases*

Online patent databases are freely available via a web browser. It is advisable to use the knowledge available in these databases during various stages of the innovation project and thereafter, for instance as a source of inspiration or to monitor your competitors' activities. Trademark research also reduces the risk of conflicts after market introduction of your product.

## **9** *Actively protect your IP rights*

Registered IP rights keep competition at a distance, but do not always prevent infringement. Enforcing IP rights is your responsibility as right holder, and must be part of your IP strategy. Bear in mind that a well-constructed IP strategy can be effectively utilized to prevent legal conflicts.

## **10** *Prevent infringing third party rights*

Protecting your IP is just as important as preventing infringement by your company. In case you receive an infringement letter, the first thing to do is seek legal advice. Proactively, you may also consider obtaining a freedom-to-operate advice.

### *Do you have any questions or would you like IP advice?*

Please contact our attorneys dedicated for HSD:

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