

Setting up in Business – Protecting your Rights

(The Second of a Series of Three Articles)

REGISTRATION OF INTELLECTUAL PROPERTY RIGHTS



The law categorises “intellectual property” into the distinct, separate classes of copyright, trade (and service) marks, patents and design rights.

Copyright is one of the most important and does not require registration to be protected in law. Copyright is quite simply stated a right against having your work copied. Hence it does not prevent another person quite independently creating the same work. It arises in any original, creative work (literary, artistic or musical) in whatever medium. Computer programs are protected by copyright both against copying and, very importantly in this field, adaptation.

Trade and service marks are protected by registration at the Trade Marks Registry. A trade (or service) mark is one that is distinguishing of that particular undertaking. Registration can be either UK only or EU wide. As registration is quite a time-consuming and costly business, a proprietor will want to be sure before pursuing it. Until well established, a business may wish to rely on the general law remedy of “passing off” to protect against infringement of its business name, logo etc (see the previous article).

For inventions or developments of a scientific or technological nature, there is patent protection. This is a right that must be protected by registration. Registration gives what is known as a “monopoly” right; that is, no-one else may produce that invention/development, even if they can do so without copying. To be registrable an invention/development must have been invented, have novelty, be of industrial application and not already be in the public domain.

Design rights may be either registered or unregistered. Generally registered designs apply to those that have “eye-appeal” while the unregistered protection relates mainly to functional designs, although obviously there is some overlap between the two.

Of course not all rights and property used in a business can be protected by registration and for those that cannot, other means of protection must be used (see the next article on trade secrets and confidentiality).

If you would like more information about any of the issues raised in this Article, please contact Terri Corti at the Company/Commercial Department Nockolds Solicitors, 6 Market Square, Bishop’s Stortford, CM23 3UZ, Tel: 01279 755777 Fax: 0870 0526846 e-mail: tc@Nockolds.co.uk.