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## Benefits of Registered Intellectual Property Rights

Governments go to great lengths to prevent monopolization by companies as it reduces competition and increases prices<sup>1</sup>.

However, registered intellectual property rights are one of the few ways of obtaining a state sponsored monopoly. This can create a huge business advantage.

Registered intellectual property rights include patents, registered trade marks and registered designs. They each give their owner certain rights that are exclusive to the owner.

A patent owner can take action to prevent another person using, importing, making or otherwise dealing with his invention<sup>2</sup>. A registered trade mark owner can take action to prevent another person using the registered trade mark<sup>3</sup>. A registered design owner can take action to prevent another person using, importing, making or otherwise dealing with his design<sup>4</sup>.

The exclusive rights associated with registered intellectual property can be used by the owners to their advantage in a number of ways:

### Barrier to market entry

The owner can use the registered intellectual property right to create a barrier preventing or discouraging competition. Competitors may be forced to seek alternative markets or compete with inferior products or services.

If you make or sell an innovative and profitable product what will stop a larger company competing directly with you and leveraging their economies of scale to capture the market? Registered intellectual property rights can help stop this happening. Recent developments in the UK have also made it significantly easier and cheaper to enforce registered intellectual property rights.<sup>5</sup>

Our experience is that when registered intellectual property rights are obtained they are generally respected. There may of course be occasions when they are not and action is required but the deterrent effect is significant and discourages direct competition.

<sup>1</sup> UK Competition Act 1998, Treaties of the European Union

<sup>2</sup> paraphrasing UK Patents Act 1977 (as amended) s60

<sup>3</sup> paraphrasing UK Trade Marks Act 1994 s9(1)

<sup>4</sup> paraphrasing UK Copyright Designs and Patents Act 1988 (as amended) s7

<sup>5</sup> [www.judiciary.gov.uk](http://www.judiciary.gov.uk) The Intellectual Property Enterprise Court (Previously the Patents County Court)

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## Licensing

The owner can trade the exclusive rights provided by the registered intellectual property to create an income stream or gain some other commercial advantage. This is particularly advantageous if the owner cannot exploit the exclusive rights provided by the registered intellectual property in all available markets.

The trade made may, for example, be for income or for freedom to operate, for example, obtaining in return a licence to another company's registered intellectual property rights that gives access to a market that would otherwise be closed.

However, if you try and trade an idea with a company without first applying for registered intellectual property rights what will stop that company taking your idea and exploiting it themselves or even claiming it as their own?

## Out-sourcing manufacture

If you plan to use out-sourced manufacturing to a company without first applying for registered intellectual property rights what will stop that company taking your idea and exploiting it themselves? A registered intellectual property right can prevent this.

## Cheap imports and counterfeit and pirated goods

If you have a registered intellectual property right, we can work with HM Customs and Excise to prevent importation of products that infringe your registered intellectual property rights<sup>6</sup>.

## Confidence to invest, return on investment

Owning registered intellectual property rights can give companies the necessary confidence to invest.

Minister for Intellectual Property Baroness Wilcox agrees that intellectual property rights "add great value to businesses" and give "companies the confidence they need to develop products and services knowing they will reap the financial rewards for their work"<sup>7</sup>.

Another report<sup>8</sup> places a value on this confidence, showing that investments made by businesses in products and services that are protected by intellectual property rights are worth £65 billion a year. The report also shows that business investment in intellectual property rights has more than doubled since 1990.

The government is now actively encouraging investment in IPRs as a driver for business growth. It is, for example, proposing to offer tax incentives to invest in patents<sup>9</sup>.

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<sup>6</sup> Council Regulation (EC) No 1383/2003 et al

<sup>7</sup> UKTI Press release PN87/2011

<sup>8</sup> The Role of Intellectual Property Rights in the UK Market Sector, 2011/2, UKIPO

<sup>9</sup> HM Treasury Press Release Government publishes consultation on Patent Box and R&D credits 20110610

## The risk of not investing

“Businesses who decide not to protect their intellectual assets are taking a huge financial risk...We would therefore always encourage companies to make an investment and make sure they gain the financial benefits they are entitled to” says Minister for Intellectual Property Baroness Wilcox<sup>10</sup>.

## Increased turnover

A recent report links intellectual property protection with a 10% increase in turnover<sup>11</sup>.

## Capital asset

A registered intellectual property right is property, just like your capital assets. However, it is an asset that can be leveraged through licensing and can therefore be highly valuable. It can also greatly enhance the value of a business when it is sold.

## Investment

The barrier to market entry provided by registered intellectual property has enormous value to potential investors. Registered intellectual property is extremely important for technological start-up companies but also for other companies where there are no natural barriers to market entry by competitors. This topic comes up again and again on the popular BBC television show ‘Dragons’ Den’<sup>12</sup>.

## Credibility

There is a clear difference in attitude to registered intellectual property rights between smaller companies and larger companies<sup>13</sup>. The larger companies are more aware of the value of registered intellectual property rights.

Owning registered intellectual property rights increases credibility with larger companies. It can also buy influence that extends far beyond that associated with a company’s market capitalisation.

In addition, even already well established brands have realised the marketing potential of registered intellectual property<sup>14</sup>.

## Why use us

The governments’ intellectual property offices have a responsibility that registered intellectual property rights satisfy their own legal requirements but they are under no obligation to make sure that the intellectual property rights are fit for purpose. That is, they are properly prepared to protect the current and future commercial position of the owner. We specialise in understanding how intellectual property rights will bring value to you now and in the future and we optimise the registered intellectual property rights accordingly. We also manage the complex process of identifying and obtaining registration of your intellectual property rights.

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<sup>10</sup> Press Release Department for Business Innovation & Skills 20110708

<sup>11</sup> UKIPO Press release 20110630

<sup>12</sup> DRAGONS’ DEN is a RTM of the BBC (GB 2390934, GB2386537)

<sup>13</sup> UK Intellectual Property Awareness Survey 2011, UKIPO

<sup>14</sup>“Patents: the latest marketing tool” Intellectual Asset Management Issue 8 06:10:04

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