

Intellectual Property

Intellectual property rights present businesses with tremendous opportunities, but equally can pose substantial legal and commercial risks.

Being aware of and proactive about intellectual property issues can unlock value, avoid costly distractions and support businesses to thrive.

FINLAYSONS
LAWYERS

Intellectual Property

Our expertise and experience in intellectual property (IP) enable us to deliver practical and commercial advice.

Capturing IP opportunities

We are committed to helping our clients capture and capitalise on the opportunities which effective protection and use of IP rights can provide.

IP rights can offer powerful vehicles for realising returns on investments in developing or improving products or processes and in establishing market reputation and position.

New technologies and business methods may be inventions capable of patent protection. Copyright automatically protects original drawings, literary works and software programs. The shapes of products may be registrable as designs. Words and logos used in branding may be registrable as trade marks. New plant varieties may be capable of plant breeder's rights protection.

The exclusivity the various IP rights can provide may be used to create and maintain competitive advantages. IP rights can be enforced against infringers. IP rights can also be used as commercial tools to facilitate access to revenue and valuable technologies through licensing and commercialisation agreements.

Whether valid IP rights can be obtained and maintained hinges upon when and how the IP asset is created, disclosed and used. Inadvertent or premature publication, use, sale or licensing of an invention or design can compromise a patent or design application. Making more than one copy of a product can invalidate a subsequent design application and also affect copyright. Failure to continuously use a registered trade mark can render it vulnerable to removal. With the right advice at the outset, these risks can be appropriately managed.

Our team is skilled at working with businesses to identify, protect and exploit the IP that they generate. We empower our clients to make informed and timely decisions about whether and how to pursue and maintain IP rights. We are experienced in ensuring the ownership and licensing of IP created by employees, contractors, joint venture partners and third parties is formalised and clarified as early as possible.

Mitigating IP risks

We are dedicated to guiding our clients in managing their IP risks.

Irrespective of whether a business has or makes use of its own IP rights, it ought to remain alert to the IP rights of third parties.

Dealing with infringement allegations raised by third parties can be a costly distraction from primary business activities. Defending court proceedings is costly and likely to demand significant time from key operational staff and executives.

Court findings that a business has infringed a third party's IP rights can lead to significant financial liabilities for legal costs, damages or an account of profits. A court may also impose injunctions restraining the business's infringing activities, including prohibiting the supply of goods or services to its own customers or requiring re-branding.

We are familiar with the serious and wide-ranging impacts that an IP dispute can have on a business. We are experienced in advising businesses on mitigating their risks associated with third party IP rights by proactively exploring their freedom to use particular products, processes, software, drawings or branding. By identifying and analysing legal and commercial risks upfront or in advance, we enable businesses to make informed decisions as to whether to proceed with, adapt, seek permissions for or refrain from particular activities.

Our IP service offering

We provide an extensive range of legal services to assist our clients with all aspects of IP:

- IP protection, including branding advice, trade mark and design applications, preservation of trade secrets, preservation of copyright and patentability advice
- Commercialisation of technologies, including addressing arrangements for ownership, licensing and assignment of IP rights, such as patentable inventions, copyright subject matter, trade secrets and “know-how”
- IP audits and due diligence, including identifying all IP assets within a business for a proposed acquisition or divestment or to evaluate the costs and benefits of pursuing or maintaining protection
- IP strategy, including developing policies and procedures for identifying and pursuing protection of IP assets and for managing third party IP risks
- Freedom to operate / infringement advice, including with respect to patents, trade marks, designs, copyright and plant breeder’s rights
- Validity and ownership advice, including with respect to patents, trade marks, designs, copyright and plant breeder’s rights
- Commencing or defending infringement and revocation actions (whether court proceedings or otherwise), including with respect to patents, trade marks (registered or unregistered), designs, trade secrets or plant breeder’s rights
- Commencing or defending oppositions, including with respect to patent, trade mark, design or plant breeder’s rights applications

Our team

Our enthusiastic and astute team is approachable, responsive and often at the cutting edge of developments in IP law and across key industries such as wine, research and education, energy and resources, information technology, agriculture, pharmaceuticals, medical devices and biotechnology.

Our partners



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Our clients include a diverse range of small, medium and large companies from Australia and overseas, government entities, universities and research institutions.

We work in partnership with you to develop a long-term and productive working relationship that is built on mutual trust and respect. Clients come to us because of our reputation; they stay because of the experience.

Finlaysons' Practice Areas

Industry Areas

- Agribusiness
- Banking and Finance
- Defence
- Education and Research
- Energy
- Family Business & Private Wealth Management
- Health
- Insurance
- Property and Development
- Resources
- Wine

Specialty Areas

- China
- Corporate
- Environment, Climate Change and Planning
- Intellectual Property
- Planning
- Risk and Dispute Management
- Tax and Revenue
- Wills, Estates and Succession Planning
- Workplace Relations, Management and Safety

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