

## Own your intellectual property

By Tom Addyman on Monday, September 14, 2009

For new ventures, small and medium enterprises and even just budding entrepreneurs putting out a few feelers, it is important, if not vital, to seek some advice, some backing and some reassurance that the business idea is viable and the plan is executable.

But even at the first hurdle of sharing your idea for some advice, there are several considerations to be taken into account: who can you tell; how much can you tell them; can your concepts get protection? For most companies, these issues won't arise, because the chances are that the products and processes will have been based on other, well-established models. But for "creations of the mind" (as they are often described) intellectual property (IP) becomes a very real issue with very real problems. And if you lived in the UAE five years ago, they were even realer. (That's a word I'm patenting.)

In fact, the whole of the GCC has been trailing behind many of the world's more established markets when it comes to intellectual property. So, what is intellectual property? What's so intellectual about it and why is it someone's property?

The intellectual part here comes not from some academic qualification or intelligence; it refers to a host of first timers and performers: a design, an artform, a broadcast, a scientific discovery, designs and trademarks and – "inventions in all forms of human endeavour". No wonder we need to get the lawyers involved. The property part of the equation doesn't describe the work or concept in question, but the legal rights surrounding it.

Typically, the law is designed to protect the creators and encourage further innovations by granting them a set period of time where they have all relevant rights regarding usage. The fields listed just above are grouped together as "copyright". While you may be a budding Nobel Laureate, a Van Gogh in the making or the next Rudolph Valentino, you mustn't forget that you need that stamp if you want protection during the developmental stage of your brilliant idea.

The second property is industrial, which as you may infer, is a little more tangible and includes inventions, trademarks and industrial designs.

As already mentioned, IP can be a potential minefield if you don't know your way around the law, and let's face it, most of us don't. Thankfully over the past few years, legal support has been growing in the UAE and protection has been far more readily available. Intellectual property had to come, but it's ironic in some ways that because its existence was less known, its infringement was less frequent. As always, though, with a booming economy, come brand new boundaries.

While the vast majority of many types of law is based on prevention and cure, intellectual property can have proactive, positive effects on a business, particularly SMEs. There are businesses which see an opportunity in innovation not just for the sake of efficiency, effectiveness or economics, but as a means to enhance reputation

and value. These opportunities don't have to take the form of some earth-shattering invention, but can help significantly with establishing a company's identity. It can be as simple as a new logo or design on packaging and insuring against its misuse. The mere perception of copyright or patents can lift the business persona.

On a more practical level, if a company has property rights, and a legitimate time to exploit them, they can have enormous potential as a revenue generator in their own right. You would think that Coca-Cola, one of the world's most recognised brands, has a copyright on the recipe for its most famous product. But no. A copyright by definition has to be available in the public arena, which somewhat defeats the object.

Instead, it holds a trade secret, an equally legitimate legal form of protection that forbids a plan, formula or recipe from unauthorised disclosure. In 2006, three Coke employees tried to sell what they claimed was the secret formula to arch rivals Pepsi. The police were called and the fizzy felons arrested.

In a tale with a little less justice, Norman Breakey from Toronto, Canada couldn't afford to take out a patent when he invented the paint roller in. Unfortunately he died without making a penny for his endeavours. DIY giants B&Q last year sold more than three million roller and tray sets.

There are a thousand variables that need to be taken into account when looking at the intellectual sort of property. It's not just a question of a group of children asking for their ball back when it goes in your garden. Here, you have to define what the ball actually is and where your garden begins and ends. There is the matter of geography – who invented it where, was it at the same time as someone else, do those laws apply under a different jurisdiction and so on. And now the internet opens up a new field of intellectual property. It's a legal nightmare if you're seeking advice. (And a dream if you're qualified to give it.)

The very first US patent was issued in 1836 to John Ruggles for traction wheels. It was an important invention and an important step on the ladder to securing legal ownership – ownership being the key word. Last year, the UAE Ministry of the Economy invited more than 300 specialists, experts, senior executives and dignitaries to the first ever Arab Intellectual Property Forum, and it was more than a token effort. Cross-border co-operation, online infringement and, something that has been prevalent in this part of the world, piracy and counterfeit goods were all tackled. It was undoubtedly of use intrinsically, but it also had a wider reaching effect; one of the main considerations was raising public and business awareness of the dos and don'ts of intellectual property.

It's not possible here to give a detailed breakdown how to do and how to don't, but if you think that intellectual property doesn't affect you, there is one nugget left: IP also protects against unfair competition. As they say, if in doubt, seek legal advice. Take advantage of your property. Own it.

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