Inspire

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intellectual property

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Editorial

The total number of new trade mark applications filed in Australia continues to increase year on year. Many of these applications are now filed directly by applicants with IP Australia, providing a range of online services to assist self-filers. While a simplified approach to the application process has its attractions, it has the potential to obscure some of the more complex decisions which need to be made in applying for intellectual property (IP) rights. As Anita Brown's analysis of Insight Radiology v Insight Clinical Imaging illustrates (page 3), a failure to properly identify the correct applicant for a trade mark can have ongoing implications for the validity of the mark.

Russell Waters' review of Intellectual Property Development Corporation Pty Ltd v Malina Schindler and Adrian Schindler (page 8) also highlights that obtaining registration of a trade mark is only the start of the process for strategically managing a trade mark portfolio. A failure to properly monitor and manage the way in which a trade mark is used can also result in a loss of rights, for example by removal of the registration for non-use. Use of a trade mark with alterations or additions which substantially affect the identity of the mark may not be sufficient to defeat a non-use removal application.

Trade mark owners may soon need to be even more vigilant. As Karen Spark reports on page 6, one of the many recommendations made by the Productivity Commission's final report on its inquiry into Australian IP arrangements is that the grace period for non-use challenges be reduced from five to three years. The report makes a number of other recommendations regarding patents, trade marks and copyright, but has retreated from a proposal that business methods and computer software be explicitly excluded from patentable subject matter.

Also in this edition of *Inspire*, Margaret Ryan discusses the implications of seeking to exclude consumer guarantees under Australian Consumer Law (page 4), as well as the importance of properly documenting commercial agreements surrounding the creation or licensing of IP rights (page 10). We also introduce two new professionals to the POF group (page 12).

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POF remains proudly independent amidst an increasingly corporatised IP environment

The recent announcement of yet another Australian Intellectual Property (IP) firm being acquired by a listed company is the latest dramatic change in the Australian IP industry. There are now three public companies listed on the Australian Securities Exchange that collectively hold nine Australian IP firms. Reaction to these changes has been mixed, with share prices declining in recent months.

POF is now one of the few remaining independent IP firms of significance in Australia.

Our decision to remain independent and privately owned is a deliberate choice and one we believe positively differentiates us in what is now a highly corporatised market. Our Managing Partner, Ross McFarlane says, 'We have made the strategic decision to remain a proudly independent specialist IP firm. Our focus is on partnering with our clients to achieve business success rather than feeling the need to respond to short term market pressures.'

These public companies each hold two or more IP firms that continue to do business as completely separate, and competing, operating entities. This creates potential concerns about whether there may be conflicts between their duties to clients and to shareholders, and/or between the clients of different firms within the same operating group.

Ross says, 'We have seen instances where a company is represented by one IP firm within an operating group and one of their major competitors is represented by a sibling firm within that same group. This is causing quite a bit of discomfort and has led to our acquisition of a number of new clients due to their dissatisfaction with this situation. Our independence ensures we're always able to completely focus on our clients' interests.'

Putting the pieces together – getting trade mark applications right.

In the flurry of activity to launch a new business or brand, it's easy to file a trade mark application and overlook the critical matter of whether the correct applicant has been identified.

The Federal Court decision *Insight Radiology Pty Ltd v Insight Clinical Imaging Pty Ltd* [2016] FCA 1406 dealt with an appeal by Insight Radiology Pty Ltd (IR) to the successful opposition of its application for the trade mark depicted as Figure 1 by Insight Clinical Imaging Pty Ltd (ICI).

Figure 1: The Circle Mark

ICI successfully opposed the Circle Mark application on the basis of s 58 of the *Trade Marks Act* (1995) before the Registrar. On appeal, ICI focussed its argument on the fact that IR's director, Mr Pham, had filed the application in his own name and subsequently assigned it to IR. An issue was whether Mr Pham was entitled to claim ownership of the mark and whether he, as the applicant, had the requisite intention to use, license or assign the mark.

Under s 27(1), a person may apply for registration of a trade mark if the person:

(a) claims to be the owner of the mark
(b) is using or intends to use the mark
(c) has authorised or intends to authorise another person to use the mark, or
(d) intends to assign the mark to a body corporate about to be constituted with a view to the use by the body corporate of the mark.

Ownership of a mark is demonstrated by first user of the mark in Australia or, if the mark is yet to be used, the combined effect of 'authorship' (an intention to use the mark as a trade mark), and the act of applying for registration.

ICI argued that IR, and not Mr Pham, was the 'author' of the mark and that it was never Mr Pham's intention to use the mark, whether by licence or otherwise, within the terms of s 27(1). Consequently, ICI claimed Mr Pham was not the owner of the mark, and that Mr Pham also lacked intention to use. Mr Pham's evidence was that he applied for registration of the Circle Mark in his name on the basis he intended to license it for use by IR and another company he owned and controlled. However, he then decided that it should be owned by IR and then licensed to his other company. In the alternative, IR submitted that if the application should have been made in the name of IR as the 'true owner' at the application date, IR became the applicant during prosecution of the application via an assignment and met the ownership requirements under s 27(1).

It was held that IR, not Mr Pham, was the party responsible for the authorship of the mark, having paid for and been involved in its design. The Court did not consider Mr Pham's explanation as to why the application was filed in his name to be credible. Accordingly, he was not the owner of the mark and did not have an intention to use, assign or license the mark.

Nevertheless, the Court found that IR satisfied the requirements for ownership under s 27(1). IR was therefore the owner of the mark for the purposes of s 58, and had the requisite intention to use such that these grounds of opposition failed. ICI was, however, successful on another ground.

This case serves as a reminder of the importance of selecting the correct applicant for your trade mark application.

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US giant, Valve Corporation, lets off *steam* as the Federal Court hands down $3 million fine.

Australia has very strong consumer protection laws contained in the Australian Consumer Law (ACL). One consumer 'guarantee' requires that goods be of 'acceptable quality', for example, fit for purpose, free from defects, etc.

This guarantee applies to goods of a kind 'ordinarily acquired for personal, domestic or household use or consumption' (consumer goods) whatever their value. It also extends to non-consumer goods provided that their price is up to $AU40,000, with some exceptions. This means that the ACL can also catch many B2B transactions.

It is not legally possible to exclude these guarantees for consumer goods, although careful drafting can limit liability in the case of non-consumer goods. If a business says that a consumer is not entitled to a refund on consumer goods under any circumstances, or says that all liability to a consumer is excluded, this is likely to amount to a false or misleading representation in breach of the ACL.

The Valve litigation

Since 2014, Australia's consumer watchdog, the Australian Competition and Consumer Commission (ACCC), has been prosecuting US company, Valve Corporation, which operates the well-known online game distribution network called 'Steam'. The ACCC claimed that Valve had engaged in misleading and deceptive conduct and made false representations in breach of the ACL. This breach was due to Valve's no refund and exclusion of liability policies which did not take into account the ACL's consumer guarantees, which apply to software as a 'good'.

Conduct in Australia

The significance of the litigation is that Valve, a US company with no personnel in Australia, was found by the Federal Court to be subject to the ACL because:

1. It was held to have been carrying on business in Australia due to significant connections with Australia, including 2.2 million Australian subscribers and $1.2 million worth of equipment in Australia which was hired from an Australian company.
2. Irrespective of whether it carried on business in Australia, Valve's conduct occurred in Australia as:
   (a) Australian customers, who had downloaded the Steam video game delivery platform and accepted the terms of the Subscriber Agreement, had a direct relationship with Valve. The Court noted that the background to this finding was Valve's 'significant Australian context'.
   (b) In the case of representations made on the Steam website, although they were made to the world at large, by the time an Australian consumer had purchased a game or downloaded the platform, having provided their location as Australia, they had established a relationship with Valve and Valve's representations on its website in Australia.

The big question for other foreign companies who do *not* have such significant connections to Australia, is whether purely entering into contracts to supply goods to Australians over the Internet will constitute conduct in Australia sufficient to attract the application of the ACL. If so, their international exclusion of liability terms may breach Australian law. The Federal Court did not address this question in the Valve litigation, but there is a significant risk that the ACL would apply in such circumstances.

The penalty case

On 23 December 2016, in *Australian Competition and Consumer Commission v Valve Corporation (No 7)* [2016] FCA 1553, the Federal Court fined Valve in excess of $US2 million ($AU3 million) for its no refund policy. This penalty was very high, partly because of the size of Valve, the length of time over which the misrepresentations were made (over 3.5 years), its poor compliance culture and its lack of contrition. However, it was not surprising. False or misleading representations as to goods or services carry a maximum penalty of $AU1.1 million for corporations and $AU220,000 for individuals for each contravention. Valve arguably had committed thousands of contraventions.

In addition to the multi-million dollar penalty, the Court ordered Valve to:

(a) Post a Consumer Rights Notice on its website for 12 months, advising that the Court had found that it had engaged in misleading conduct contrary to the ACL and explaining the guarantee of acceptable quality.

(b) Undertake a compliance program aimed at giving employees of Valve and others awareness of Valve's responsibilities under the ACL.

(c) Pay legal costs to the ACCC.

Trying to exclude all liability or refusing refunds for defective goods is risky. Australian consumer laws can be substantially different to the equivalent overseas laws. If an overseas company is dealing with Australian consumers, or supplies non-consumer goods worth up to AU$40,000, it is advisable that its agreements and policies be reviewed for compliance with Australian laws.

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Congratulations to our newest patent and trade marks attorney, Michelle Blythe!

We are delighted to announce our newest patent and trade marks attorney, Michelle Blythe, who registered on 6 February 2017.

Michelle joined POF in 2014, having completed a Bachelor of Biomedicine and a Master of Engineering (Biomedical), at the University of Melbourne. During her Master's degree, Michelle focussed on specialist subject areas, including tissue and metabolic engineering, forensic biomechanics, medical imaging, biomaterials and clinical engineering. She completed her industry project with the Bionics Institute at St Vincent's Hospital, focussing on image processing to improve methods of automated neuron counting.

Prior to joining POF, Michelle held a position as a Biomedical Engineer at St Vincent's Hospital in Melbourne, where she coordinated the roll-out of new infusion devices across the hospital and developed her skills in medical device repair.

Michelle is a valued member of POF's Electronics Physics and IT team, and we congratulate her on this significant milestone in her career progression.

The Australian Productivity Commission releases final report on intellectual property arrangements

The Australian Productivity Commission recently released its final report on their inquiry into Australian intellectual property (IP) arrangements.

The Commission's inquiry adopted a holistic approach considering all of Australia's IP rights, with the specific intention of identifying ways the IP system could be improved. The final report was publicly released on 20 December 2016 and includes a number of recommendations for consideration by the Australian Government.

Background

In the September 2016 edition of *Inspire*, we outlined the terms of reference under which the Productivity Commission conducted their review[1], in addition to the key recommendations that appeared in the Commission's draft report[2]. Following its release, the draft report was subject to considerable public scrutiny and the Commission received 620 public submissions in response. Additionally, the Commission held various informal consultations and discussions with both private and government groups after issue of the draft report. Pleasingly, it would appear that the Commission did take notice of the response submissions, particularly those relating to the area of patentable subject matter.

Readers may recall that the draft report included a recommendation to specifically **exclude** business methods and computer software as patentable subject matter in Australia. Fortunately, in the final report, the Commission wisely recommended a 'wait and see' approach, suggesting that 'future grants of software patents should be monitored by IP Australia, with the data collected used to assess whether further software patent reform is needed.'[3] The Commission also noted recent Australian court decisions which 'have made clear that business methods, whether implemented in software or not, are not patentable subject matter.'[4]

Key recommendations

Patents

> Amend ss 7(2) and 7(3) of the *Patents Act 1990* (Cth) (Patents Act), such that an invention is taken to involve an inventive step if, having regard to the prior art base, it is not obvious to a person skilled in the relevant art.

> Abolish the innovation patent system.

> Incorporate an objects clause into the Patents Act.

> Reform extensions of patent term for pharmaceuticals, such that they are **only** available for patents covering an active pharmaceutical ingredient, and are calculated based on the time taken by the Therapeutic Goods Administration for regulatory approval over and above 255 working days.

> Require applicants to identify the technical features of the invention in the claims.

> Increase renewal fees.

> Reduce the threshold for excess claim fees.

Trade marks and geographical indications

> Reduce the grace period for non-use challenges from five to three years.

> Remove the presumption of registrability in assessing whether a mark is misleading or confusing at application.

> Ensure that parallel imports of marked goods do not infringe an Australian registration when the goods have been brought to market elsewhere by the owner or licensee.

> Require trade mark applicants to state whether they are using the mark or 'intending to use' the mark at application, registration and renewal.

> Seek confirmation from owners that register with an 'intent to use' that their mark is in use following the non-use grace period.

Plant breeder's rights

> Amend the *Plant Breeder's Rights Act 1994* (Cth) to enable essentially derived variety declarations to be made in respect of any variety.

Copyright use and licensing

> Make unenforceable any part of an agreement restricting or preventing a use of copyright material that is permitted by a copyright exception.

> Permit consumers to circumvent technological protection measures for legitimate uses of copyright material.

> Amend the *Copyright Act 1968* (Cth) to clarify that it is **not** an infringement for consumers to circumvent geo-blocking technology and avoid any international agreements that would prevent or ban consumers from circumventing geo-blocking technology.

> Repeal parallel import restrictions for books to take effect no later than the end of 2017.

Fair use or fair dealing

> Implement a fair use exception in Australia.

> Limit liability for the use of orphan works, where a user has undertaken a diligent search to locate the relevant rights holder.

What next?

The Government will now consider the Commission's final report and any further public submissions they receive over the next few months. We will report the Government's response to the final report when it issues.

References

1 Spark, K. (2016, June). 'The Australian Productivity Commission releases draft report on intellectual property arrangements', *Inspire!*, 32, pp. 6–7.

2 Chambers, G. (2016, September). 'Productivity Commission draft report: 'In this country, it's too easy to get a patent.', *Inspire!*, 33, p. 4.

3 Productivity Commission. (2016, September). *Intellectual Property Arrangements: Productivity Commission Inquiry Report*, No. 78, p. 263.

4 Ibid.

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Do you own your computer software?

Have you engaged a software developer to code software or an app for you? Is the developer producing custom-made software that is critical for your business? Do you think that you own the rights to this software?

Whether you do own the rights depends on the terms of your contract with the developer. If your written contract says nothing about it, or there is no written contract, chances are you do not own it. If you only have a verbal agreement, and you and the developer fall out, proving that they agreed that you will own the software is difficult without independent witnesses.

Why is this a problem? If you are a start-up, you will not be able to sell your most valuable asset if you don't own it. There may also be questions about your ability to license the software. If the developer owns the copyright in the software and you want to use it for a purpose that is significantly different to that which you discussed with the developer, they may be able to stop you. If the software is only partially developed and your relationship with the developer breaks down, you may not be able to get someone else to take over. The original developer may be able to insist that you start development of the software all over again.

These are many of the problems that we see frequently in the software development space. The answer is simple – get a written copyright assignment (transfer) from the software developer **before** development commences. It is possible that they may refuse to give this – but, at least you then know where you stand, and can decide whether this developer is suitable for your needs. Trying to obtain an assignment down the track is usually problematic, because the developer often sees that you have a great idea and they want a piece of it. They may require an additional payment or may insist on terms that are not acceptable to you.

As with most legal issues, prevention is so much easier than the cure!

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Booze it or lose it! Register your trade marks responsibly.

The expression 'use it or lose it' is often applied to retaining learned skills, but can also apply to retaining rights, particularly rights obtained by trade mark registration.

In Australia, owners must use their mark within five years of applying for the mark. Once that five year period expires, any person can apply to remove the registration on the basis that it was not used during the period of three years, commencing three years and one month prior to filing the application for removal. The onus is on the owner to demonstrate that the mark (possibly with additions or alterations that do not affect the identity of the mark) was used during that period. Use may be by a third party, but the owner must 'authorise' such use.

In the case of *Intellectual Property Development Corporation Pty Ltd v Malina Schindler and Adrian Schindler* [2016] ATMO 103, Intellectual Property Development Corporation Pty Ltd (IPDC) owned a registered trade mark comprising a label with the words 'TERRY'S MOUNTAIN' and a landscape device for 'Beer'. Malina and Adrian Schindler (the Schindlers) applied to remove the mark for non-use on 21 August 2014, more than five years after it was filed, presumably because it had been cited against their application to register their mark (Figure 1) for beer, among other goods.

Figure 1: 'Lithgow Lager' mark

Both parties had based their marks on a label previously used by a defunct entity called Terry's Brewery, however neither party claimed to have rights derived from that earlier use. The Schindlers had unsuccessfully opposed the IPDC mark prior to registration.

To defend the non-use action, IPDC had to demonstrate use of the registered mark during the three year period 21 July 2011 to 21 July 2014. IPDC claimed that they had used the mark during that period in relation to a range of beers; a 'Sparkling Ale' (Figure 2), a 'Pale Ale', and a lager sold as 'Lithgow Lager', with red, blue and green labels, respectively. These beers were sold through a related entity, Thunder Road Brewery. For the purpose of comparison, the registered mark and the red label were juxtaposed in the Hearing Officer's decision (Figure 2).

Figure 2: 'Sparkling Ale' and IPDC's trade mark registration; 1246124

Sharp-eyed readers will note that the top part of the label as used is **almost** identical to IPDC's registration. There are some minor alterations to the font style of the words TERRY'S and MOUNTAIN and the shape of the stars. However, the lower part of the label included the words 'SPRING'; 'SPARKLING ALE', 'PALE ALE' or 'LITHGOW LAGER' and the text:

'BREWED & BOTTLED UNDER LICENSE
WITH THE FINEST MALT, HOPS AND
PURE WATER BY
TERRY'S MOUNTAIN SPRING
BEER COMPANY
5.2% ALC/VOL 330ml'

At the hearing, the Hearing Officer found that there had been trade mark use of the red label, but the other labels had only been used on products given away to staff, which was not use 'in the course of trade'.

The Hearing Officer did not accept submissions made by the Schindlers that the use by the Thunder Road Brewery was not properly authorised. However, he found that while the alterations to the font used for TERRY'S and MOUNTAIN did not affect the identity of the trade mark, the addition of the word SPRING in the labels relied upon by IPDC **did** affect the identity of the mark. While accepting that many of the other added words were merely descriptive, the conceptual differences between 'MOUNTAIN' and 'MOUNTAIN SPRING' meant that the marks were not substantially identical. The differences were further emphasised by the depictions of both a mountain and a waterfall (a mountain spring) in the landscape appearing in the mark. Finally, the difference was also emphasised by the reference to 'Terry's **Mountain Spring** Beer Company'.

As the evidence did not show use of the registered mark, the Hearing Officer found that IPDC had not demonstrated the necessary use, and the registration was directed to be removed.

As Thunder Road Brewery somewhat famously attempted to remove over 50 'heritage' beer marks owned by CUB Pty Ltd for non-use, it is perhaps surprising that the following lessons from that largely unsuccessful attempt do not appear to have been taken to heart:

1. Use a registered trade mark in the form in which it is registered. If a mark is modified, or 'refreshed', consider applying to register the new form of the mark.
2. Make sure that the mark is used 'in the course of trade'. Giveaways to customers build goodwill and may still be in the course of trade, however giveaways to staff will probably not be use 'as a trade mark'.
3. If a mark is being used by an authorised user, ensure that the terms of use are clear. If the owner and user are related, ensure that the nature of that relationship is shown in the evidence of use, and that it is the owner who controls the user, and not the other way around.
4. If successful in obtaining registration despite an opposition, be especially vigilant regarding use of the mark. It is not unusual for opponents to make a second attack some years later as applicants for removal!

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‘It’s not me, it’s you.’ Terminating your business relationship.

The recent case of *Peter Vogel Instruments Pty Ltd v Fairlight.Au Pty Ltd* [2016] FCAFC 172 (9 December 2016) highlighted the importance of a written agreement in determining the parties’ rights when a business relationship breaks down.

This case involved an agreement for Fairlight to develop software for Peter Vogel (PV) in return for four progress payments. Fairlight would supply the software to PV, as well as provide a licence to PV to use the trade mark FAIRLIGHT for the ‘CMI Products’. PV subsequently developed two apps and requested Fairlight’s consent to use the trade mark in connection with these apps as well. Fairlight did not reply. Unfortunately, relations between the parties broke down and each sued the other for breach of the agreement.

The role of a written agreement

Ideally, if a business relationship goes well, the written agreement governing the relationship will remain in a drawer and never see the light of day. But if the relationship breaks down, the parties turn to the agreement to determine their respective rights. A well-drafted agreement can minimise the difficulties of a business relationship break-down, and should clarify each of the parties’ roles and the respective consequences if they are not fulfilled.

Business-like interpretation

In this case, the task of the Court was to interpret the agreement to determine the parties’ rights. In doing so, the Court was required to take a business-like approach and look at the purpose of the agreement, the language used and the surrounding circumstances, as well as avoiding any interpretation that would be a commercial nonsense.

Risks of termination

Fairlight claimed that it had validly terminated the agreement because of a clause which allowed Fairlight to withdraw the trade mark licence if PV’s use was damaging the brand’s reputation. However, this argument failed because the Court held that the agreement could continue to operate even though Fairlight had terminated the licence.

Fairlight believed it had validly terminated the agreement, therefore when Fairlight refused to supply, it actually repudiated the agreement and was liable to PV for any damages that this may have caused.

Terminating a commercial agreement is very serious. It is easy to make a mistake when sending a termination letter and wrongful termination can, as in this case, give rise to breach and repudiation of the agreement by the party who is seeking to terminate.

Going outside the scope of the agreement

Another risky form of conduct is to go outside the scope of what is expressly permitted by the agreement. One of Fairlight’s complaints against PV was that it had used the FAIRLIGHT trade mark on two apps which were not included in the licence. The Court upheld this argument.

PV did seek permission to extend the licence to the apps, but Fairlight failed to respond. It is generally unwise to assume that failure on the other party’s part

to respond to correspondence means consent. If the issue is important enough, it is advisable to seek legal advice as to the best course of action.

Agreements to agree

PV succeeded in its claim of copyright infringement against Fairlight. Clause 20 of the agreement provided that the software would transfer to PV upon receipt of final payment by PV. However, a second sentence said:

> 'The exact definition of IP to be transferred will be defined in a separate document.'

There is an immediate problem with this sentence. It appears to leave something – the 'exact definition of IP', to be determined later. This is what lawyers call an 'agreement to agree'. Agreements to agree are generally unenforceable because the parties have left something undecided and without a means to decide it. In this case, the parties never created a separate document, so the question remained – who owned the IP? – PV or Fairlight?

The purpose of clause 20 was clear. Once PV had paid for the software development, ownership of the copyright in the software should automatically transfer from Fairlight to PV. This is a common clause in agreements with creators of IP and is intended to secure payment for the IP. However, the inclusion of this second sentence raised a doubt as to whether clause 20 was effective at all. Fortunately for PV, the Court considered that the second sentence merely referred to excluding third party and generic software from the IP assignment and this was a 'mechanical step' which did not prevent the completion of the assignment of IP.

Nonetheless, avoiding gaps in agreements is the best way for the agreement to operate as the parties anticipate.

Summary

Both parties had some success in this case. PV established that Fairlight had wrongfully repudiated the agreement, but it was found to have infringed Fairlight's trade mark by using the FAIRLIGHT mark on the apps. Fairlight was found to have infringed PV's copyright by including the assigned software in products that it supplied to other customers.

Having to go to court to sort this out is unfortunate. It may not be possible to prevent a business relationship from breaking down, but a clear written agreement may minimise the fall-out.

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IP nous for crowdfunders

We've all heard the crowdfunding success stories from Pozible, Kickstarter and a plethora of other platforms. But with reward comes risk.

Budding business owners must take steps to protect their intellectual property (IP) before pushing the button on a crowd funding campaign. Failure to do so may result in a loss of IP rights or worse, litigation.

For those who might be considering raising funds via a crowdfunding campaign, here are five things to consider before you launch:

1. **Determine the type of IP associated with your project.** Does your project involve music or film, drawings or photographs? Are you launching a new product name or brand? Have you invented a new device or product? Or a new secret recipe for baking bread? Have you come up with a unique design for a household product?
2. **Undertake your due diligence.** Is your project infringing a third party's IP rights? For example, are you using a brand name that is the same as or similar to someone else's? Are you using or have you copied a third party's pictures, drawings or copy? Does your new device or unique product design take some features from existing products?
3. **Don't disclose.** If your project involves an invention or a design do not disclose it to the public before obtaining professional advice about IP rights, such as patents and designs. Public disclosure at the wrong time may destroy your ability to secure IP rights.
4. **Formulate a long-term IP strategy.** What type of IP protection do you need? In what jurisdictions? How do you obtain this protection and at what stage of your project's development? Early planning will prevent issues arising down the track.
5. **Protect your brand.** If you have chosen a new product name or brand, file a trade mark application to secure rights to that mark. Failure to do so may result in a loss of rights and mean you need to change your name.

These five steps apply not only to those seeking investment through crowdfunding, but to any entrepreneur or business owner seeking to launch a new product or business.

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POF welcomes a new senior associate and trainee patent attorney

We are pleased to announce that a new senior associate and trainee patent attorney have joined the firm. Welcome to the team, Ken and James.

Pictured: POF's new Senior Associate, Ken Bolton (left) and new Trainee Patent Attorney, James Riseborough.

Ken Bolton, Senior Associate

Ken recently joined our Sydney office as a senior associate in the Engineering team. With more than 20 years' experience in the intellectual property industry, Ken has previously worked in private practice and as an in-house attorney for one of Australia's most prolific research and development companies. He has also spent several years as a patent examiner at IP Australia, which gives him detailed insights into the many practical aspects of the patent application process. This varied experience has provided Ken with exposure to a broad range of technologies.

Ken says, 'I look forward to being part of POF and working with such high calibre professionals. POF's strong reputation in Australia and internationally attracts top tier clients and I am keen to contribute my skills and experience towards their business goals.'

Ken's interests include surfing Sydney's northern beaches and trawling cafés with his two sons to find the best smoothie Sydney has to offer.

James Riseborough, Trainee Patent Attorney

James recently joined our Melbourne office as a trainee patent attorney in the Electronics, Physics and IT (EPIT) team.

James is a mechatronics engineer with a degree in advanced manufacturing and mechatronics, from RMIT University. During his undergraduate study, he completed a joint industry project and internship at Cornerstone Solutions as part of the Research and Development team. His project consisted of designing and building an embedded platform for using various image processing techniques, in particular, to abstract data traffic profiling data from imagery.

James says, 'Working at POF is fantastic; a professional and fun place to work all at the same time. I look forward to further establishing a rewarding career here at POF.'

In his spare time, James enjoys music, primarily bass guitar. As a self-proclaimed millennial, James is also passionate about gaming, TV shows, movies, YouTube, and anything else that excites his impulsive curiosity.

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