



Australian Government

IP Australia

Getting to know IP Rights – NSW Small Business Month

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IP Australia

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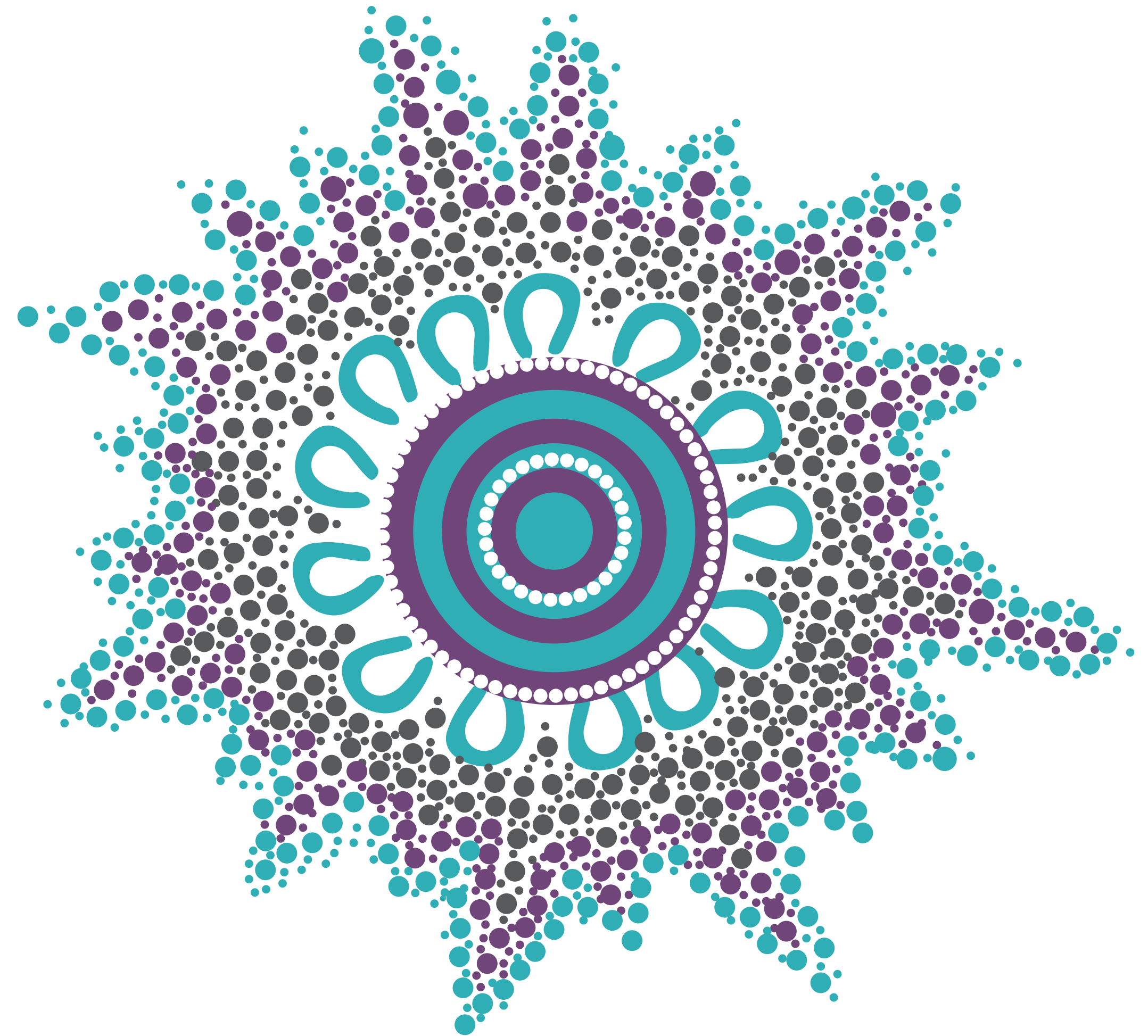
4 October 2023



Acknowledgement of Country

IP Australia acknowledges Aboriginal and Torres Strait Islander peoples of Australia. We acknowledge the Traditional Custodians of the lands on which our agency is located and where we conduct our business.

We pay our respects to ancestors and Elders, past, present and emerging. IP Australia acknowledges Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to society.





Questions?

Scan this QR code or visit slido.com with the hashtag: [#FairfieldHQ](https://twitter.com/FairfieldHQ)

The role of IP Australia

The Australian government agency that administers intellectual property (IP) rights and legislation relating to patents, trade marks, design rights and plant breeder's rights.

IP Australia contributes to the innovation system more broadly by using our skills and experience to advise government and Australian businesses to make the most of their IP.



**Vision - a world
leading IP system
that builds prosperity
for Australia.**

What's intellectual property (IP)?

- Anytime you create something new and original, you are creating IP
- Australia's IP laws provide a legal framework to protect your creative ideas through IP rights.



The IP system

Registered IP

Plant Breeder's Rights

Protects the commercial rights of new plant varieties

Patents

Protects the functions or features of a device, substance, method or process that is new, inventive and useful

Designs

Protects the overall visual appearance of new and distinctive products

Trade Marks

Protects signs that distinguish goods or services of one trader from those of another

Unregistered IP

Copyright

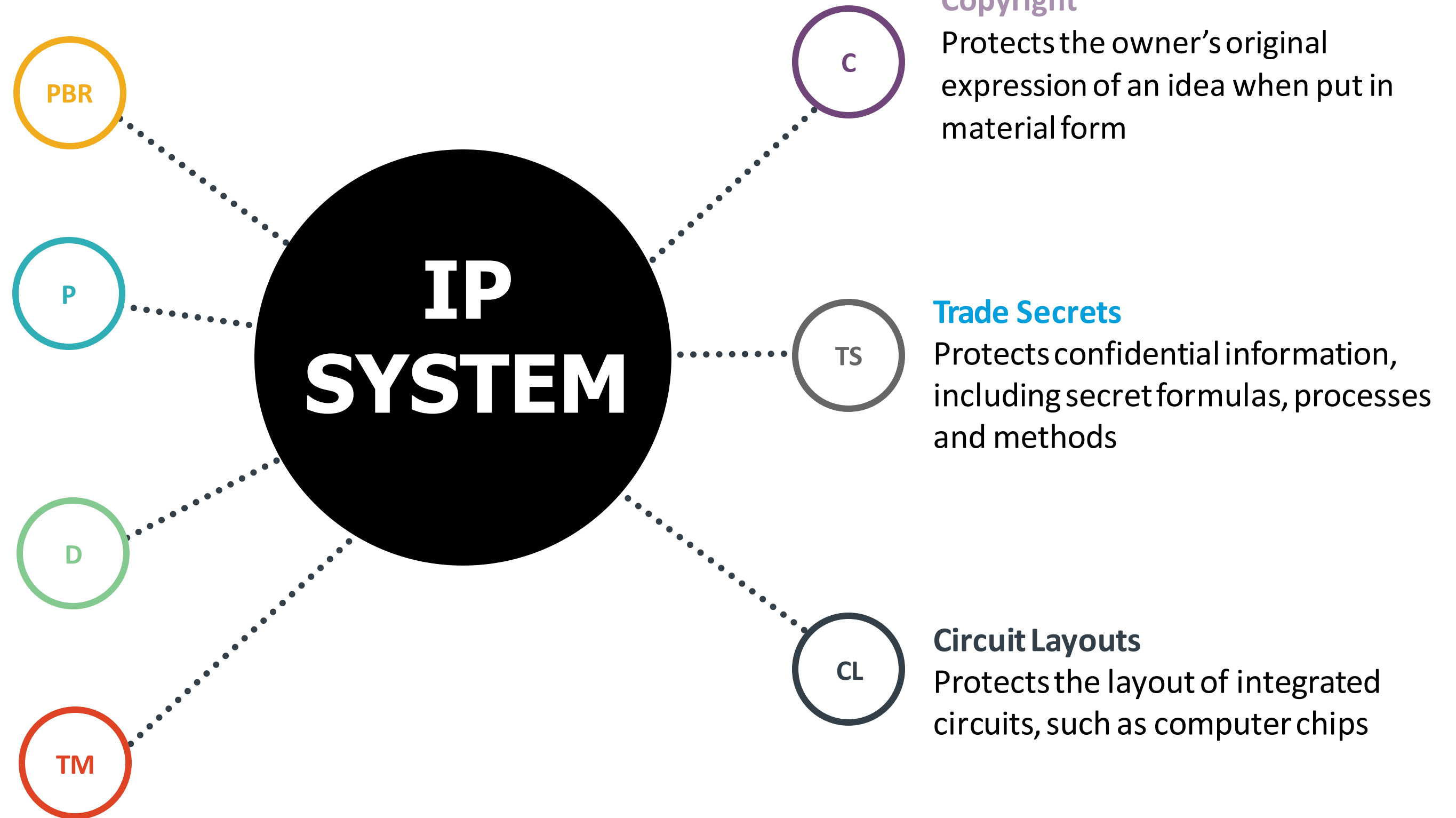
Protects the owner's original expression of an idea when put in material form

Trade Secrets

Protects confidential information, including secret formulas, processes and methods

Circuit Layouts

Protects the layout of integrated circuits, such as computer chips



Why register IP rights?

- gives you the exclusive right to determine **who** can use your IP and **how** it can be used
- gives you the opportunity to sell, license, promote or develop your product while limiting competition for set periods
- reduces the chance of your idea being replicated and passed off as those of competitor
- can be sold for financial benefit



Attracting start-up resources

Both patents and trade marks influence investors' estimates of a startup's value.

- Doubling patent stock boosts start-up valuation by 20% (Hsu & Ziedonis, 2013)
- Applying for a trade mark linked to a 22% increase in start-up valuation (Block et al., 2014)

Effects are strongest in early development stage and financing rounds.



IP in everyday life

Examples of trade marks



Words



Colours



Logos

Examples of patents



Google maps



Cochlear implant



Wi-Fi

Examples design rights



Chair



Mixer



Barbeque

Examples of plant varieties



Sir Walter lawn turf



Pink Iceberg roses



Scarlet Royal red grapes

Trade marks



A trade mark is not just a brand name or a logo, it's an identity. It helps customers differentiate your products or services from those of your competitors.

It can be a letter, number, word, phrase, colour, sound, smell, shape, logo, picture, movement, aspect of packaging, or a combination of these.



This protection gives you the exclusive right to determine how your trade mark can be used and who can use it.



Protection initially lasts for 10 years. This can be renewed indefinitely.

Examples of trade marks



Words

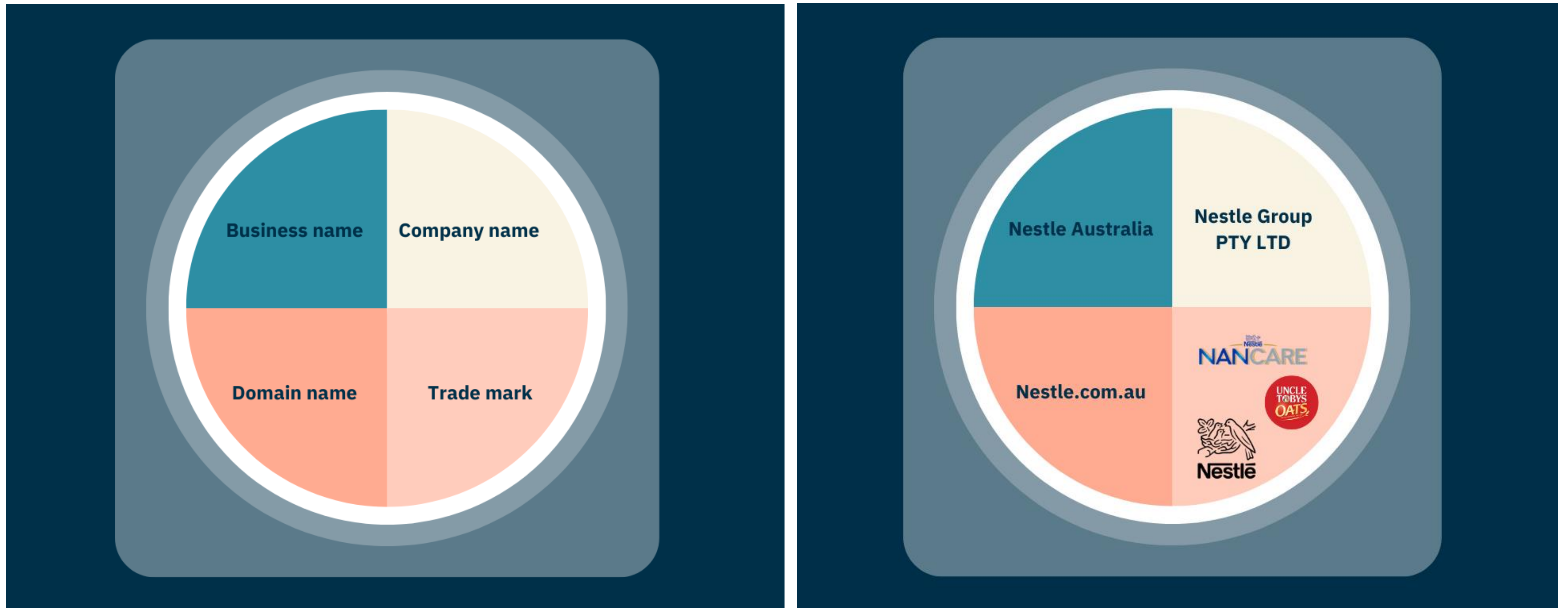


Colours

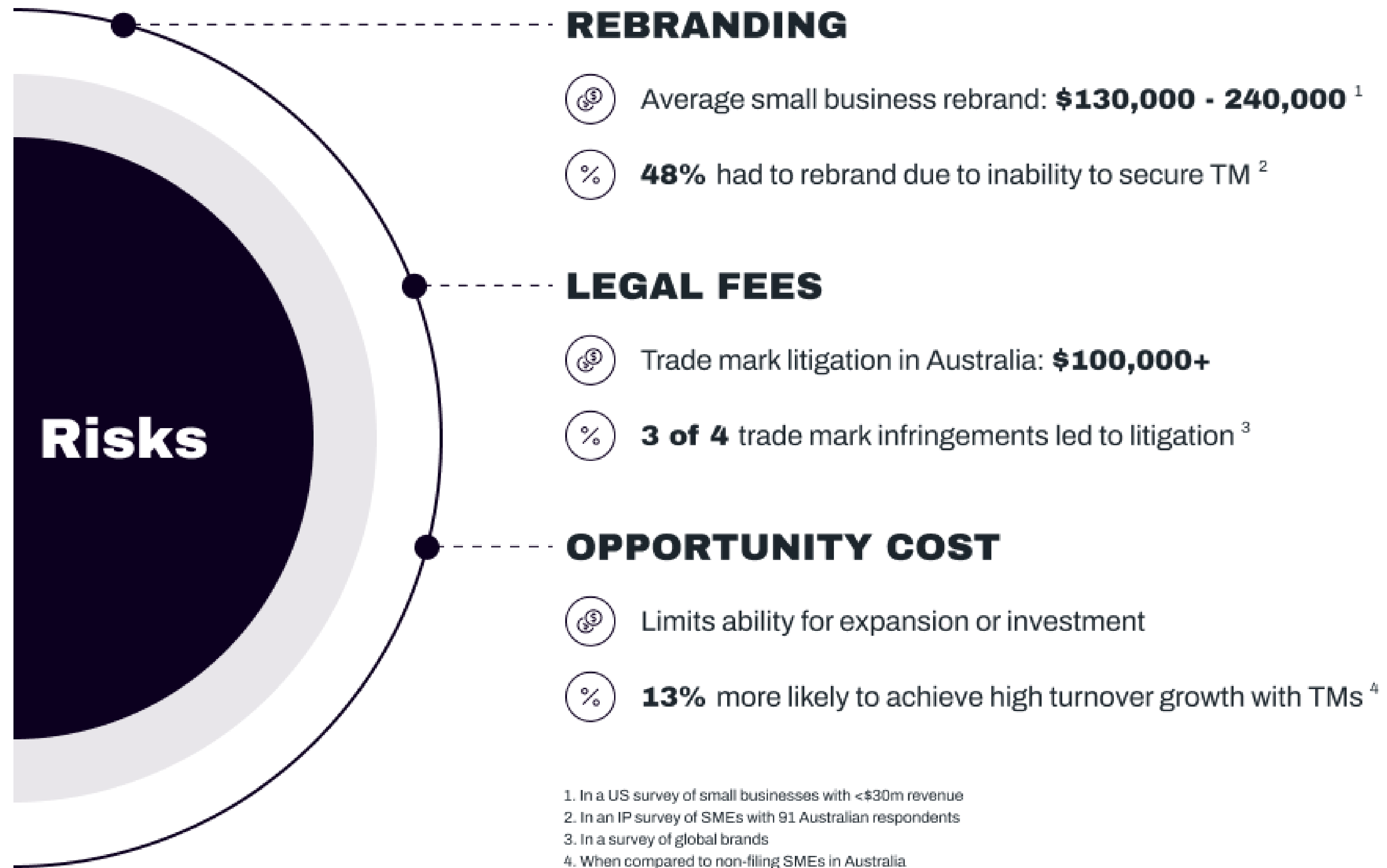


Logos

Common misconception: A business name is not a trade mark



Commercial risks of not getting a trade mark





Protect your brand with a registered trade mark



AN INITIAL CHECK ONLY TAKES A FEW MINUTES



IF YOU DECIDE TO APPLY, IT CAN COST AS LITTLE AS \$330

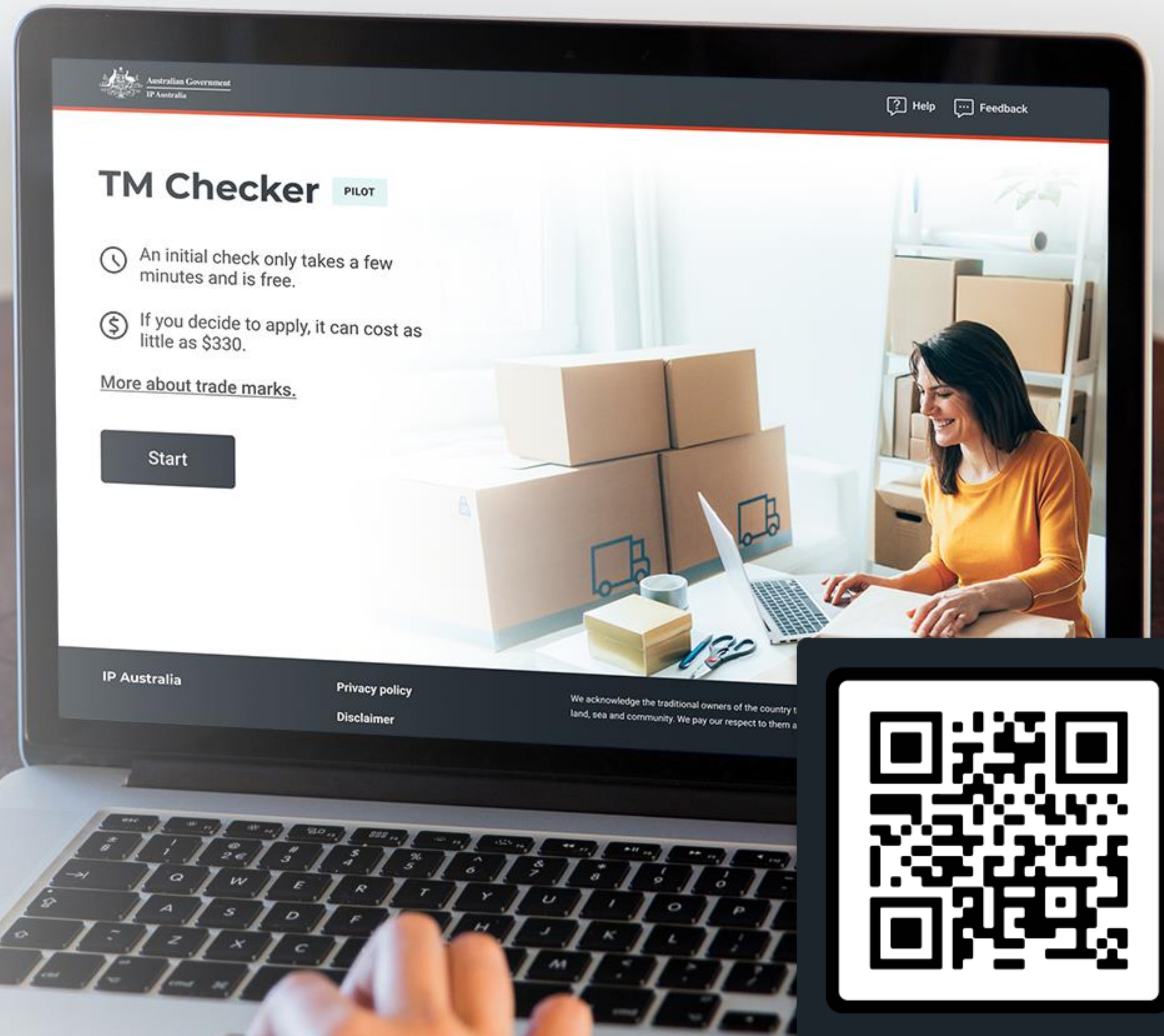


A TRADE MARK PROTECTS YOUR BRAND FOR 10 YEARS



...the trade mark checking experience was extraordinarily straight forward and easy to use compared to the past. It made it a very efficient and easy decision to continue with the application!

Deborah Daly, Impetus for Change



Scan to check your trade mark

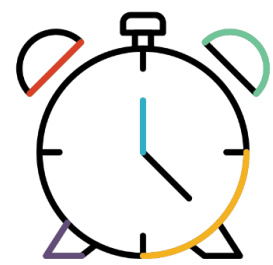
Patents



A patent may be granted only for a new, inventive and tangible invention



This protection gives you the exclusive right to determine how your patent can be used and who can use it



Protection lasts for 20 years, and up to 25 years for pharmaceuticals

Examples of patents



Google maps



Cochlear implant



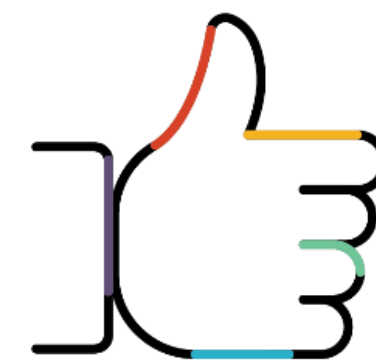
Wi-Fi

Patent options



Provisional application

- Gives you a 'priority date' for your invention
- Think of it as a placeholder. Gives you 12 months to decide if you wish to file a complete application
- Does not give you patent protection.



'Complete' application for a standard patent

- Long-term protection and control over an invention
- Is necessary for patent protection
- Gives you the right to take legal action against others using your invention in Australia without your permission.

Design rights



Design rights protect the unique visual appearance of products that have a physical form.



This could be a combination of visual features, including the shape, colour, configuration and pattern.



Protection can last for a maximum of 10 years.

Examples design rights



Chair



Mixer



Barbeque

Plant breeder's rights

PBR



Plant breeder's rights are exclusive commercial rights for a registered variety of plant.



Plant breeder's rights protects plant breeders and gives them a commercial monopoly for a period of time.



Protection can last for a maximum of 20 years for most plant species and 25 years for some vines and trees.

Examples of plant varieties



Sir Walter lawn turf



Pink Iceberg roses



Scarlet Royal red grapes

Copyright

Copyright protects the owner's original expression of ideas when put in material form such as artworks, music, films, books, maps, computer programs, presentations and poetry.

Copyright is not a registrable right; protection is free and automatic under the Copyright Act 1968. Protection lasts for the life of the author, plus 70 years.

For more information visit the Australian Copyright Council's website

<https://www.copyright.org.au/resources>

If you have an artwork and reproduce it commercially (50+) on items e.g. clothing or merchandise, copyright protection no longer applies, and you should consider protection using a design right.

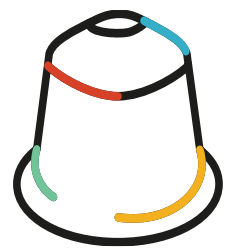
The IP system in practice

Registered IP



Plant Breeder's Rights

Protect the variety of the coffee plant



Patents

Protect how the coffee pod works



Designs

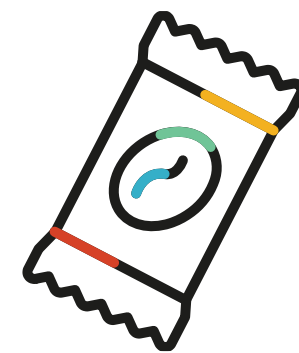
Protect the appearance of the coffee cup



Trade Marks

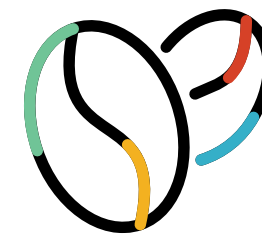
Protect the logo that helps identify this brand

Unregistered IP



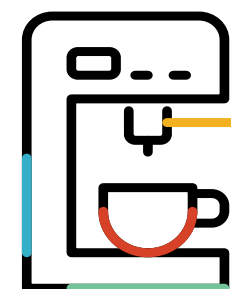
Copyright

Protects promotional materials like an advertising campaign



Trade Secrets

Protect the secret blend of different coffee beans



Circuit Layouts

Protect the layout of an integrated circuit in the coffee machine



How do I know my idea is available? Search!



<http://pericles.ipaustralia.gov.au/ols/auspat/>



<https://search.ipaustralia.gov.au/trademarks>



<https://search.ipaustralia.gov.au/designs>



http://pericles.ipaustralia.gov.au/pbr_db/

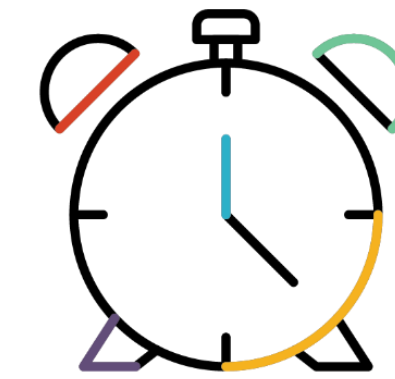
Applying for your registered IP right



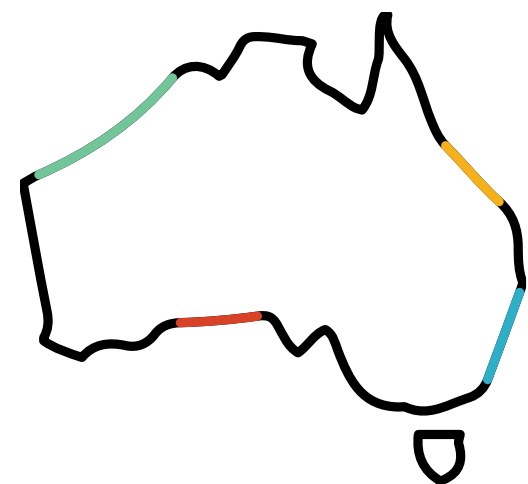
You need to apply and meet legal requirements



Fees are payable at different stages



IP rights have protection periods



An Australian trade mark, patent, design and plant breeder's right does not give you protection outside of Australia



If you find your IP is being copied or used by someone else without your permission, it is up to you to take action against them.

Global considerations

- Develop your global strategy
- Is there a similar product already in that market?
- Can you register your IP in that market?
- Is your product suited to that market?
- Where would you generate the best returns?
- Language and cultural sensitivities?
- Access to resources?
- IP protection overseas
- Financial modelling
- Engage with an IP professional
- Beware of risks



Tips for applying for IP rights overseas

- Search existing IP overseas
- Apply directly or use your Australian application as a basis for an overseas application
- Seek professional advice
- The Madrid System for trade mark applications
- The Patent Cooperation Treaty (PCT) for patent applications.

Examples of IP rights protected overseas



Trade mark
Nike swoosh logo



Patent
Gardasil vaccine



Design
RM Williams boots



Plant variety
Bravo apple (ANABP 01)

Madrid System and Patent Cooperation Treaty (PCT)



Benefits of the Madrid System:

- Apply for protection in multiple countries at once
- Save time and costs by avoiding preparing and filing multiple applications directly to each target country
- Have your application examined according to the trade mark legislation and laws in the designated country or region
- File without needing to find an agent in each country first
- Make a single request for changes of details, or to renew international registrations
- Add other member countries at a later date
- Communicate with WIPO in English.

Benefits of applying under the PCT:

- Receive a quick indication of whether your invention can be patented
- Have your application examined according to a set of standards accepted by all signatory countries
- Streamline the process of meeting diverse formality requirements
- Save time and costs associated with preparing and filing multiple applications directly to each target country.

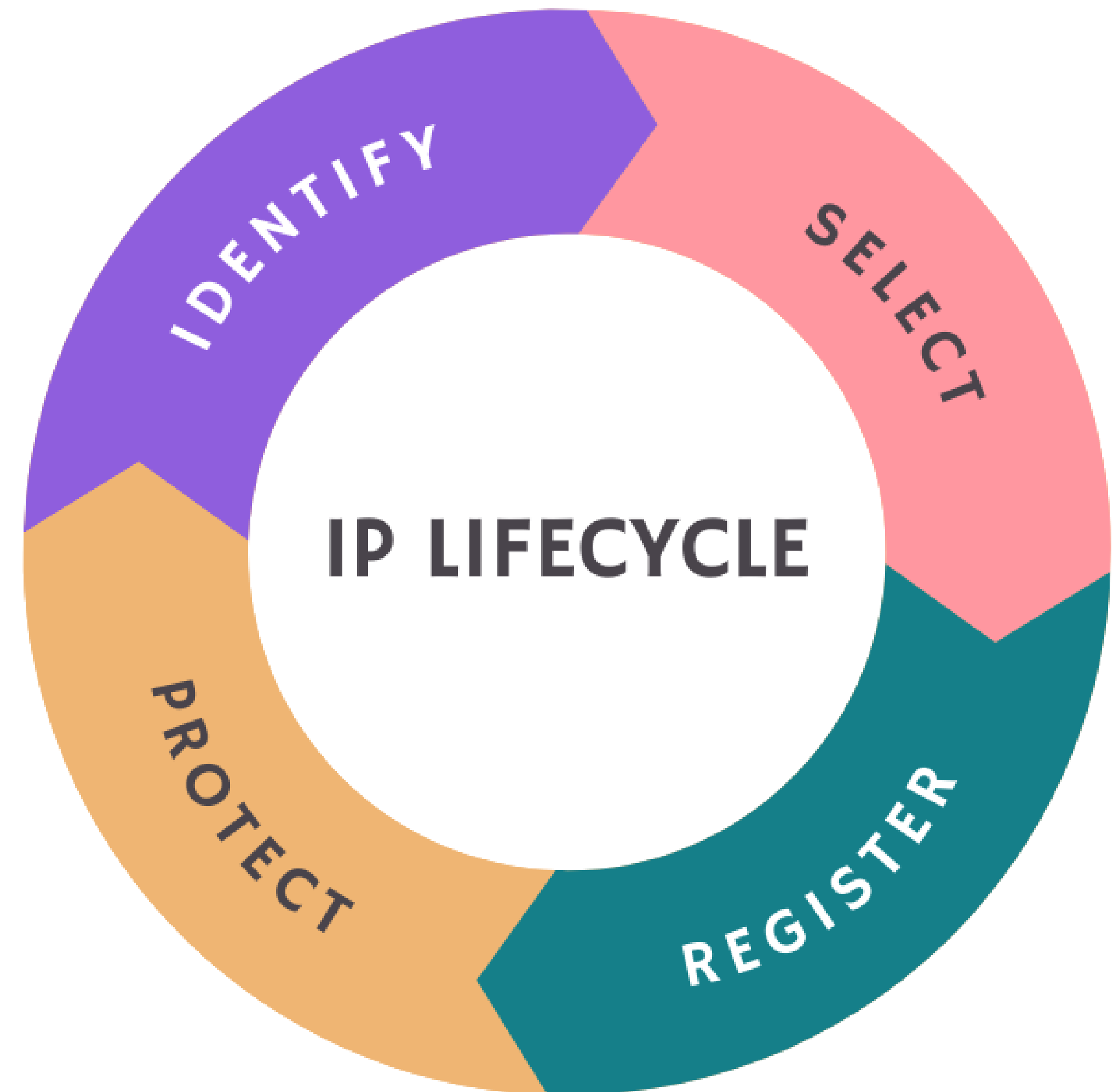
Tips for IP management

- Consider IP early
- Identify who owns the IP
- Learn how different IP rights can work together to protect your work
- When you register your IP, it will be published online
- Design rights and patents need to be a secret until you apply
- Understand the relationship between copyright and design rights
- If your product has a short lifespan, there are alternative strategies that do not include registering IP
- Have a strategy in place to identify what steps you will take if you find someone using your IP without permission
- A registered Australian IP right does not give you protection outside of Australia
- Don't be afraid to get help.

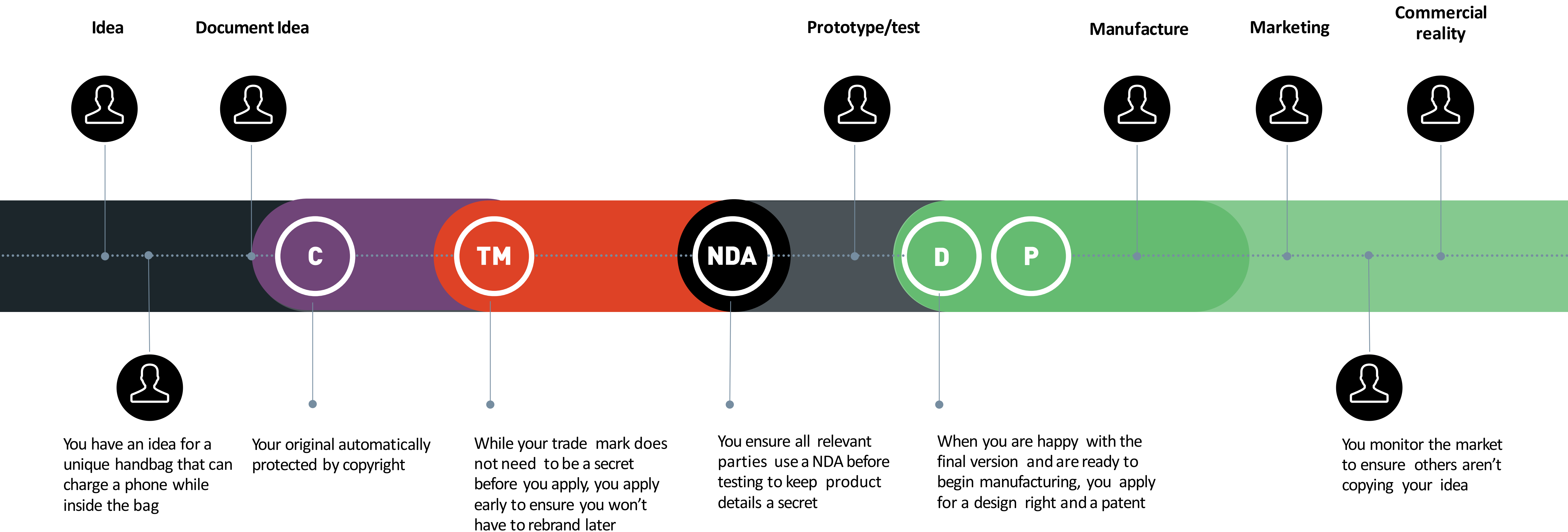


IP strategy and commercialisation

- Identify your IP (background and co-created)
- Register and protect your IP (file)
- Enable innovation
- Commercialise IP – financial benefit

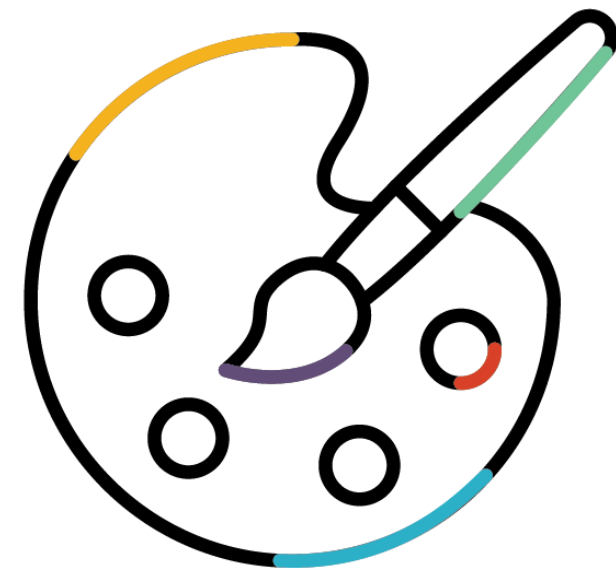


Commercialisation – typical roadmap



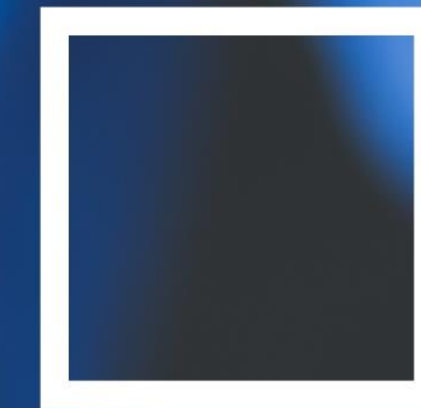
Why is it so important to correctly identify the creator of IP?

The creator of the IP owns the IP...



Ways to benefit from IP

- **Manufacture and sell** - or manufacture for others to sell
- **Assign** – the IP is transferred to someone else, usually in exchange for a nominated sum (sale).
- **Franchise** – the IP is still owned but forms part of a business expansion model, used by a third party under agreed conditions to use as/in their own business e.g. Boost.
- **License** – the IP is still owned but one or multiple parties may be licensed to commercialise the IP (exclusive or non-exclusive) e.g. Intel.
- **Can benefit from competitors adopting and further developing your technology** – e.g. Tesla, IBM





Questions?

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Support and tools



Scan this code to visit our **tools and resources** page to find everything in the one place

Follow us on social media and subscribe to our newsletter to stay up to date with the latest IP Australia news.



TM Headstart

A trade mark service that gives you a quick indication of whether your trade mark is unique, or whether you might encounter any problems, all before you file your application.



Trade mark basics course - Upskill

A free, self-based training for small business owners and individual applicants that teaches all the basics you need to know before submitting a trade mark application.



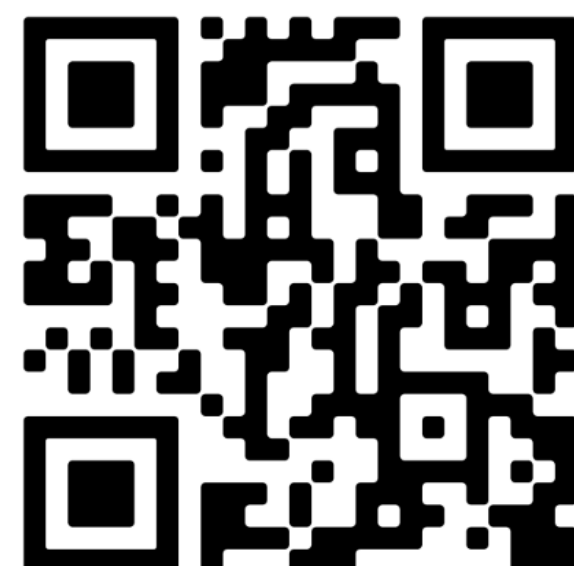
Patent Case Manager

This is a service for patent applicants from small and medium enterprises (SMEs) and connects you with a dedicated IP Australia subject matter expert who is your single point of contact to assist in your patent application process.

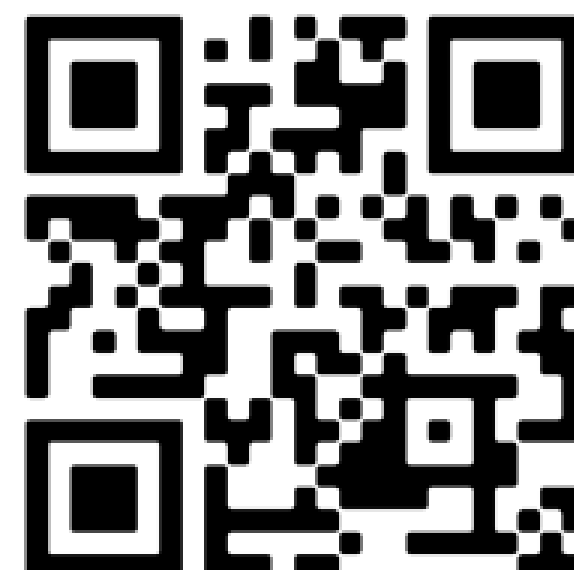
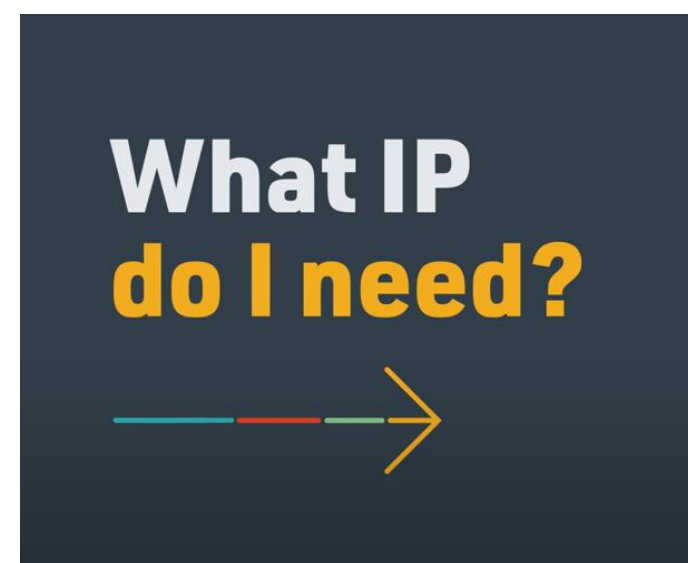


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Education and resources



IP stories



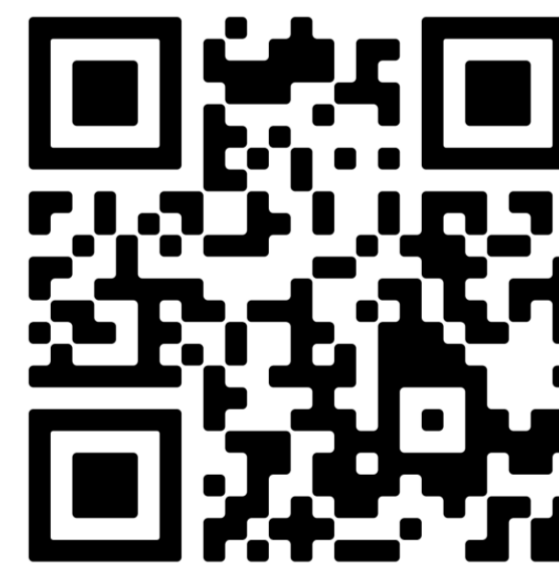
Short videos answering FAQs



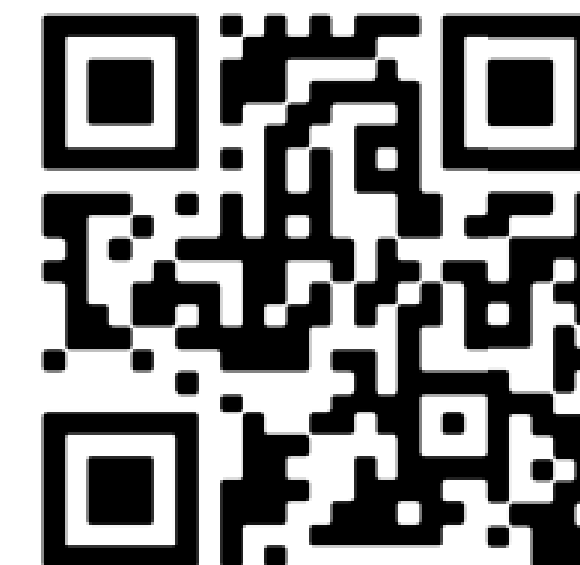
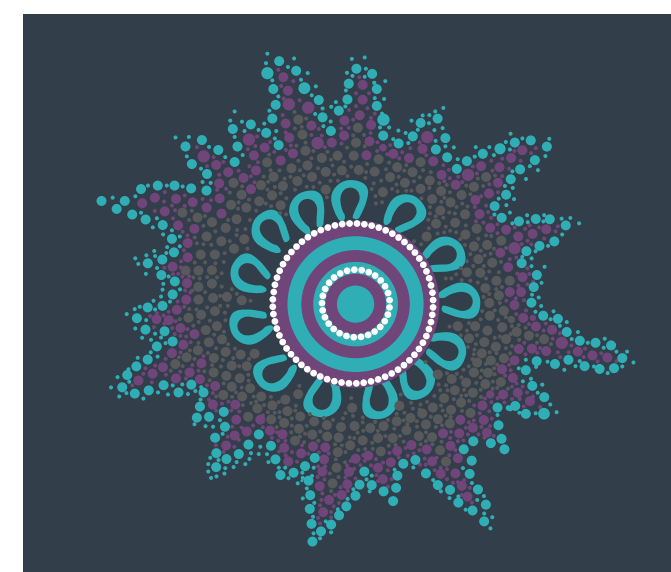
On-demand webinars



Choosing the right IP



Commercialisation and collaboration



Indigenous knowledge and IP short videos



Your feedback is important

Scan the QR code or
email outreach@ipaaustralia.gov.au
to let us know how we did



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IP Australia

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