

Different ways of protecting your  
**innovations**





## Different ways of protecting your innovations

This brochure offers an introduction to the different ways of protecting your Intellectual Property. We look at the various forms, categorised under registered and non-registered rights.

You will note, that it is quite common for a single product or service to require several forms of protection. Take a 3D printer for example. You can register exclusive design rights for the design of the casing, its trademark in the trademarks register and a patent for protecting the operation of its print head.

In addition to these registered rights, you can, under certain circumstances, claim non-registered rights such as a non-registered design right, copyright, trade name rights and slavish imitation.

On the pages to come, we introduce each form in general terms. For a more details, we invite you to contact a member of our team for advice that is tailored to your specific situation.

Please note, that the information on budgets quoted in this brochure are indicative only and exclusive of VAT.



PATENT PROTECTION



DESIGN PROTECTION



TRADEMARK PROTECTION



COPYRIGHT



TRADE NAME PROTECTION

## Registered rights

### Patent protection



#### APPLICABILITY

Patents are applicable to inventions of a technical nature. A patent is used for protecting a solution to a technical problem. As such, it is not limited to a single embodiment of an invention. A patent may be applied to a product, a method, a chemical composition or a certain use.

#### OBTAINABILITY

A patent can be obtained by filing a patent application. This is a legal document in which the invention is explained in text and often some drawings. The so-called claims at the end of the document define the essential features of the invention.

#### REQUIREMENTS

When it comes to obtaining a patent, the two most important criteria are the invention's novelty and inventive step. Novelty means that nothing about the invention has been made public, anywhere, before the filing date of the patent application. Inventive step means that the innovation is not obvious for a person skilled in the art.

#### PERIOD OF PROTECTION

Subject to the payment of renewal fees, a patent right can remain valid for a maximum period of 20 years. That is excluding a possible priority year. In the case of patents on drugs, it is even possible to obtain protection for a longer period.

#### ESTIMATED BUDGET

Depending on the complexity of the invention, the budget for employing a patent attorney to draft and file a Dutch patent application ranges between € 6,000 and € 8,000. This includes the compulsory filing fees and a novelty search. After a number of years, renewal fees will need to be paid. Moreover, you might need to budget for extending patent rights to countries outside the Netherlands. A related budget depends on the countries in which protection is desired and other decisions within a protection strategy.

### Design protection



#### APPLICABILITY

Design protection is applicable to the appearance of an object (3D) or drawing (2D).

#### OBTAINABILITY

This form of protection is obtainable by registering your design in the designs register.

#### REQUIREMENTS

The most important criterion for obtaining a valid design right, is novelty. However, when it comes to a design right, novelty is an elastic concept. A design is novel as long as it has not been disclosed in the relevant territory. If you hold a design right and disclose information about it publically, the law in the Benelux and the EU dictates that this is not prejudicial to novelty as long as you register your design within twelve months of disclosure. It is nevertheless recommended that you register the design prior to public disclosure.

#### PERIOD OF PROTECTION

A design right is valid for a period of five years and can be renewed by payment of a renewal fee every five years, for up to a maximum of 25 years.

#### ESTIMATED BUDGET

You can obtain a design registration in the Benelux for about € 500. The budget for design registration in the 28 countries of the European Union is € 1,250. The budget for protecting a design in other countries very much depends on the selected countries and the strategy necessary for obtaining that protection.

#### NON-REGISTERED EU DESIGN RIGHT

A non-registered EU design right is acquired on first disclosure of the product. Although there is no cost involved, it has a number of important disadvantages: a non-registered EU design right is only valid for a maximum period of three years from the date of disclosure; and a non-registered design right only offers protection in cases in which one can demonstrate that something was deliberately copied. This is, in practice, often difficult to prove.

## Trademark protection

LOGO

### APPLICABILITY

To distinguish the origin of products or services from the competition, words, logos, spellings, packaging, colour combinations, sounds or combinations of sounds for example, can be used as a trademark.

### OBTAINABILITY

A trademark for specific goods or services can be registered in the trademarks register.

### REQUIREMENTS

A newly registered trademark may not render confusion with earlier registered trademarks. Moreover, a trademark needs to be distinctive and may not be descriptive for the goods or services in question.

### PERIOD OF PROTECTION

A trademark registration can be renewed by periodical payments every 10 years.

### ESTIMATED BUDGET

A trademark registration in the Benelux requires a budget of € 800. The budget for trademark registration in the 28 countries of the European Union, is € 1,750. Budgeting for trademark protection in other countries depends on the selected countries and a chosen strategy for obtaining that protection.



## Non-registered rights

### Copyright



#### APPLICABILITY

Copyright is applicable to literary works, science, software programming code, the design of industrial products, design products and art.

#### OBTAINABILITY

Copyright is obtained automatically when a piece of work is created; when a text is written or a product has been made.

#### REQUIREMENTS

The maker's contribution to the product must be recognised. His or her creative input is the key aspect here.

#### PERIOD OF PROTECTION

In most countries, copyright is valid for up to 70 years after the author's death. If the copyright is owned in a legal entity, the copyright is valid for 50 years after first disclosure of the work.

#### ESTIMATED BUDGET

To obtain copyright, no additional acts are required other than the creation of the work. Evidence to substantiate a future claim to a copyright can be obtained by filing a so-called i-DEPOT. The budget for this is € 100.

### Trade name protection

XY™

#### APPLICABILITY

Trade name protection is applicable to company names.

#### OBTAINABILITY

Trade name protection is obtained through the use of a trade name. The protection extends to a territory in which your trade name is known. This could be locally, a specific village or region, or throughout the whole of the Netherlands. In many cases, it is advisable to protect your trade name with a trademark. Trademark protection immediately extends to the whole of the Benelux or the EU, whilst trade name protection often expands gradually. This gradual expansion allows others the freedom to use your trade name or to register it in those territories you have not yet reached. This can stand in the way of your business' growth.

#### REQUIREMENTS

There must be no conflict between your trade name and earlier trade names or trademarks. It must also not be misleading in any way.

#### PERIOD OF PROTECTION

Trade name rights are valid whilst the business is using that name.

#### ESTIMATED BUDGET

There are no budgets involved unless you opt to register your trade name as a trademark.



### Slavish imitation

When none of the above-mentioned legal forms are available, the imitation of a product can sometimes still be stopped on grounds of it being a so-called slavish imitation. A slavish imitation is seen as being identical to the original (almost a 100% copy), while other design choices could have been made without compromise.

# It's our business to put your business first

Are you interested in effective innovation and the best ways of protecting the results? Please feel free to contact us and arrange a meeting with one of our specialists. This first appointment is free of charge and obligation-free.

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