

Protecting your business identity

Does your business have a catchy name and/or clearly identifiable logo? If you haven't trademarked them, a competitor could try to use a similar logo and name.

If you have built a successful business through a quality product, memorable logo and significant market exposure, your business name and logo will be well recognised.

But a competitor could cause confusion by trying to operate under a similar business name or company logo.

You could attempt to stop your competitor from using the similar logo, but if you haven't registered it as a trademark you do not automatically have exclusive use of it, nor the ability to easily prevent a competitor using a similar mark.

You could go to court and rely on the court recognising "goodwill" in your business.

Goodwill generally equates to an established reputation, so if your business is new it can be hard to establish. Also, even in a long-established business, it can be difficult to provide evidence of something as intangible as reputation.

There's no need to leave it to the courts – you can greatly improve the situation by registering your company name and/or logo online.

This is inexpensive and

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simple. If your business is worth running, your company name and logo are worth protecting.

An important part of running a business is being aware of your and others' intellectual property rights.

When setting up a business ensure you are not using a name or logo that is too close to that of another business. If they object to your use of the name or logo you could end up in an expensive legal dispute. It would be a waste of your marketing efforts to have to start rebuilding your reputation with a new name or logo.

There are different fields of intellectual property law that protect ideas, written work, logos, and inventions. The intellectual property right most suitable for you will depend on your idea and the level of protection required. Some common types are:

• Copyright. This protects original work, including written works, artistic works, sound recordings, films, communications and publications. It enables the owner to take action against unauthorised copying of original work. Copyright protection is automatic in New Zealand from the date of creation for a limited



Did Woolworths' stylised "W" breach Apple's copyright of its logo? The technology company thought so and mounted a legal challenge in 2008.

time, which varies depending on the type of copyright work.

No formal registration process is required. However, it is sensible to notify others through a copyright notice in the following

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or similar format: © Copyright 2014, Joe Bloggs [or Company Name]. All rights reserved.

• Trademarks. A trademark links a brand name with the supplier of products and services, and can be either registered or unregistered. By registering your trademark you gain greater protection for your brand name and associated logos. A trademark may be a word or an image. There are various criteria to qualify to be registered as a trademark, including that it is distinctive to your product or service.

• Patents. A patent will protect an

idea by preventing others from using the invention for 20 years. The inventor must prove they have a way to put the idea into practice and must apply for a patent before using or disclosing the idea. Keeping the idea secret is essential to the success of the application. The invention must be original, which can be checked by searching the patent records.



Column courtesy of Rainey Collins Lawyers, ph 0800 733484 or raineycollins.co.nz. If you have an inquiry, email aknowsley@raineycollins.co.nz