

IP Considerations For Exporters

Export planning



The list of factors to consider in an export plan is extensive and the process of trading outside the UK is complex. One fundamental aspect of an export plan which is often overlooked is intellectual property ("IP").

IP is basically a general term for proprietary rights in the names of products or services (trade marks), how things look (designs) and how things work (patents). It also includes copyright, trade secrets and confidential information. IP rights are territorial, so even if you have registered rights in the UK they will not automatically be protected elsewhere.

Appropriate attention should be given to IP when planning to trade overseas or sell to foreign customers over the internet.

Key questions

Prospective exporters should ask two key questions:

- 1) Am I able to enter my target markets and trade there without risking infringement of existing third-party IP rights?
- 2) What can I do to protect my own IP in my target markets and stop competitors from operating there?

It is worth obtaining specialist advice to try and answer these questions. The legal and procedural complexities of IP, particularly across jurisdictions, are significant and should not be underestimated.



IP rights to consider

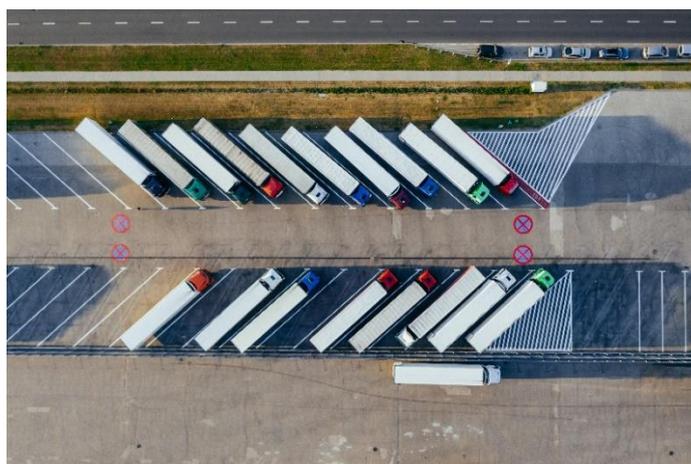
IP rights to be considered may include:

- **Trade marks** – relating to brand names, logos and slogans.
- **Design protection** – relating to the appearance of product or packaging.
- **Patents** – covering innovation in product, process or packaging.
- **Copyright** – including the ownership of logos, images, marketing materials and instruction manuals.
- **Commercially sensitive or confidential information** – managing information shared with third parties.

An IP review

An IP review will help you understand which of these assets are most relevant for your business, analyse the existing IP landscape in your markets of interest and determine your freedom to operate in those target markets by utilising and exploiting your IP.

Identifying and protecting your IP and undertaking the relevant level of due diligence to minimise risk is advisable as early as possible before exporting to a new market, not least because it can take time to get protection in place.



Omitting this review as part of an export plan could leave you exposed to infringement action in foreign jurisdictions and may mean that you are blocked from operating in particular countries.

The possible use of IP rights by third parties should also be addressed in contractual agreements with third parties such as agents or distributors.

When seeking advice in this area you need to be confident that your chosen advisor is fully equipped with the appropriate skills, experience, and qualifications to serve your interests and has a network of trusted and vetted foreign associates which covers your target markets.



Chartered Trade Mark and Patent Attorneys are lawyers who focus solely on this very niche area and are best placed to provide this type of service.

Summary

This briefing note is intended to provide a short introduction to the key issues for companies and it is recommended that these issues are considered in more detail as part of the export planning process, obtaining expert input at an early stage.

Cameron Intellectual Property is a member of Food & Drink Scotland and offers other members the benefit of free initial consultations to discuss new projects or major business initiatives, whether new products or services, entering new markets or due diligence in advance of seeking new investment.

We assist clients with intellectual property matters at all stages of development, from start-up, through growth, attracting investment, or acquiring other brands or technologies. We help our clients to consider all aspects of IP in their business and in their interactions with third parties such as suppliers, licensees or collaborative partners.

Can we help you?

Please **contact Meena Murrin** for further information on how we can assist your business.



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