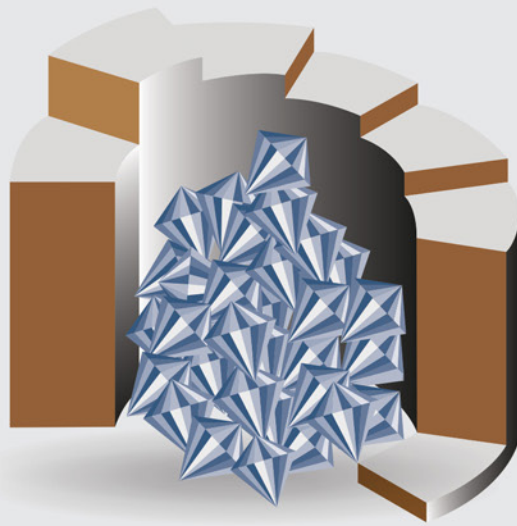


# PLANNING FOR SUCCESS

Enabling commercial success through your intellectual property strategy





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# Introduction

**Y**our intellectual property ('IP') strategy should be an integral part of your business plan — making sure that you use your IP and all your other intangible assets fully and cost-effectively, in order to achieve your company's objectives.

This level of integration is very important. For example, if your patent applications are purely technical exercises and not written with your business plan in mind, then their claim structure may well be inadequate to support your planned exploitation of the technology. Similarly, your business strategy should determine which activities you need to safeguard using trade mark protection, and where.

Recognising the role and importance of IP to your company should also improve your overall business strategy, as it will highlight new opportunities for growth and development through innovation.

This guide will help you to identify the types of IP that are critical to your business, and whether you need to build, buy or partner to access the key assets you need and create lasting competitive advantage for your products and services. It is designed to be read in conjunction with other guides in this series—particularly the ones covering audits (how to identify your strategic assets), IP intelligence gathering and international expansion.

Developing an IP strategy is a team exercise involving collaboration between all those in your company who have responsibility for sales, finance, compliance and research & development. It should also be a 'living' document that is regularly updated and shared with employees.

Lastly, the strategy itself will be an important asset. A recent report by a well-known global legal services organisation identified that less than half of the major European businesses surveyed had a documented IP strategy for their business. Even more surprising, only 29% had a strategy document that had been formally signed off by the board. However, the same survey found that businesses with a documented strategy rated themselves as more successful than those without.

Produced by IPOS International, these intellectual property management (IPM) business guides aim to deliver a suite of IP solutions for enterprises based on industry best practices. As the expertise and enterprise engagement arm of the Intellectual Property Office of Singapore (IPOS), IPOS International helps enterprises and industries use IP and intangible assets for business growth. Some of these engagements may be eligible for Enterprise Singapore (ESG) funding, such as the intangible asset audit and strategy development aligned with business goals. IPOS International's business portal [www.iposinternational.com](http://www.iposinternational.com) also contains case studies and videos of enterprises leveraging IP to gain a competitive edge in their innovations. Should you have questions on IPM matters or wish to speak with our Intellectual Property Strategists, do email us at [enquiry@iposinternational.com](mailto:enquiry@iposinternational.com) or call +65 63308660.



# IP's role in your business strategy



01

# 1. IP's role in your business strategy

## Why does my company need an IP strategy?

If you are a knowledge-based business, you can be sure that the majority of the value in it, and the key to realising value from it, lies in your intellectual property. However, this IP would not manage itself. It needs to be planned for, looked after and,

where appropriate, protected by way of registered rights if you are to realise its true value.

There is a tendency within a business to think of IP as being a complicated legal matter. Development of a strategy provides a 'blueprint' to educate everyone in the firm, from your CEO down, on how IP creates value within your company and the part that they can play in developing and maintaining it. If you do not have a clear strategy—one that defines and allocates responsibilities for looking after these assets—you cannot blame your team if they fail to take timely action.

Being first to market can be great for a business, but not when it has no ability to deter 'copycats' freeloading on a good idea. Strong IP is often central to the delivery of a competitive advantage and helps it to become sustainable. To make the most of your investment in R&D, you need plans and procedures that make sure IP is considered before, during and after every product or service launch.

While strategic IP management has a great upside, mistakes can be expensive. As explained in more detail in the guide—**Going Global**, the territorial aspect of IP rights simply means that where registration is needed, it has to be done in all the countries (or sometimes regions) where protection is required. For example, protecting your invention by way of patenting on a global level ultimately requires engagement with national and/or regional patent offices, which represents a substantial investment.

If your patent covers technology that is core to your business, you cannot afford to miss the statutory deadlines to extend it. If your trade mark approach is not aligned with your marketing strategy, you could find yourself with rights that are irrelevant or obsolete. The same is true of design rights that are taken out in ignorance of future product development plans. A good plan will set out what you need, and why it matters.

In summary, a well-thought-through IP strategy will help you exploit opportunities with confidence, manage risks effectively and plan for the future with greater certainty.



*“IP is often an essential component in making a competitive advantage sustainable in the longer term”*

## Can an IP strategy help me in other ways?

**H**aving a well-structured IP strategy can be an asset in its own right. It's particularly important for early-stage companies that are looking for investment, but also essential for a business of any age that wants to grow.

If your business has yet to start trading, getting your IP strategy in good shape can help to give investors confidence that you can establish and sustain some market differentiation. As a relatively young business, it's likely that a lot of the IP that your business will need has not yet been created, so you need to be able to chart the future development of assets, and generate confidence that you know how to build or obtain what your business needs.



In any fast growth environment, it's especially important to show stakeholders that you know how to manage your IP strategically. This means you can separate the valuable ideas from the worthless ones, prioritise your development efforts to keep burn controllable, grow your rights portfolio in a deliberate and orderly way, take effective action against imitators, and minimise the risk of infringing the IP rights of others (an expensive distraction).

*“ Investors at any stage of a company's development will want to be confident that you know how to manage and exploit your IP ”*

The IP strategy itself should be an input to help you determine your investment needs. The thought process involved in mapping out your IP development and maintenance pathway can assist your budgeting into the future, and not just in respect of filing costs: it can help you anticipate the skills and resources you need. If your IP is strong and has a clear connection to cash flows, you may even be able to leverage its value to generate interest from investors or investment funds such as the Makara Innovation Fund.

## What are the main ingredients of an effective IP strategy?

**S**ince IP is unique, no two companies' plans will be exactly alike. However, there are some key questions that every IP strategy should address.

It's important to take a broad, '360-degree' view of what IP means to your company. There are three main dimensions to this challenge. Firstly, you need to look inside and outside your business. Secondly, you need to look both backwards and forwards in time when assessing your needs. Thirdly, you need to regard IP not just as a set of legal rights, but also as a business asset, applying the same key tests to it as you would with other tangible assets.

**1.**

Looking inside and outside your business is the process of comparing your approach to IP management with those of your peers and competitors. What can a comparison of your portfolios tell you about the directions in which your respective companies are heading? Is anyone infringing your IP — or are you getting uncomfortably close to assets that other people own? Are there external changes on the

# 1. IP's role in your business strategy

	way that might affect how you do business and your IP needs?
2.	Looking backwards and forwards means including a review of the IP that you already have (which means you need to have a clear idea of what it all is!) to confirm that your older assets are still needed. If you are confident that they are not, you can consider disposing of them or abandoning them at the next renewal. It also means examining what you have in the product or service development pipeline, and considering whether and when action should be taken to protect it.
3.	Looking at IP as an asset is a process of considering the return it has delivered or is expected to deliver in future on the investment that has been made in it. It's the same calculation you would make when judging whether to make capital investments in 'hard' assets. Spending \$100,000 on patenting may sound like a lot, but not if it makes it possible to generate profitable multi-million income streams.

*“It's particularly important to ensure your strategy is outward-looking, and anticipates external threats and opportunities”*

Your strategy should use this analysis to set out a vision of what IP means to your company, describe a prioritised programme of activities, allocate clear responsibilities and set budgets.

## How is this different from a business strategy

**B**usiness and IP strategies can often have broadly similar headings. Your IP document should be fed by, but also feed into the overall company strategy. It is a focused piece of work that concentrates on building asset value. It is especially necessary because

you would not see the effects of many of your investments in your company's accounts.

*“Although your IP strategy may use a similar set of headings to other plans you produce, its contents should be very specific”*

To determine what your strategy should be, you will need to conduct a clear analysis of opportunities and threats, and construct a programme that sets out who will do what and when in order to achieve it, and how much it will cost. This is similar to writing a business plan: the difference with an IP strategy is that each section of it will be much more specific to your IP needs.



For example, as part of your review of opportunities and threats, you may identify the need to acquire or license in IP from other organisations to minimise infringement risk or expand your product or service capabilities. This will be determined by the company's wider strategy of product and service development.

It is helpful to use the strategy development exercise to derive a set of objectives that are 'SMART', This generally stands for Specific,



Measurable, Achievable, Relevant and Time-bound (though plenty of alternative versions of this mnemonic exist).

Once complete, the findings from your IP strategy should also feed back into your business plan, for example, in terms of your recruitment strategy. If your review finds that you are relying on outside contractors to deliver critical aspects of a technology that is growing in popularity, your IP strategy may prompt you to consider bringing that expertise in-house in order to maintain ownership and control over what are becoming 'core competencies'.

An IP strategy also complements a business plan by setting out the investment you expect to make in building 'intangible', non-physical assets, and the returns you expect this investment to generate. Unlike the costs of new plant and machinery, for example, the amounts you spend on R&D and other forms of internal IP development are unlikely to be visible in your accounts. A strategy document provides a means to explain these investments and their benefits to internal stakeholders, who would not be able to see them on your balance sheet.

## Is more IP necessarily better?

If your company revenue stream is dependent on technological innovation or creativity, then IP is bound to be at the heart of your business strategy. However, what matters is to make sure that you have the rights you need, rather than accumulating IP for its own sake. This applies to the type of rights you obtain and what they cover.

Taking patents for example (since these involve the biggest cash outlay, and are generally regarded as being the strongest of all of the IP rights), filing patent applications is simply not relevant for many types of business. Even when patents do underpin your business model, it does not follow that patenting everything you invent will make commercial sense, because costs can quickly become prohibitive (although even if you can't patent, or decide not to do so, it is still wise to keep your inventions secret).



When it comes to IP, the best strategy is to get the optimum return on your investment by making well-informed decisions on the assets that really need to be protected, managed and exploited.

*“IP choices need to be informed by your internal plans and your assessment of external opportunities and threats”*

In making decisions about what to protect and how best to do it, some of your considerations will come from within your business, and some from outside it. The internal ones are about working out how to use IP to support the achievement of your corporate goals, as set out in the following chapter.

The external ones, developed in the rest of this guide, relate to considering which ideas and inventions are emerging from your business that could represent a competitive advantage. Here, using the same IP example as above, you'll find that while patents are costly, it is at least reasonably straightforward to work out what rights other people already own (though you won't be able to tell what they are in the process of developing

# 1. IP's role in your business strategy

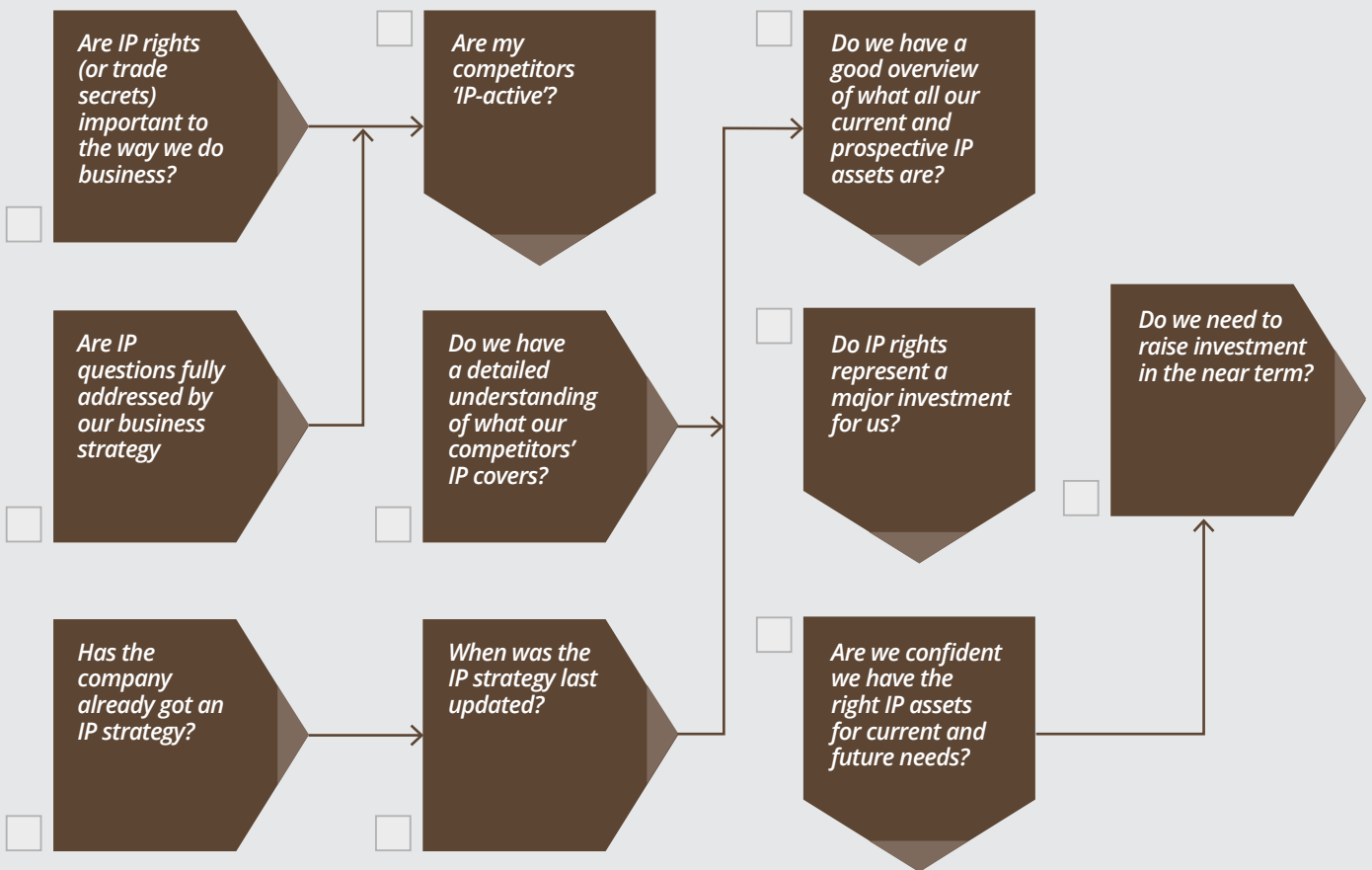
until any related patents are published). A prior art search, as described in our guide on IP intelligence, can provide the external input you need.

It is this combination of internal and external inputs that will help you decide the relative value in proceeding with any patent application (or indeed any other potentially relevant IP protection). It will also show you whether your invention or creation is or could be, a potential improvement on the products and services already in the market.



## SUMMARY

The following chart provides you with a set of high-level questions to help you determine whether you should write a strategy now.





# Planning your IP strategy



02

## 2. Planning your IP strategy

### What's the right relationship between my business and IP strategies?

The IP rights that your company requires, and how they will be deployed to trade successfully, will be determined by your business strategy. In turn, the IP you build should create new opportunities that will need to be factored into your wider planning.

At first sight, this may sound like a 'chicken and egg' situation! But it is just a reflection of the fact that both business and IP strategies need to interact so that your company can be adaptable. What it really means is that you need a well-articulated set of forward-looking business priorities, to be the background against which you can make good IP decisions.

The most important message that must be incorporated into your business strategy is that IP should be viewed as an asset, not just a cost. As explained in the previous section, it is an investment a company makes for the longer term: it just happens not to be visible on the company balance sheet.



*“Your IP strategy is part of your overall business planning approach. For best results, both strategies should inform each other”*

Many IP strategies you can adopt will make a real difference to the top and bottom line of your business. For most firms, the biggest difference that well-managed IP makes is that it protects a competitive advantage, thereby enabling you to sell more products or services at better margins. Sometimes it's a requirement of obtaining grant funding for innovation that you have a plan in place to manage the IP that will result.

You can transact deals with your IP too. You may find, for example, that your technology is applicable to markets where you have no intention of trading, in which case you may be able to license it to other companies. Alternatively, as your business grows, there may be opportunities to obtain tax advantages in certain jurisdictions. You may wish to approach one of the practitioners listed on the IPOS International website to obtain more details.

Companies are increasingly recognising that business value is not intangible assets, like plant and equipment, but in intangible assets such as brands, data, know-how and trade secrets. The shift in value requires a shift in strategy and management. IPOS International helps enterprises to develop and align their IP strategy with broader business strategy over the mid to long term. The strategic management of intangible assets is targeted to help businesses strengthen their market position, improve risk management and leverage on the value of their intangible assets. In this way, companies can create a strong competitive edge to supercharge their business growth and expansion opportunities.

## Who should 'own' my IP strategy?

*“There's no right or wrong person to lead your IP strategy, as long as they are senior enough to engage the whole business”*

**D**epending on the nature of your operations and the structure and maturity of your organisation, your IP function can sit in a number of different places. What is important is that someone in a senior internal position is able to act as an 'IP champion' and work with the rest of the company to formulate, disseminate and update the strategy.

Strategy formulation and maintenance is not something that can safely be delegated to anyone outside your company. This is as true with IP as it is anything else. In particular, while it is important to have strong relationships with your patent agent and IP lawyer who can provide your business with valuable advice, neither can reasonably be expected to determine what's best for your firm as a whole. On the contrary: if you have a sound strategy, you will be in a position to give external advisors a clear sense of the direction you want to pursue—and it will enable you to give them what they need most: a good brief!

In a small or start-up company, it generally makes sense for the Managing Director or Chief Executive to lead strategy development, including the IP strategy. If your business is a little larger and very technical in nature, it will probably rest with the Chief Technology Officer or their equivalent. If your business is IP-reliant and substantially larger, you may have your own legal counsel, who would naturally become the 'go-to' person for day-to-day IP rights matters.

Sometimes, the Finance Director may hold the IP brief. There is nothing wrong with this in principle, as long as they are suitably convinced of IP's role as a strategic asset rather than just being an expense, as explained in the previous section.

Whoever owns the strategy, they need to have responsibility for educating all your employees about your company's IP policy and the essential role IP plays in your business's success. As discussed in more detail in other guides in this series, this message also needs to highlight the importance of confidential information, ensuring you keep your valuable secrets to yourself.

If your company culture is one that appreciates the importance of IP to your business success, you're much less likely to encounter issues in areas such as invention disclosure and information 'leakage'.

## 2. Planning your IP strategy

### Who do I need to involve in the development of my IP strategy?

**D**eveloping an IP strategy is a team effort since it is developed and used in so many different areas of your business. The process of creating and implementing the strategy will also drive increased understanding throughout the whole company. Here are some

of the people you will want to involve internally, and how they can help.

As well as making sure that your company's overall aims are adequately represented, which should be assured by the direct involvement of senior management, there are **three main areas** relevant to most businesses where inputs are likely to be particularly useful:

- |    |  |
|----|--|
| 1. | people closest to creating the IP assets,                      |
| 2. | people who deliver them to customers as products and services, |
| 3. | people who market and sell them.                               |

While 'inventors' are typically associated with conventional research and development activities, IP asset creators can be in many places: they may be software coders, graphic artists, development chefs or writers. Once you understand how diverse the range of IP assets can be, you may find them in many different business roles (you may find the tools available from the IPOS International website helpful in doing this).

Your strategy needs to take into account the new things they are working on, and the opportunities they see for business improvement. Most importantly, you need to consider how new inventions are captured and evaluated. Ways of doing this are covered in more detail in another of these guides—**Creating Business Assets from your Ideas**.

It is also important to engage the people in your company responsible for operational matters, as ideas for process and efficiency gains often come from those best placed to observe opportunities for improvement. These may lead to the identification of trade secrets, improved designs, new copyright materials and even patentable inventions.



The last group is in some ways the most important of all, as they are your eyes and ears on the market. Customer feedback is a vital input to understand where opportunities lie to improve or expand your existing offering, where you may be missing out in relation to your direct competition, and where advantages lie that need to be better protected for the long term—which might involve taking out IP rights, such as trade marks, to cover new applications and territories.

*“As well as senior management commitment, several teams should be directly involved in IP strategy development”*

While this kind of approach should pick up the key IP creation, delivery and sales aspects, it is worth bearing in mind that IP can be developed in many different places within your business. For this reason, educating staff about the nature of IP and the contribution they can make can be very beneficial.



## SUMMARY

The following summary may help to clarify the two-way relationship between your business plan and IP strategy development. The arrows indicate which of these exercises would generally 'take the lead' in determining content and direction.





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