

An abstract graphic on the left side of the slide, consisting of a series of overlapping, semi-transparent shapes in shades of green and blue. The shapes are curved and layered, creating a sense of depth and movement, resembling a stylized 'b' or a series of concentric curves.

# **Intellectual Property Rights & Building Commercial Success**

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# Introduction

- Value of intellectual Property Rights
- Overview of relevant rights
- Key aspects to successful commercial exploitation:
  - ownership
  - protection
  - licensing and related issues



# Intellectual Property Rights

- A key asset for any organisation
- Allows created items to be owned, controlled and commercially exploited in similar ways as real property
- Encourage further creativity and innovation
- Many items protected by various and different rights e.g. web site
- Auditors, commercial private sectors consultants or others can assist in valuing intellectual property assets



# Overview

- Copyright
  - Copyright, Designs and Patents Act 1988
  - protects works e.g. literature, art, software
  - not ideas – the embodiment of the idea
  - automatic protection – no registration necessary
- Trade Marks (i.e. brands)
  - sign or symbol (names, logos, sounds, smells)
  - distinguishes goods/services of one supplier
  - registered or unregistered



## Overview (2)

- Patents
  - inventions
  - monopoly right i.e. don't have to copy in order to infringe
  - invention must be:
    - new
    - involve an inventive step
    - capable of industrial application
    - not prohibited
- Designs
  - protect the outward appearance of a product
  - again, can be registered or unregistered
- Database rights
  - collections of independent materials or works arranged in a systematic way
  - substantial investment in the making of the database
- Confidential Information
- Domain names



# Ownership of rights

- Ensure you own the intellectual property rights you would like to exploit
- Bear this in mind from the outset of the development
- Were they developed by your employees?
  - development in the course of employment
  - employment contracts
- Or developed by third party consultants?
  - transfer of ownership must be in writing and signed
  - importance of confidentiality/NDAs
- Or developed jointly with other parties?
  - have you assigned your rights?
  - “joint ownership myth”
- Are the rights capable of registration and, if so, are you the registered owner?
- If you do not own, are you adequately licensed?



# Commercial exploitation - licensing models

- Needs to reflect business model
- Consider how revenue is to be maximised from the exploitation
- Alone or with others e.g. private sector partner
  - vehicle for exploitation
  - risk sharing
  - costs and ongoing marketing and development
  - revenue/profit sharing



# Licensing

- Identity of licensee
  - enterprise/organisation licence? business unit?
- Fixed number of users
- Site licence
- Exclusive, non-exclusive, sole
- Rights to sub-license – resellers, distributors and agents, development
- Duration
  - perpetual, irrevocable, non-terminable
  - fixed term
- Purposes
  - non-commercial
  - internal business purposes
  - services to you and others



## Other issues

- Protecting your rights during exploitation
  - audit rights
  - reporting obligations
  - termination
  - infringement actions
- End user service & support
  - warranty/quality issues
  - support and maintenance
  - updates and upgrades
  - escrow arrangements



## In conclusion...

- Many issues are best addressed prior to the point at which the opportunity to commercially exploit arises
- Best practice and conduct can support such commercial opportunities
- Overall commercial package of support and service
- Unlikely to be without some commercial risk

ANY QUESTIONS?

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