



Australian Government

Department of Education, Employment and Workplace Relations

BSBIPR405A Protect and use intangible assets in small business

Revision Number: 1

BSBIPR405A Protect and use intangible assets in small business

Modification History

Not applicable.

Unit Descriptor

Unit descriptor	<p>This unit describes the performance outcomes, skills and knowledge required to effectively protect and exploit the intellectual property of a small business. It focuses on identifying and valuing intangible assets, implementing measures to protect and commercialise these assets as well as avoiding the infringement of others' intellectual property rights.</p> <p>No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.</p>
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Application of the Unit

Application of the unit	<p>This unit applies to individuals who either operate a small business or who are investigating the establishment of a small business. It particularly applies to small businesses that have intangible assets with market value which require protection, and which can be used to improve business performance.</p> <p>Intangible assets refer to assets which may be protected under a range of intellectual property legislation, including patents, trade marks, designs and copyright, as well as protection under other techniques, such as common or contract law.</p> <p>This unit encourages small business owners to seek expert advice from intellectual property professionals when required for the protection of intellectual property.</p>
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Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
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Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.
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Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
1. Identify and value intangible assets which are key to the small business	<p>1.1. Identify <i>intangible assets</i>, which are a key to the ongoing success of the small business, through an <i>intellectual property audit</i></p> <p>1.2. Research appropriate <i>sources of information and advice</i> for protecting and effectively exploiting the small business's intangible assets, and seek professional advice when required</p> <p>1.3. <i>Value</i> intangible assets so they can be incorporated into the <i>business plan</i> and risk assessment strategy</p>
2. Identify and select types of protection available for intangible assets	<p>2.1. Identify the <i>types of protection</i> for intangible assets, including <i>registered</i> and <i>unregistered</i> protection</p> <p>2.2. Identify relevant <i>legislative requirements</i> in relation to the proper use and protection of intangible assets</p> <p>2.3. Calculate the likely costs, risks and benefits of potential types of protection available</p> <p>2.4. Assess organisational requirements, and balance costs and benefits to select the most appropriate methods to protect and use intangible assets</p>
3. Implement appropriate protection for intangible assets	<p>3.1. Ensure all employees, partners and directors are aware of the importance to the small business of protection of intangible assets</p> <p>3.2. Implement <i>confidentiality agreements</i> if appropriate with employees and others who might have access to commercially sensitive information</p> <p>3.3. Search <i>appropriate databases</i> and other resources to determine whether the small business's intangible assets are original, to avoid infringement of the intangible assets of others</p> <p>3.4. Follow procedures to protect intangible assets according to the type of protection required, using appropriate intellectual property professionals</p> <p>3.5. Develop and implement processes for detecting and defending infringements against the small business's intangible assets</p> <p>3.6. Monitor the market for possible infringements of protection of intangible assets and take appropriate action if required</p>
4. Develop and implement processes to avoid infringement of the rights of others	<p>4.1. Develop and implement processes so that the small business does not infringe <i>others' intellectual property rights</i></p> <p>4.2. Ensure all employees are aware of and understand</p>

ELEMENT	PERFORMANCE CRITERIA
	the importance of avoiding the infringement of others' intellectual property rights
5. Use and commercialise the small business's and others' intangible assets	<p>5.1. Identify options for exploiting and commercialising own intangible assets</p> <p>5.2. Identify intellectual property of others that can legally be used by the small business for business advantage</p> <p>5.3. Identify taxation, accounting and financial reporting requirements for any gains made from commercialisation of intangible assets</p>

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- research and analytical skills to investigate and interpret relevant legal requirements in relation to protection of intangible assets
- numeracy skills to understand the value of intangible assets
- organisational skills to develop processes to protect, use and exploit intangible assets
- communication skills to provide information to relevant personnel about intellectual property

Required knowledge

- basic knowledge of types of intellectual property and the key characteristics of each
- the range of intellectual property residing with the organisation
- basic knowledge of relevant legislative requirements as they apply to the job role

Evidence Guide

EVIDENCE GUIDE

The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.

Overview of assessment

Critical aspects for assessment and evidence required to demonstrate competency in this unit

Evidence of the following is essential:

- identification of issues for the use, management and protection of intangible assets
- implementation of policies and procedures for the use, management and protection of intangible assets and legitimate use of others' intangible assets in a small business context

Context of and specific resources for assessment

Assessment must ensure:

- access to a small business, either own, other or proposed, for exploration of intangible assets
- access to relevant documentation, including explanatory materials and guidelines
- access to appropriate computer resources for establishment and maintenance of policies and procedures

Method of assessment

A range of assessment methods should be used to assess practical skills and knowledge. The following examples are appropriate for this unit:

- direct questioning combined with review of portfolio of evidence
- oral or written questioning to assess knowledge of intellectual property and its implications for the organisation
- development of action plans for implementation of intellectual property policies and procedures, and commercialisation of intangible assets
- analysis of case studies around intellectual property issues, with recommendations for action
- presentation to financial backers or others showing how intangible assets will be protected and commercialised

Guidance information for assessment

Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:

EVIDENCE GUIDE

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| | <ul style="list-style-type: none">• BSBSMB401A Establish legal and risk management requirements of small business• BSBSMB403A Market the small business |
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Range Statement

RANGE STATEMENT

The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.

<p><i>Intangible assets</i> may include:</p>	<ul style="list-style-type: none"> • brand • business name • customer/client list • computer systems software • confidential information • copyrights • core technology • database • design • distribution agreements • domain name • employees' specialist knowledge • goodwill • ideas • innovation • invention • logo • packaging • patent • practical application of a good idea • process • product • promotional materials • secret recipe, process, formula • standard of service/unique service technique • trade mark • trade secret • training manuals
<p><i>Intellectual property audit</i> refers to:</p>	<ul style="list-style-type: none"> • a systematic review of the intellectual property owned, used or acquired by a person or organisation. It includes: <ul style="list-style-type: none"> • identifying products or services that are key to the small business

RANGE STATEMENT	
	<ul style="list-style-type: none"> identifying intangible assets and the legal rights in relation to protection of the assets understanding what market advantage these rights give the small business
<i>Sources of information and advice</i> may include:	<ul style="list-style-type: none"> IP Australia Attorney-General's Department Australian Copyright Council State and Commonwealth government agencies lawyers specialising in intellectual property trade mark attorneys and patent attorneys accountants business advisors marketing consultants branding consultants copyright collecting societies, e.g. CAL, PPCA, MIPI, APRA, AMCOS publications websites, Internet databases e.g. local and international trade mark databases
<i>Value</i> may include:	<ul style="list-style-type: none"> using processes in accordance with accepted accounting standards and with the assistance of appropriate professionals: <ul style="list-style-type: none"> calculating how much time would be required to develop these assets from scratch estimating how much a competitor might pay to buy or use these assets estimating how much of the organisation's profit is attributable to the assets
<i>Business plan</i> may include:	<ul style="list-style-type: none"> executive summary objectives description of the business legal requirements, including intangible assets selling and marketing strategy research and development plan production or operating strategies ownership and management plan funding strategy financial plan

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	<ul style="list-style-type: none"> • strengths, weaknesses, opportunities and threats, including intangible assets
<i>Types of protection</i> may include:	<ul style="list-style-type: none"> • copyright • registered patents • registered and unregistered trade marks • registered company name, business name, domain name • registered designs • trade secrets • sui generis protection (e.g. plant breeders and circuit layouts) • moral rights
<i>Registered</i> protection refers to:	<ul style="list-style-type: none"> • protection which occurs through the registration of the particular intangible assets, e.g. trade marks, patents and designs
<i>Unregistered</i> protection refers to:	<ul style="list-style-type: none"> • protection which occurs automatically by law, without the need for registration, e.g., copyright, moral rights and common law trade marks
<i>Legislative requirements</i> may include:	<ul style="list-style-type: none"> • Business Names legislation • Copyright Act 1968 • Designs Act 2003 • Patents Act 1990 • Trade Marks Act 1995 • Trade Practices Act 1974 and State/Territory fair trading legislation
<i>Confidentiality agreements</i> may refer to:	<ul style="list-style-type: none"> • an agreement between a party with confidential information and a party to whom that confidential information will be disclosed (e.g. potential partners and financial backers, employees) outlining conditions of the disclosure and permitted use of the information
<i>Appropriate databases</i> may include:	<ul style="list-style-type: none"> • public registers of registered Australian and international patents, trade marks, designs and plant breeders' rights • Note: these may be accessed via IP Australia's website or through use of a commercial search company or patent and trade mark attorney
<i>Others' intellectual property rights</i> may be infringed through	<ul style="list-style-type: none"> • brands, logos, packaging, colours • domain names, business and company names

RANGE STATEMENT	
unlicensed use of:	<ul style="list-style-type: none"> • inventions, innovations, business methods • designs • content, e.g. photos, text, images • software • music • film • technology in new invention
Commercialising intangible assets may include:	<ul style="list-style-type: none"> • franchising • licensing • selling off business and/or processes, inventions, brands, etc. • manufacturing
Gains may include:	<ul style="list-style-type: none"> • proceeds from: <ul style="list-style-type: none"> • sales • franchising • licensing • use of the intellectual property or associated products

Unit Sector(s)

Unit sector	
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Competency field

Competency field	Regulation, Licensing and Risk - Intellectual Property
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Co-requisite units

Co-requisite units	

