



Netherlands Enterprise Agency

The basics of intellectual property

Investing smartly in your unique position in the market

A publication of the Netherlands Patent Office (Octrooiencentrum Nederland) for entrepreneurs who want to distinguish themselves in their market through intellectual property

*>> Sustainable, Agricultural, Innovative
and International Enterprise*

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Introduction: intellectual property

If you are developing a new product and are considering how to protect it from counterfeiting, or if you want to know how to make smart use of the protected inventions of others, you will be dealing with intellectual property.

With intellectual property rights, you can protect a creation, invention or information. From works of art to plants, and from brand names to technology – intellectual property rights allow you to protect all kinds of things. If someone wants to use or copy it, they must first get your permission. This prevents others from benefiting from your investments without you receiving any money or other credit from them. Therefore, intellectual property is often also important for investors.

You can often combine different intellectual property rights. A collection of intellectual property is also called a portfolio. Investors refer to it as an IP portfolio (Intellectual Property (IP) portfolio).

With intellectual property rights, you can:

- achieve exclusivity with a unique position in your market;
- encourage others to apply your idea under your terms;
- increase the value of your business in the eyes of investors and buyers.






If someone else violates your intellectual property rights, we call that infringement. In most cases, the parties involved can settle these matters among themselves without resorting to legal action.












This brochure explains what intellectual property can mean for SMEs, startups and other businesses, with special emphasis on how you can increase the value of your business for investors through intellectual property. After reading this brochure, you will know:

- what forms of protection are available for your intellectual property and what they protect;
- the added value of intellectual property in your business plan;
- what investors look for when it comes to intellectual property.

1 Overview of forms of protection

With intellectual property, the question is: what do you protect with which form of protection? We have outlined the different forms of protection, with examples and possible questions about your IP portfolio:

Subject	Form of protection	What is protected?	Examples	Possible questions about your IP portfolio
Technology 	Patent 	Technical invention of products or processes	All kinds of inventions, from machines to paperclips and medicines	<ul style="list-style-type: none"> On which technical invention of the product or process do you have a patent? In which countries is a patent in force? Do you want patent protection only or a combination with trade secrets?
	Trade secret 	Undisclosed technology that provides a competitive advantage	Know-how, assembly, production methods, equipment set-up	<ul style="list-style-type: none"> How are confidentiality measures regulated? Can you prove violation of your trade secret? Does a combination with patents add value in protecting technical knowledge?
	Copyright 	Creative source code as text (not the technology behind the code)	Source code, including open source software	<ul style="list-style-type: none"> Who does the code belong to? How is the code regulated when outsourcing programming work? Has open source been used and what agreements are involved?
	Chip right 	The topography of semiconductors	Design of microchips	<ul style="list-style-type: none"> Do registered chip rights have benefits for you besides technical development?

Subject	Form of protection	What is protected?	Examples	Possible questions about your IP portfolio
Creative work, design, features and names 	Copyright 	Creative, original work that can be seen, heard or otherwise perceived	Text, photos, drawings, design, film, music	<ul style="list-style-type: none"> Can you demonstrate when the work was created and by whom? Who is the owner when outsourcing creative work?
	Design 	New design with its own character (shape, colour or use of materials)	Enclosures of devices, the design of a car	<ul style="list-style-type: none"> Is the design new and does it have a unique character? Is a free unregistered EU design enough for 3 years?
	Trademark 	Distinctive signs	Names and logos for companies and products	<ul style="list-style-type: none"> Does your trademark not exist yet? If not, is the trademark distinctive and not descriptive of your products or services?
	Trade name 	The name under which a company trades, or: the company name	Company names like Jansen's Bakery	<ul style="list-style-type: none"> Does your trade name not exist yet (in your business sector or geographical location)? Are you demonstrably using your trade name for trade name protection?
	Designation of origin, geographical indications and traditional specialities 	Names of regional products	Champagne, Feta, Gouda Holland (cheese)	<ul style="list-style-type: none"> Is the product local? Is the product made in a traditional or artisanal way? Does the exclusive reputation of the name or region offer significant added value?
Data and information (or a collection thereof) 	Trade secret 	Undisclosed information that provides an economic advantage	Suppliers, customer data, transport routes	<ul style="list-style-type: none"> What measures have you taken to demonstrate unlawful conduct if others steal your data? How is the documentation of know-how and confidential knowledge regulated?
	Database right 	Data in databases	Databases with data on houses or cars	<ul style="list-style-type: none"> Has significant investment been made in the database itself? Or is it a by-product? Has the investor taken on financial risk? Is limited access to the data possible?
Plants 	Breeders' right 	Propagating material of plant varieties	Flowers, trees, vegetables	<ul style="list-style-type: none"> Is the propagating material distinguishable from other seeds or varieties? Does the variety retain its characteristics after propagation?

2 Explanation of the forms of protection

With intellectual property rights, you protect only specific features of your idea or invention. For each type of product, development or invention, there is a specific right with its own rules. In this chapter, we will discuss the different forms of protection in more detail. For each form of protection, you will first find a summary with brief information. We then provide further explanation and tips. More information can also be found on the website [Create, Protect & Benefit](#).

 Patent for technical inventions	
What you will own	Technical invention of products or processes.
How to obtain	In the Netherlands, you apply for a patent at the Netherlands Patent Office (Octrooiencentrum Nederland).
Duration	A patent is valid for a maximum of 20 years. If you stop paying fees for your patent or if it is declared invalid in a court case, the patent right ends.
Application fee without a representative or lawyer	From €220 in the Netherlands. But for a strong patent application, we recommend hiring a patent attorney. See www.octrooigemachtigde.nl/en .
Application fee with a representative or lawyer	Between €5,000 and €10,000 in the Netherlands. Internationally, costs increase sharply over time. The costs amount to thousands of euros for each international procedure, with additional costs for each country.
More information	<ul style="list-style-type: none">• The brochure Patents for your business from the Netherlands Patent Office.• The website of the Netherlands Patent Office.• The brochure Your digital innovation when it comes to software and digital innovation.

You can apply for a patent for an invention — a technical solution to a technical problem. So it must concern a technical innovation of products or processes. With a patent, you can prohibit others from copying, selling or otherwise commercially using an invention. However, the patent application is published eighteen months after the filing date, meaning your invention will no longer be a secret.

For a strong patent, your invention must meet three requirements:

- **Novelty:** your invention must not have been publicly disclosed anywhere in the world prior to the patent application, not even by you.
- **Inventive step:** your invention must not be obvious to a person skilled in the art.
- **Industrial applicability:** your invention is a technical improvement to a product or process, which a person skilled in the art can carry out in practice as described in the patent.

Patent tips

☐ 1 Do not disclose your technology before your patent application has been filed

A requirement for a patent is novelty, so in any case, do not disclose your invention before you have filed the patent application.

☐ 2 Look in patent databases and get support from the Netherlands Patent Office for free

It is important to research patent databases at an early stage. For example, you can:

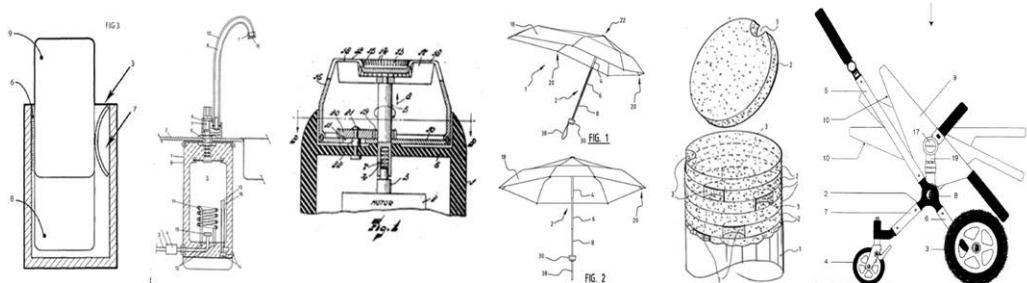
- avoid applying for a worthless patent, as you can see what others have already come up with.
- avoid unnecessary spending on research and development. Perhaps you can draw inspiration from existing patents or request permission to use an existing invention.
- gain insight into the state of the art.
- explore who might be interested in your technology, as you can see which parties are involved in that technology.

The Netherlands Patent Office helps you get started searching patent databases for free using both search terms and patent classifications. If you would like to better understand the claims in a patent, you can consult a [patent attorney](#).

☐ 3 Decide in advance in which countries you want to apply for a patent

If you apply for a patent in the Netherlands, you have up to one year to decide whether to file the same application in other countries as well. The foreign application will then be subject to the same date as your first application in the Netherlands. This year is called the priority year. A year goes by fast, so consider early on in which countries you want to apply for a patent. See the brochure [Patents for your business](#) for more information.

Figure 1: Drawings from Dutch patents. From left to right: the Secrid cardholder, the Quooker tap, the Philips shaver, the Senz umbrella, the notch in rusk and the Bugaboo stroller.



 Copyright for creative work with the creator's personal stamp	
What you will own	Original creative works that you can see, hear or perceive, and whose design is not solely made for technical functionality.
Additional rights	In addition to 'ordinary' copyright, there are also personality rights that protect the reputation of the creator, as well as neighbouring rights for performing artists, music producers, film producers and broadcasting organisations.
How to obtain	In the Netherlands, copyright is granted automatically. In other countries, registration may be required if you want to initiate a lawsuit. Even if registration is not mandatory, it is advisable to be able to prove the author and creation date, for example with an i-DEPOT or a deposit with a civil-law notary. This does come at a cost.
Duration	In many countries, up to 70 years after the creator's death.
Acquisition fee without a representative or lawyer	Free of charge
Acquisition fee with a representative or lawyer	Usually not necessary.
Information	<ul style="list-style-type: none"> The website auteursrecht.nl (Dutch only), also for personality rights and neighbouring rights. For copyright on software, there is the brochure 'Your digital innovation'.

Copyright protects works of literature, science or art. This is pretty broad, as it also covers children's drawings and the source code of software, for example. With copyright, you protect creative works that are original. That means they have their own original character and bear the creator's personal stamp. Furthermore, a work must be perceptible by the senses: it must, for example, be audible, visible or readable. Moreover, the work must not merely be created to function technically, as that is what patent rights are intended for. Copyright does not protect the technical solutions from drawings, or general concepts such as a design style. The creative execution or realisation is what matters. Examples of works that can be protected by copyright include:

- text (books, brochures, but also the source code of software);
- image (drawing, photograph, graphic design);
- film and music;
- sculptures and structures;
- design (for example, creative product design).

In many countries, the creator is granted copyright until seventy years after their death. Only the creator of the work has the right to make it public and to create multiple copies of it. In the Netherlands, copyright is automatically granted to the creator as soon as the work is created. There is no need to register copyright in the Netherlands, but in some other countries, registration may be required. Copyright protection is generally valid worldwide, but each country may apply its own rules.

Personality rights are based on the personal connection between the creator and their work. For example, the creator can object if their work is altered or distorted by others. Personality rights cannot be transferred, even if the usage rights of a work have been transferred to another party. However, a creator can waive part of their personality rights.

Neighbouring rights protect the performance of a work by a performing artist and the efforts and performances of music producers, film producers and broadcasting organisations. Performing artists include: singers, musicians, filmmakers, actors, dancers, comedians and circus performers. A musician performing their own compositions is granted both copyright and neighbouring rights. No registration is required for neighbouring rights. The majority of neighbouring rights last for 50 years. For musicians and music producers, protection lasts for 70 years after the release of the recording.

Copyright tips

☐ 1 Register your creation with a date

In many countries, there is no official registration for copyright. To enforce it later, you need to be able to prove who the creator is and when the work was created. To this end, you can use a date registration, for example at a civil-law notary or via an online deposit, such as the [i-DEPOT](#). For software, version control systems such as [GitHub](#) are helpful, especially in collaborations. Such a date registration does not grant intellectual property rights, but it does establish the date you had possession of a document or software code.

☐ 2 Make agreements when outsourcing creative work

If you outsource the development of creative work to others, those parties are automatically granted the copyright, even if you commissioned and paid for the work. In the case of freelancers, the copyright therefore belongs to the freelancer unless otherwise agreed in a contract. Copyrights can be transferred or licensed. Additionally, works are often created by multiple people simultaneously or built on the work of others. This results in joint copyright on the entire work, but separate copyright can also apply to each creator for their specific contribution.


☐ 3 Use Creative Commons licenses

With a Creative Commons license, the creator retains copyright but grants others permission to distribute or possibly modify the work under specified conditions. More information can be found on creativecommons.org.

☐ 4 Track which open source software you use under what terms

Open source software is protected by copyright. Licenses often impose conditions, such as crediting the author or marking changes in the source code. Licensees are often required to make the modified source code available to others. More information is available in the brochure '[Your digital innovation](#)'.



	Trademark for distinctive signs
What you will own	Distinctive signs (e.g. a name or logo) under which you offer your products and services.
How to obtain	In the Benelux, you register your trademark with the Benelux Office for Intellectual Property (BOIP).
Duration	Ten years, renewable indefinitely every ten years.
Application fee without a representative or lawyer	Starting from €244 in the Benelux. A ten-year renewal costs €263. The costs depend on factors such as the number of classes of products and services your trademark applies to.
Application fee with a representative or lawyer	Indicatively: about €800 for the Benelux or €2,000 to €3,000 for Europe.
Information	<ul style="list-style-type: none"> • More information on trademark law for the Benelux is available at boip.int. • Information about the EU trademark and international trademark can be found on the BOIP website. • More information on EU trademark law is available at europa.eu. • More information on international trademark law is available at wipo.org. • The international trademark database TMview: tmdn.org. • Lawyers specialising in intellectual property can be found, among others, via bmm.nl/en.

You can protect distinctive signs for your products and services as a trademark. A trademark gives you exclusive rights to, for example, your company name or logo. Only you can use that name or logo for the products or services for which you have applied for the trademark. This protection applies in the entire area for which you have registered the trademark, such as the Benelux. Trademarks are all about likelihood of confusion. Therefore, trademark law protects more than just the exact spelling of the brand name or an exact copy of the logo.

There are different types of trademarks:

- word marks, such as names of companies or products;
- figurative marks (e.g. logos);
- shapes, such as the Coca-Cola® bottle;
- patterns, such as the Burberry® checks;
- colours, for example the blue of the Campingaz® gas cylinders;
- various multimedia, such as sound, a video, a hologram or an animation;
- slogans, for example: “Just do it.” Please note that the [GVR slogan register](#) (Dutch only) does not provide legal protection.

A trademark must not describe your product. For example, ‘Apple’ cannot be protected as a brand name for apples, but it can be for computers. This can be challenging for many entrepreneurs, as a descriptive name for products and services ensures quick recognition among customers.

You must use the trademark within five years of registration. It is therefore better not to register trademarks if you do not plan to use them within five years. If you do not make sufficient use of it within five years, you may lose an existing trademark.

In addition to individual trademarks for products or services of a company, there are also **collective trademarks** and **certification marks**. A collective trademark indicates that the products or services come from members of a specific association. The association owns the trademark, and its members are allowed to use it. Examples of collective trademarks include BOVAG, Keurslager and Erkende Verhuizers. A certification mark guarantees that products or services meet certain criteria, such as quality standards. Anyone can be the holder of a certification mark, provided that the holder does not supply such products or services themselves. Well-known certification marks include Politiekeurmerk Veilig Wonen, Max Havelaar and De Echte Bakker.

Trademark tips

❑ 1 Choosing a name? Check the trademarks register, commercial register and domain names register

If you are considering a name for your company or product, it is wise to check if the name is [available](#) to avoid infringing on the rights of others. Therefore, check the trademarks register, commercial register and domain names register at an early stage, and do not forget to search online (Google) as well:

Trademarks register: want to look up trademarks or find out if a trademark is still available? In the [BOIP Trademarks register](#), you can find trademarks in the Benelux. A useful website for an international check is [TMview](#), which connects multiple trademarks registers worldwide. Be sure to search not only for the exact name but also for variations.

Commercial register: a registered trademark is different from a [trade name](#). Trade name law comes into effect when a company operates under a specific name, even if that name is not yet registered with the Chamber of Commerce (see the next chapter).

Domain names: a website domain name is assigned to the person who registers it first. Sometimes, a domain name can be claimed by the owner of an existing trademark or existing trade name. Information about .nl domain names can be found at [www.sidn.nl/en](#).

❑ 2 Check whether your trademark is distinctive

To register a trademark, it must be distinctive. Trademarks that lack distinctiveness will be rejected, meaning you will not get a refund of the application fee. It is therefore advisable to check in advance whether your trademark is sufficiently distinctive. For example, distinctive trademarks are not descriptive: the trademark must do more than just describe your product or service. Furthermore, it must also not mislead consumers, or consist solely of a promotional statement. BOIP provides more information on the conditions for [trademark acceptance and refusal](#).

❑ 3 Determine the products and services for which you want to register your trademark


You register a trademark for specific products and services. All products and services are categorised into 45 classes according to the Nice Classification. Classes 1-34 cover products, while classes 35-45 cover services. For example, the sports club Ajax can exist as a trademark alongside Ajax cleaning products and Ajax fire extinguishers. This is possible because they fall under different product and service classes, preventing consumer confusion.

Only choose the classes for which you will actually use your trademark. You can search for classes using the search function in the online application form. BOIP provides more information on [trademark registration for products and services](#). If you want to determine in advance which classes your products and services fall under, you can search in [TMClass](#). When searching the trademarks register, you can also see which products and services your competitors have registered their trademarks for.

❑ 4 Consider using priority

In addition to Benelux or national registration, you can also opt for a European registration (with the EUIPO) or an international registration (with WIPO). If you apply for registration of the same trademark in any of the participating countries within six months of your initial application, the later application can receive the same date as the original one, meaning your trademark right takes effect earlier. This is called priority or the right of priority.




	Trade name for company names in commerce
What you will own	The name by which your company operates in commerce. Trade name rights provide protection against names that create confusion in the geographical area and industry in which your business operates.
How to obtain	Your trade name right arises automatically by actively operating in commerce, for example by using the name on a website and invoices.
Duration	In principle, indefinite, as long as you remain active in commerce.
Acquisition fee without a representative or lawyer	Free of charge
Acquisition fee with a representative or lawyer	Not required to obtain the right.
Information	Via the Chamber of Commerce: kvk.nl/en .



The purpose of trade name law is to prevent confusion. Your business sector and region play a role in this. If another company in your region has the same trade name, but operates in a different sector, the likelihood of confusion is low. For example, the trade name 'Jansen' in the construction sector may exist in the same city as the trade name 'Jansen' for a bakery because they belong to different business sectors. Similarly, a local bakery named 'Jansen' can operate in both Groningen and Maastricht, as long as they do not conduct business in each other's area.

Registration in the [Commercial Register of the Chamber of Commerce](#) does not automatically guarantee trade name protection. While registration of a trade name in the Commercial Register is mandatory under the Commercial Register Act (Handelsregisterwet), it is not sufficient for trade name protection. To qualify for protection under trade name law, your business must be commercially active.

A trade name may be descriptive. In this regard, trade name law differs from trademark law. It is good to know that descriptive trade names generally offer more limited protection.

 Design for creative design	
What you will own	New design with its own character. This may involve aspects such as shape, colour or use of materials.
How to obtain	In the Benelux, you register the design with BOIP. In the Benelux, the EU and the US, the design may be publicly available for up to one year before applying for the design right.
Duration	In the Benelux, protection lasts for a maximum of 25 years, with renewal required every five years.
Extra option in the EU	Unregistered EU design (from 1 May 2025; previously called the unregistered Community design). This design right is not created by registration, but automatically. It lasts for three years from the moment the design is first made available to the public within the EU.
Application fee without a representative or lawyer	Starting at €150 for the Benelux countries. Extending the Benelux registration for five years costs €102. An application for the EU costs around €400.
Application fee with a representative or lawyer	Indicative price: approximately €400 to €1,200 for the Benelux and €700 to €2,000 for the EU for the first five years.
Information	<ul style="list-style-type: none"> • For Benelux: boip.int. • For the EU: europa.eu. • For international design law: wipo.org. • Lawyers specialising in intellectual property can be found, among others, via bmm.nl/en

The appearance of a consumer item can be protected under designs or models law (in short: design law).

This appearance may include aspects such as the shape, colour or material used of:

- two-dimensional designs, such as textile patterns or static images of applications (e.g. games);
- three-dimensional designs. Industrially designed products, such as the casing of a device, are often protected by design rights.

The reform of design law will now make it possible to protect digital objects in addition to physical ones.

This makes it possible, for example, to protect objects in the metaverse as designs.

There are two key requirements for protection: the design must be novel and must have individual character. Individual character means that the design does not closely resemble an existing design that is already known. In the Benelux, the EU and the US, a design may be publicly available for up to one year before applying for the design right. It is called the grace period. It is advisable to check in advance whether your design is [novel and has individual character](#), as this is not examined during the registration process. BOIP also provides more information about the [requirements for design registration](#).

If the design of a product is determined solely by its technical function, it cannot be protected by a design right. This is because technical functionality does not fall under design law, but under patent law. For example, the shape of a car may be streamlined for aesthetic and recognisable design purposes. However, maybe this shape was chosen solely to improve aerodynamics. In the first case, a design right may apply. In the second case, a design right is not possible, but you could apply for a patent.

Design right tips

❑ 1 Check the design registers

In the [BOIP designs register](#), you can find designs registered in the Benelux, that were valid on 1 January 2012 or registered later. A useful website for an international check is [DesignView](#), which is linked to many design registers. However, to determine novelty, everything that has been made public is relevant.

❑ 2 Consider using priority

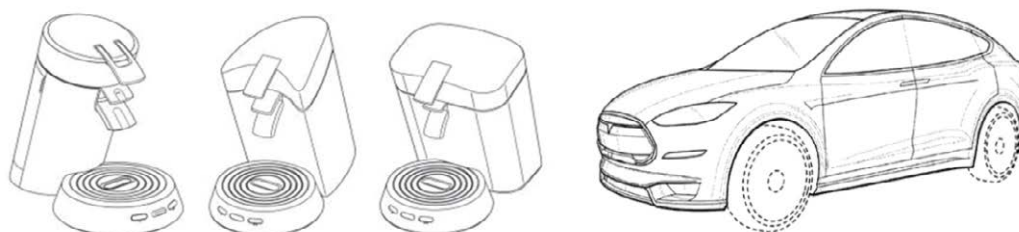
Benelux or national registration aren't the only options. It is also possible to register a design for the EU (with the EUIPO) or to register it internationally (with WIPO). If you apply for registration of the same design in any of the affiliated countries within six months of your initial application, the later application can receive the same date as the first application. This is called priority or the right of priority.

❑ 3 Also consider other protection besides registered designs

The unregistered EU design is a type of design right that does not arise through registration. It automatically arises for a period of three years from the moment you first make the design available to the public within the EU. With this right, you can only prevent others from using your design without your permission if you can prove that they copied your design intentionally.

If it is an original work, its appearance is generally also protected through copyright in the Netherlands. Additionally, you may sometimes hold the counterfeiter accountable for slavish imitation. This is a legal term for copying a product almost exactly, causing confusion.

Figure 2: Examples of design rights with variants of the casing of Philips' Senseo Crema and a Tesla car body.



	Trade secret for undisclosed information
What will you own	Information that gives a company an economic advantage over competitors. This information is not generally known and is kept secret.
How to obtain	By actively keeping commercial information secret by means of certain measures.
Duration	As long as it is kept secret. There is no official registration for trade secrets and they are not limited in time.
Acquisition fee without a representative or lawyer	While a trade secret itself costs nothing, the measures to keep it secret do cost time and money.
Acquisition fee (with a representative or lawyer)	Costs for confidentiality measures include ICT security, employee training, physical security and contracts.
Information	<ul style="list-style-type: none"> • Bedrijfsgeheim.nl (Dutch only). • The brochure Trade secrets in innovation (Dutch only). • The brochure Patents for your business for factors to consider when choosing between patents and trade secrets.

A trade secret consists of secret business information that gives your company a competitive advantage. Examples include know-how, software, production methods, process parameters and customer data. In some cases, keeping information secret provides greater benefits than patenting. Consider, for example, the Coca-Cola recipe. Trade secrets can also be useful if you are not, or not yet, able to register intellectual property — for example for financial reasons or because the knowledge is still in development. Additionally, a combination of a patent and a trade secret may sometimes be possible. However, do not try to keep everything secret, as sharing knowledge often leads to innovation. Be mindful, though, of knowledge that provides you with a significant advantage and protect it properly.

To qualify for legal protection as a trade secret, the information must meet the following conditions:

- the information is unknown among parties that typically deal with such information;
- the information provides a commercial advantage and has market value;
- reasonable measures have been taken to keep the trade secret.

This last point is crucial. Implementing confidentiality measures in a timely manner is essential for maintaining a trade secret. After all, legal action is only possible if there is evidence of unlawful conduct, such as:

- breach of contract, for example violating a confidentiality agreement or Non-Disclosure Agreement (NDA);
- theft, espionage or bribing employees.

There is no official registration for trade secrets. However, you can record your trade secrets with a date stamp. A civil-law notary's safe and the [i-DEPOT](#) are examples of legally valid proof. Document it if your company actively uses information that qualifies as a trade secret. Examples of trade secret protection measures include:

- physical security, such as locked archives and document markings;
- ICT security, for example with passwords and encrypted files;
- training of employees. In addition, include a confidentiality and non-competition clause in employment contracts;
- contracts for confidentiality and cooperation with business partners.



Trade secret tips

☐ 1 Divide your business information into levels

Communication about your business information works better when you and your employees understand what qualifies as trade secrets and what does not. For example, use the following three levels:


- information that may always be freely shared;
- information that is shared only under specific conditions, such as collaboration, licenses or NDAs;
- information that must always remain confidential because it gives your business a significant advantage.

In addition to labelling and documenting the information, it is also important to train employees on this.

☐ 2 Gather evidence for the right of prior use when patents are held by others

As long as you keep your innovations confidential, they can be patented by others who have invented the same thing. If someone else applies for a patent on an invention that you protect as a trade secret, they will be granted the patent, even if you were already using the invention within your company before they filed the patent application.

In some cases, you may still be able to make use of the right of prior use. This can be challenging. It is important that you have properly documented your methods or inventions. This documentation must show what the method or invention is, since when you have been making it, and how you make it (the technique). For complex documentation, it may be helpful to involve professionals, such as lawyers or patent attorneys. If you have the right of prior use, you are allowed to apply the technique that another party has patented. However, this right only applies in the Netherlands. There may be differences in legislation per country with regard to the right of prior use.

	Database right for data in databases
What you will own	Data in databases.
How to obtain	The producer automatically obtains database rights if it has made a large and risky investment in creating the database.
Duration	15 years from creation, publication or a major update.
Acquisition fee without a representative or lawyer	Free of charge, but the database requires a significant investment in which the producer bears the financial risk.
Acquisition fee with a representative or lawyer	Usually not necessary.
Information	RVO - Database law (Dutch only).

A database is a searchable collection of data that has been ordered in a systematic way. The files are separate elements that can be searched independently of each other. Examples include databases with information about properties, books or flight data. Database rights are useful in situations where others can access the data in a database. For example, on a website for second-hand cars or job openings.

You automatically obtain a database right when you create the database. However, you must be able to demonstrate that you have made a substantial investment in the acquisition, verification or presentation of the content. The creation of the data itself is not considered here: it really refers to the database itself. In this investment, you, as the producer, have borne a financial risk. The database must also not be a by-product of other business activities. If you have made such a risky financial investment to create a database, you can use database rights to prevent others from:

- retrieving a substantial part of the database;
- repeatedly retrieving smaller parts of the database;
- reusing a substantial part of the database.


Add identifying marks to the data so you can prove if someone else copies your data. Additionally, you do not have to make all the data accessible. You can also protect the data with trade secrets. If someone else has not copied your data but has lawfully obtained similar data, they may create their own database with that data.

Database law can vary considerably from country to country, but is set out in EU rules for both analogue and digital databases. In the EU, protection lasts for up to fifteen years after completion or publication of the database. If an existing database is significantly modified with another substantial investment, the fifteen-year period starts again. Note that in the US, database protection is much more limited.

Database right tip

☐ 1 Create a file documenting the creation of your database


It is important that you have properly documented the creation of your database. This can be done, for example, with a digital timestamp or [i-DEPOT](#). Also, ensure that you can demonstrate how much you have invested in your database.

	Geographical indications for names of regional products from agriculture, crafts and industry
What you will own	Names of regional products, based on where the product comes from or a traditional recipe or craft.
How to obtain	Registration through the advisory committee on geographical indications, designations of origin and traditional specialities (Adviescommissie geografische aanduidingen – AGOS) and the EUIPO.
Duration	As long as the annual checks after registration are carried out.
Acquisition fee without a representative or lawyer	There are no costs for applying for European protection. However, once a product is registered, the applicant will incur costs for an annual check.
Acquisition fee with a representative or lawyer	Not required to obtain the right.
Information	<ul style="list-style-type: none"> • The European database for designations of origin: Glview (tmdn.org). • Information from the European Commission and from the Netherlands Enterprise Agency (RVO). • Registration for craft and industrial products takes place at the EUIPO.



Regional products are, for example, agricultural products, food products or drinks. These products can use the name of the area they come from. This name is applied for by a group of businesses or an umbrella organisation. There are different types of geographical indications:

- The Protected Designation of Origin (PDO): for products that are entirely made, processed and prepared in a specific area, according to a defined and controlled method. Products with a PDO include North Holland Gouda, Feta, Gorgonzola and Prosciutto di Parma (Parma ham).
- The Protected Geographical Indication (PGI): for products produced, processed or prepared in a specific area. There is a connection between the uniqueness or reputation of the product and its place of origin. Examples of PGI products include Westland grape, Gouda Holland, Danablu, Ardennes ham and Black Forest ham. Dutch provinces have PGI recognition for the wine produced in their regions.
- The Traditional Speciality Guaranteed (TSG): the name does not refer to the origin of the product, but to its traditional product composition or production method. ‘Traditional’ means the product has been marketed in the EU in the same way for at least thirty years. Examples of TSG products include Boerenkaas, Basterdsuiker (brown sugar), Hollandse Nieuwe herring, Suikerstroop (sugar syrup), Mozzarella, Pizza Napoletana and Jamón Serrano.
- From 1 December 2025, there will be a new variant for craft and industrial products: protection of geographical indications for craft and industrial products (CIGIR). Makers must be able to demonstrate a link between the qualities or reputation of the specific product and the place where it is produced. From 1 December 2025, these products can be registered with the [EUIPO](#).

	Breeders' right for new plant variety propagating material
What you will own	New plant variety propagating material.
How to obtain	In the Netherlands, applications for breeders' rights must be submitted to the Board for Plant Varieties (Raad voor Plantenrassen).
Duration	The registration in the national variety register lasts for ten years. Re-registration is possible if the variety is assessed as true-to-type by the inspection service.
Acquisition fee without a representative or lawyer	The Board for Plant Varieties has a comprehensive list of fees . The fees can amount to several thousand euros.
Acquisition fee with a representative or lawyer	Not required to obtain the right.
Information	More information on breeders' rights can be found at https://raadvoorplantenrassen.nl/en/ .

Breeders' rights allow you to protect new propagating material for plant varieties, provided the material meets the following three conditions:

- distinguishable from other seeds or varieties;
- homogeneous (plants of the variety are similar to each other);
- stable (the variety retains its characteristics after successive generations).

In addition, the name of the seed or variety must be suitable to identify it. You may not use propagating material protected by others for commercial purposes, except for research to develop new varieties.



Breeders' rights tip

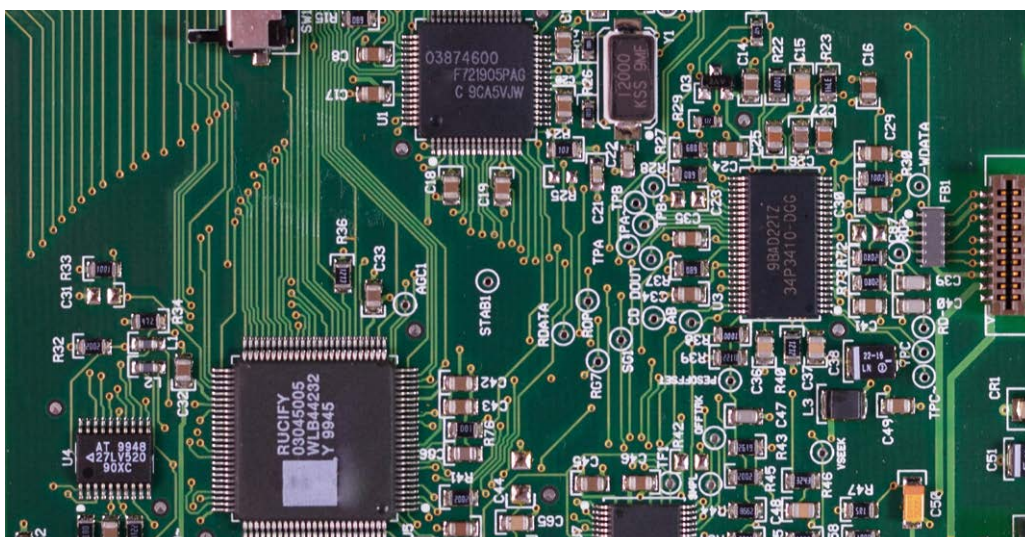
☐ 1 Consider protecting plant names with a different form of protection

You can sometimes also protect names of agricultural products under trademark law or as a geographical indication. For a position in the plant market, trademark law can be a good choice, even if it does not concern new plant varieties.



Chip right for the topography of semiconductor products

What you will own	The original topography of semiconductors, chips or microprocessors.
How to obtain	Chip rights arise automatically when the chip is made, but you must register the chip right with the Netherlands Enterprise Agency (RVO) to protect your chip in the Netherlands. Registration is possible within two years after the chip has been placed on the market.
Duration	Ten years after registration or ten years after the first commercial use of the chip right. If you do not use the chip commercially within 15 years of its creation, the chip right expires.
Acquisition fee without a representative or lawyer	An application costs €79.
Acquisition fee with a representative or lawyer	Not required to obtain the right.
Information	You can find more information on chip law on rvo.nl .



Chip rights protect the topography of semiconductors, chips or microprocessors. The topography is determined by the series of connected images used to build these products.

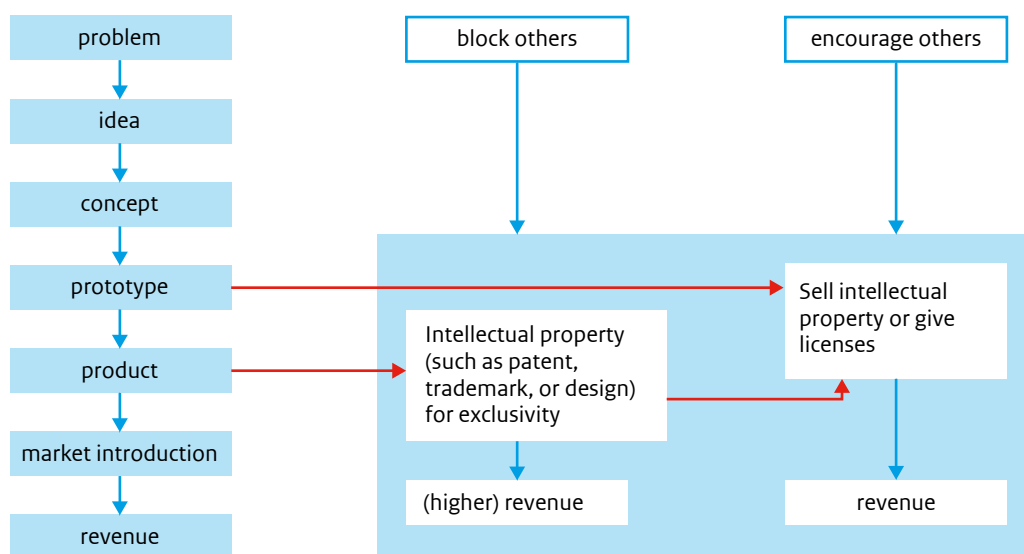
There are two conditions for chip rights:

- the chip is the result of your own intellectual effort;
- the design (topography) is not generally known within the semiconductor industry. Therefore, a logical combination of existing designs cannot be protected.

3 Intellectual property in your business plan

Having intellectual property rights is not a goal in itself. It is a tool to achieve your business objectives and to gain value from your investments. Intellectual property is known as a right of exclusion: it allows you to block others and gain exclusivity if you have competition. However, you can also use it to encourage others to use your creation or invention. For example, by collaborating, selling your rights or granting licenses. In Figure 3, you can see which strategy to apply in a specific phase.

Figure 3: You can profit from intellectual property rights by blocking others or encouraging them to use it. Where are you in the innovation process? Problem statement, idea, concept, prototype, product, market introduction or revenue? Do you want to block others or encourage them? Or both? This strategy may vary by country or market.



Intellectual property rights can be a tool in your business plan to achieve your business goals. Many startups use the concepts of [Strategyzer](#) for their business plans. For inventors, the [Dutch Association of Inventors \(Nederlandse Orde van Uitvinders\)](#) can be helpful. For each business plan, you can assess which form of protection and strategy is the best fit.

3.1 Licencing

With a licence, you grant a licensee permission to make, sell or apply your protected idea. This often applies per country or market segment. There are various types of licenses, such as an exclusive license for a specific party or an open license for any party meeting certain conditions.

You can find more information on licensing at the [Netherlands Patent Office](#) and the [Licensing Executives Society Benelux](#).

3.2 Value creation

If you want to maintain competitive advantages in the long term, intellectual property can play a major role. Intellectual property rights can create value in the following ways:

- exclusivity by launching a product or service with a head start over competitors;
- granting licenses to others;
- sale of rights;
- collaboration with other parties (such as in open innovation and open source);
- improved negotiation position in conflicts;
- increasing the value of the company for investors;
- stronger position as an attractive acquisition target in a company acquisition;
- image strengthening (e.g. with a distinctive brand or 'patent pending' for technology).

3.3 Sometimes investing in intellectual property rights is not worthwhile

It can be a significant investment to properly manage your intellectual property rights, due to, for example, application costs or because you hire a representative. Consider whether the investment is worthwhile in the following cases:

- the market is small;
- margins are low;
- your product has a short lifecycle;
- you gain a competitive advantage not through intellectual property rights, but through your unique team or knowledge;
- the likelihood of competition is low;
- counterfeiting or infringement is difficult to detect or address.

Even if you decide not to apply for intellectual property rights, it is smart to check (or have checked) whether you are infringing on the rights of others. In most cases, this would be a sensible and prudent course of action.

4 Checklists for financing

Do you need external financing for starting or growing your business? With knowledge about intellectual property, you increase the chance of successfully securing financing. When it comes to intellectual property and financing, you might think of your own rights collection, your IP portfolio. However, investors may also ask questions such as: are you infringing on the rights of others? Or: what agreements about intellectual property do you have with your cooperation partners?

If you expect questions from investors about intellectual property, use this checklist to prepare.

4.1 Checklist for a strong pitch to your investors

1. Align your intellectual property rights with your industry and investors

- Intellectual property plays a significant role in sectors such as medical technology, biotechnology, complex machinery, pharmaceuticals and photonic chips. Some investors focus on deep tech with groundbreaking and risky developments. In these sectors, the value of your company is strongly linked to innovative products protected by intellectual property rights. Therefore, they often value a strong IP portfolio with a corresponding strategy.
- The extent to which investors inquire about intellectual property rights depends on their focus and experience. Examples of investors include banks, [business angels](#) (private investors) (Dutch only), [The Netherlands Enterprise Agency \(RVO\)](#), [regional development agencies](#) and the [European Innovation Council](#).

2. Make sure your pitch is convincing and substantiated

- Present your invention as the solution to a difficult issue in an important market. With your intellectual property rights, this solution is not easy to circumvent.
- Many investors want substantiation: strengthen their confidence with verifiable claims, a well-regulated registration of intellectual property rights and a thoughtful market approach.
- Investors want a risk analysis. This includes a reasoned assessment of the likelihood that your product infringes the intellectual property of others. In the checklist of [Chapter 4.4](#), we will go into more detail on this.

3. Clearly define your ownership

- Innovations often arise from collaborations, but for investors, it is often desirable that your intellectual property is well-defined.
- Ideally, your company should be the sole owner of the intellectual property rights, especially if you are aiming for a high enterprise value for an acquisition or exit.

4.2 Checklist for a strong IP portfolio

1. Build your IP portfolio with the right forms of protection and country choices

- Choose forms of protection that protect all relevant technologies, brands, know-how and creations. What makes an IP portfolio strong? That depends on the goal you have in mind. If you plan to sell your business in five years, you may make different choices than if you expect a long-term family business build-up.
- Ensure that your rights are covered in the countries relevant to your company.

2. Consider ownership of the intellectual property

- Consider whether your company is the sole owner of the intellectual property. If not, who else owns it? Have investors or business partners claimed a share? Consider pledging, for example.
- Make good agreements on accessing the intellectual property of others if this is necessary for faster innovation. Think about licences or open source. Is this access exclusive or open to multiple parties? Or is access limited, for example to a specific application area (niche) or geographic area (countries)? And does the intellectual property owner take action in case of infringement, or can you do that yourself?

- Explore whether transfer of others' intellectual property to your company is possible, for example if you have achieved agreed milestones.

3. Make prior agreements for joint research and development

- Make agreements about the intellectual property created during collaboration. Consider the jointly developed foreground knowledge during and after the collaboration. Foreground refers to all intellectual property and knowledge developed within the scope of the collaboration.
- Also agree on and record the background knowledge the parties already had prior to the collaboration. Background refers to the knowledge that was created before or outside the scope of the collaboration. What has been agreed regarding access to the background knowledge during and after the collaboration?
- Is the intellectual property shared with another company? If so, define how the collaboration is arranged. Who holds the intellectual property and why? Who will act in the event of an infringement on the intellectual property?
- Also, make agreements regarding confidentiality and trade secrets during and after the collaboration.

4.3 Checklist to incorporate intellectual property into your business operations

1. Align your intellectual property strategy with your business strategy

- Minimise dependence on other parties by avoiding so-called IP entanglements, where others own or co-own the intellectual property. Carefully document background and foreground knowledge in collaborations. Make clear agreements on ownership and access to joint intellectual property.
- Determine which forms of intellectual property are the highest priority. Assess the costs and benefits and decide if and when financing is needed.
- Combine patents with trade secrets for strategic protection. Trade secrets help you retain part of your knowledge advantage when patent applications become public after 18 months.
- Align the protection of your intellectual property in different countries with your business strategy. Select countries based on market conditions, competition, and potential interests of acquisition partners.
- Develop a strategy to detect and address infringements on your intellectual property.
- Determine the best entity to own the intellectual property. Consider whether a separate private limited company (in Dutch: 'besloten vennootschap' or BV) or holding structure is needed to mitigate risks.

2. Make someone responsible for intellectual property

Assign someone within the company to take responsibility for intellectual property. In startups and scale-ups, this role is often part of the management team. This person will be responsible for:

- aligning the intellectual property strategy with the business plan in collaboration with management;
- reporting to management and regularly placing intellectual property on the agenda to ensure support;
- identifying new ideas within the company. Product developers can help assess ideas for protectability, though a common pitfall is that they may not always recognise an invention in their own solutions. Commercial staff, on the other hand, understand customer demand and can identify which product features are most valuable to protect;
- effectively collaborating with external service providers such as trademark and patent attorneys;
- maintaining the IP portfolio;
- overseeing strategic decision points in the granting process;
- monitoring competitor developments using resources such as the [TMview](#) trademarks register or patent database [Espacenet](#). These tools reveal who is registering what, when, and in which countries. Combine this data with insights from, for example, trade fairs or scientific publications. A clear understanding of the industry landscape enables management to make well-founded strategic decisions, and provides valuable benchmarking material for investors.

3. Document and record

- Ensure proper documentation for registered intellectual property, such as patents and trademarks. Specifically, record registration numbers, application dates, country selections and payment dates. And monitor the important dates. For patents, it is advisable to specify the exact technology each patent protects, especially if your patent portfolio is extensive.

- Keep evidence for unregistered intellectual property, such as copyrights. This could include proof of the creation date and creator. Transfer agreements for outsourced copyright works also serve as evidence.
- Document trade secrets, including the date and your usage. Establish both internal and external confidentiality agreements.
- Document intellectual property for which you grant licenses to others, including an assessment of profitability.
- Document intellectual property from others that you have access to via a (licensing) agreement, including the terms and transferability. Check if your patent licenses are listed in the patent registers.
- Retain other intellectual property-related agreements and contracts, such as non-disclosure agreements.

4.4 Freedom to Operate checklist

Investors want to know whether you can enter the market without being accused of infringing on others' intellectual property. This is called Freedom to Operate (FTO). It is a risk analysis: an assessment of the infringement risk regarding a product, process or trademark. While it is impossible to provide complete certainty, investors expect you to have conducted thorough FTO research:

- Track the technical developments of competitors. Examine patent databases and novelty reports for patents. Keep in mind that an FTO analysis is different from a novelty search. An FTO analysis is not only about technical innovations but about your entire product. It is advisable to outsource the FTO research to a [patent attorney](#). More information about FTO for patents can be found in the [FTO flyer](#) in the [patent brochures](#).
- Also consider other intellectual property that may pose a barrier to FTO besides patents. For example, copyright on software or a trademark.
- Are you dependent on access to others' intellectual property? Ensure that you can prove you've made the proper arrangements, for instance through licensing agreements or documentation regarding open source software.
- Establish clear agreements when engaging in joint research and development.

Case study: managing intellectual property effectively

Figure 4: A product, such as [Secrid's card holder](#), may have multiple forms of protection attached to it. External investors are not the driving force for Secrid to expand its IP portfolio or to address infringements. The long-term vision is to build a company with unique products and a strong brand. So while you can use this checklist for external financing, it is useful for any value creation with intellectual property.



5 Terms, organisations and databases in alphabetical order

Name	Description	Contact information
AGOS	Advisory committee on geographical indications, designations of origin and traditional specialities (Adviescommissie geografische aanduidingen) regulates certification for regional products	See the RVO website and page 16
BAN NL	Business Angels Networks Netherlands, represents business angels and funding networks in the Netherlands	bannederland.nl
BMM	Benelux association for trademark and design law, the professional association of legal specialists	bmm.nl/en
Board for plant varieties	The Board for plant varieties regulates the granting of breeders' rights and the admission of plant varieties	raadvoorplantenrassen.nl/en
BOIP	Benelux Office for Intellectual Property, the authority for the registration of trademarks and designs in the Benelux, for the date registration i-DEPOT, and for providing entrepreneurs with information on intellectual property	boip.int
Breeders' right	Right to new propagating material of plant varieties	See page 17
Ch. of Comm.	Chamber of Commerce, registration and information for entrepreneurs	kvk.nl/en
Chip right	Right to the topography of semiconductor products	See page 18
Copyright	Right of creators (authors) to creative work	See page 7
Create, Protect & Benefit	Website with information on intellectual property	create-protect-benefit.com
Creative Commons	Licences allowing others to distribute or adapt your copyrighted work	creativecommons.org
Database right	Right for producers of data in databases	See page 15
Design	Right to new, distinctive design of products	See page 12
DesignView	An international database, to which many of the world's design registers are linked	DSView (tmdn.org)
Dutch Association of Inventors	Professional and knowledge organisation of inventors and product developers in the Netherlands	novu.nl
Dutch Copyright Federation	Copyright and neighbouring rights organisation	auteursrecht.nl
EIC	European Innovation Council, European deep tech investor	eic.ec.europa.eu/index_en
EPO	European Patent Office Organisation, the authority for registration and services related to European patents	epo.org/en
Espacenet	Patent database providing online access to over 150 million patent publications from more than 90 countries	worldwide.espacenet.com
EUIPO	European Union Intellectual Property Office, EU trademark and design registration authority, from 1 December 2025 also regional craft product CIGIR	euipo.eu
Geographical indications (regional products)	Protection for names of regional agricultural, craft and industrial products	See page 16
Licensing Executives Society Benelux	Global organisation, also represented in Benelux, for professionals in licensing	les-benelux.org
Netherlands Patent Office	The patent office of the Netherlands, which informs entrepreneurs about patents and intellectual property	rvo.nl/octrooi
Patent	Right to technical innovation of products or processes	See page 6
RDA	Regional development agency, strengthen the regional economy with financing and guidance for entrepreneurs	rom-nederland.nl/en
RVO	The Netherlands Enterprise Agency, supports entrepreneurs with subsidies, financing, business partners, knowledge and regulations	english.rvo.nl
SIDN	SIDN regulates the registration of .nl domain names	sidn.nl/en
Strategyzer	Information in English on business plans using the Business Model Canvas and Value Proposition Canvas	strategyzer.com

Name	Description	Contact information
TMview	International trademark database, to which many trademark registers from around the world are linked	tmview.org
Trade name	Right to company names in commerce	See page 11
Trade secrets	Protection of undisclosed information	See page 13
Trademark	Right to distinctive signs such as names and logos	See page 9
WIPO	World Intellectual Property Organization, organisation for international registration of intellectual property	wipo.org

Contacting the Netherlands Patent Office

Would you like to know more about patents or other forms of protection? At the Netherlands Patent Office, we are happy to assist you in strategically using intellectual property for your business plan. Because we are not only responsible for the patent granting process in the Netherlands, but also provide free information about intellectual property. The Netherlands Patent Office is the independent sparring partner for innovative SMEs when it comes to intellectual property.

Our patent consultants can provide advice on the following and more:

- intellectual property rights in all technical fields and which agency to go to;
- sustainable competitive advantage and value creation based on intellectual property;
- searching patent databases for technical topics tailored to your needs.

Free information and services provided by the Netherlands Patent Office.		
Online version of this brochure and other publications	Do you already have a paper version of this brochure? Please see our website for a digital version with links. You can also find our other patent publications there.	Go to our overview of brochures on www.rvo.nl/octrooibrochures .
Workshops and webinars	Sign up for our free workshops, webinars and presentations.	Take a look at our events calendar for a complete overview.
Help in searching patent databases	The Netherlands Patent Office can provide support in searching patent databases.	Request personalised search advice on our website.
Talk to a patent consultant	Our patent consultants can answer your questions about intellectual property rights. Everything we do is confidential and independent.	You can request a meeting with one of our patent advisers on our website.
Public Information	Our Public Information staff are available to answer your questions on working days between 8.30 am and 5.00 pm.	Call 088 042 4002, send an email to octrooicentrum@rvo.nl or check our website .

Annotations

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