



HRD's pocket guide to... *intellectual property*



The HRD's pocket guide series offers an explanation of areas outside day-to-day HR that business-savvy HRDs need to have a handle on. By THIRZA TOOES

Why do I need to know about it?

Intellectual property (IP) refers to creations of the mind. These can include literary or artistic works, names and symbols, inventions, and so on. However, an idea alone does not constitute IP – the plot for a book doesn't count, but the actual words written down for it do.

In business IP is most commonly found in the inventions employees generate, that enable their employers to remain commercially competitive. "IP helps to encourage and protect creativity and innovation, helping businesses to grow," says Dominic Houlihan, acting director of people, places and services at the Intellectual Property Office (IPO). "Whether you're a large corporation or SME your IP can make a real difference."

Simon Miles, head of intellectual property at Edwin Coe, also stresses the importance of knowing your IP. "Intellectual property touches on many activities in the day-to-day lives of employers and employees," he says. "IP principles determine the extent to which employees, and separately consultants, are entitled to ownership of things created during their employment."

He also highlights the need for HR to be aware of how other people's IP is being used in the workplace. "Employers will need to ensure they are complying with IP rights in the work environment. For example, copyright law governs the extent to which a published work may be photocopied without the author's consent, and a licence is required to publicly play music within the office," he explains.

What do I need to know?

Having the right type of IP protection helps organisations

safeguard themselves against other people stealing or copying the names of products or brands, their inventions, the internal design or appearance of their products, and things that the organisation has written, made or produced. So it's vital to have a handle on the different types of protection under the IP umbrella.

"Copyright, patents, designs and trademarks are all types of IP protection and firms that manage their IP rights have a better chance of survival and growth if they treat IP with the same attention as other areas of their balance sheet," says Houlihan.

The easiest way HR can protect the business is by making sure IP is covered (as far as possible) in employee contracts and other legal agreements. "IP rights are valuable and employers need to ensure they successfully own IP developed by employees," Miles states. "In the UK certain employee inventions can lead to a claim for compensation if the resulting patent is of outstanding benefit to the employer. It is not possible to contract out of the statutory framework for compensation so HR professionals need to be aware of the criteria, particularly in technology-led companies."

There is also the matter of what to do if your IP is highly sensitive, and employees who know about it leave to a competitor. "While not strictly an IP right, trade secrets are typically bound up with IP rights such as database rights, patents, rights in designs and copyright. So

it is important to set out the categories of trade secrets clearly in contracts and also to set out what is considered confidential information," explains Miles.

Where can HR add value?

"Understanding how IP adds value to your business can help to influence how you approach your employment contracts, policies, training and how you exit staff,"

points out Houlihan. He recommends you:

- Consider where the creativity lies within your business – is the HR function aligned to those areas?
- Check whether your business has clarity on who owns any inventions or designs – are your employment contracts clear on the ownership?
- Research if your team has an IP policy. When did you last do any training around it?

You can also use your knowledge to make sure employees are kept appropriately up to date.

"Employees are then well-informed as to what rights they have in any works they may produce during their employment and can be confident that in such a case their employer is compliant with the relevant laws on the subject," says Miles.

Anything else?

How you manage and control data is linked to your IP. Make sure your data handling policies are clear and adhered to. If you are concerned you may have a data leak employees must be informed of any monitoring you wish to do. **HR**



Going further

Recommended reading:

Intellectual Property: A Very Short Introduction

by Siva Vaidhyanathan

Intellectual Property Law

by Tanya Aplin and Jennifer Davis

IP for business: events, guidance, tools and case studies

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