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Generally unknown and underused by businesses, intellectual property rights like trademarks and patents can become core assets for a successful business, big or small, if utilised correctly. By Leon Lee

一些企業可能對知識產權如商標和專利的認識仍有不足，也未利盡其用，但若發揮得當，知識產權會是成功業務的核心資產，對大公司和中小企同樣重要。撰文：李仲琪

With globalisation and the rapid growth in the number of online businesses, there is a steady stream of new and attractive products and services on the market today, making it harder for businesses to stand out in a crowded field. As businesses become more online-oriented in terms of e-commerce, they can also easily learn and see the products that their competition is putting out. For businesses that come up with original ideas, it can be disheartening and frustrating to find that their profitable ideas have been copied by others. Therefore, intellectual property (IP) rights protection has become a vital component of doing business.

In Hong Kong, there are five main categories of intellectual property: trademarks, patents, designs, copyright and rights in layout-design of integrated circuits. Trademarks mainly relate to company logos and names, as well as brand names, distinct shapes of products and fictitious characters. Patents, both the standard and short-term types, protect inventions, whether they are physical objects or processes/solutions, from being used commercially by anyone other than their inventors. Designs protect the visible features of the shape, configuration, pattern or ornament applied to an object that is appealing to the eye. Original literary, dramatic, musical and artistic works are covered by copyrights, while rights in layout-design of integrated circuits protect the topography of integrated circuits in computer chips and semiconductor chips in computers and other products that rely on computer technology.

# 商

質全球化加上網上公司數目迅速增長，市場上不乏新奇有趣的產品，令一般企業更難突出自我，別樹一幟。也因電子商貿日趨普及，每家公司有甚麼新產品，都不難為競爭者知悉。如果暢銷的產品被模仿抄襲，自然會令富有創意的營商者沮喪。知識產權保障已成為營商者不可忽視的一環。

在香港，知識產權主要可分為五大類：商標、專利、外觀設計、版權和集成電路的布圖設計。商標主要包括公司商標和名稱、品牌、獨特的產品外形，以及虛構角色。專利權（包括標準和短期專利）保障實物和程式或方案的創新發明，免被發明者以外的人士挪用作商業用途。外觀設計保障富有視覺效果的外形、結構、圖案或裝飾設計。版權保障的是文學作品、戲劇、音樂和藝術創作。集成電路的布圖設計保護電腦晶片，以及電腦及其他依賴電腦科技的設備所用的半導體晶片的拓模圖。









shows to garner business. If they have not registered their designs beforehand, they will face risks because competitors might see their products at the fairs and copy them," Hau says.

### The cost of protection

The application processes for trademarks and patents in Hong Kong are fairly clear and straightforward, and plenty of information is available online. According to Raymond Wong, managing director of Asia Business Centre (Holdings) Ltd, some of the firm's clients from overseas simply go through the process themselves. "If they don't mind spending the time necessary to research and learn about the process, it can be done. It isn't too hard to do in Hong Kong compared with other places around the world," says Wong.

"There is also a lot of support and help available in Hong Kong in regards to IP. The Trade and Industry Department has a centre where businesses can go with questions, and the Hong Kong Productivity Council and other statutory authorities will periodically arrange conferences and seminars on IP and its importance."

One of the key events in the city is the annual Business of Intellectual Property Asia (BIP Asia) Forum. Jointly organised by the HKSAR, Hong Kong Trade Development Council and Hong Kong Design Centre, the event brings together experts and professionals from around the world to share insights on the industry and explore intellectual property-related business.

Hong Kong patents are among the least expensive in the world, with a high rate of approval. A standard patent can be renewed annually after the end of the third year, up to a

有意參加香港和世界其他地區貿易展覽的公司，更有必要保障其知識產權。

侯遠旭說：「香港有不少從事原件製造和原設計製造的公司都會在商貿展覽中展出產品，以招徠生意。如果他們沒有事先註冊產品設計，他們的競爭者有可能在展覽中看到產品後便隨意仿製。」

### 保障的成本

商標和專利註冊的申請手續在香港十分清晰和簡單，也不難在網上取得資料。大中華商務中心（控股）有限公司董事總經理黃嘉榮表示，公司的一些海外客戶索性自行申請，「如果他們不介意花時間了解申請手續，大可自行動手，和世界其他地區比較，在香港註冊商標和專利並不太難。」

「香港提供不少有關知識產權的支援，工業貿易署設有中小企業支援與諮詢中心，可解答商戶的疑難。香港生產力促進局和其他法定機構也會不時舉辦有關知識產權及其重要性的會議和研討會。」

其中一個重點項目為亞洲知識產權營商論壇。該活動由香港特區政府、香港貿發局及香港設計中心合辦，為世界各地知識產權業的專業人士和商家提供一個理想平台，就知識產權的最新發展互相交流。

香港的專利權註冊費用可能是世上最便宜地區之一，獲批率也很高。標準專利的有效期最長為20年，須在第三年屆滿後每年續期。註冊外觀設計保護的有效期最長為25年，每五年續期一次。商標初次註冊為期10年，每10年續期一次，次數不限。

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Archwiz (left), Jack Frog (right) / Shutterstock.com



maximum of 20 years, while a registered design is renewable for periods of five years for a maximum of 25 years. A trademark is initially registered for 10 years and can be renewed indefinitely as long as it is renewed every 10 years.

Despite the relative ease of the process, Wong says there is still hesitation among SMEs to register, as they often question the need for trademarks and patents for their business and how they can help them. And while the cost of IP protection in Hong Kong is cheap, it only covers Hong Kong.

"[Businesses] can register for IP protection globally, but for SMEs, when they can't really predict their progress for the next 10 to 20 years, it can be a costly gamble," says Accolade's Hau. "The government has a fund that supports patents but not one for trademarks or designs. It's not cheap to register for those two things. IP is a global market, so it isn't too much help if a business just registers in Hong Kong, as the domestic market is limited. So if you do business on the Chinese mainland, in Asia, Europe or the US and you haven't registered for IP protection there, your IP value is quite low, but it's quite expensive if you do decide to get that protection."

### Building an IP portfolio

According to statistics from the Intellectual Property Department of the Hong Kong government, there were a total of 12,719 trademarks registered, 275 short-term patents granted and 1,079 designs registered in 2016.

"We've noticed that there's been a bit of growth in awareness of IP because of the increase of start-ups that work online or with mobile devices. As they hope to gain support from the government or angel investors, trademarks and patents help them appear more professional and serious about their business," Wong says.

While increased awareness is a good sign, the benefits of IP extend beyond just a single trademark or patent.

"Today it's about how competitive your IP portfolio is. The IP portfolio has become a business's most important and core competitive advantage. This is best represented by the



儘管手續簡易，黃嘉榮說有些中小企仍懷疑有沒有這個需要，也不大肯定商標和專利對業務有甚麼幫助。不過在香港保護知識產權成本雖然低，但只在香港有效。

卓遠知識產權的侯遠旭說：「企業可註冊全球有效的知識產權保障，但對中小企來說，不易預計未來10至20年的發展，謀求全球有效的註冊未免不切實際。香港政府設有專利申請資助計劃，但未惠及商標或外觀設計註冊，而兩者的全球註冊費用不菲。知識產權市場面向全球，如果只是在香港註冊作用不大，因本地市場畢竟有限。如果你在中國大陸、亞洲、歐洲或美國都有業務，卻沒有在這些地區註冊保護知識產權，你的知識產權價值就不會很高，但要取得全球保障是頗昂貴的。」

### 建立知識產權組合

據香港政府知識產權署的統計數字，2016年共有12,719項商標註冊、275項短期專利批出，以及1,079項外觀設計註冊。

黃嘉榮說：「我們發覺，隨著在網上或流動器材營運的初創企業數目增加，對知識產權的認識也相對提高，因這些公司要取得政府或天使投資者的資助，就要以商標或專利突出他們的專業水平和對業務的認真程度。」

對知識產權的認識提高固然是好現象，但知識產權並不止於單一的商標或專利。



smartphone industry,” Hau explains. “It’s not complicated to manufacture a smartphone at all. You might be able to sell the phone for US\$100, but after you pay the factory fees as well as patent right fees for the technology, the phone would cost US\$120 to make because Apple, Samsung and the other companies own the patents. So today it’s no longer about design capabilities and production capabilities, but rather about your business’s research and development capabilities to develop and grow the value of its IP portfolio and the areas it covers. This is a very big change from 10 years ago.”

Both Hau and Wong acknowledge that the Hong Kong government has been supportive of IP, but they believe that further support and funding can help ease the application process. Wong has seen that start-ups without financial support are more hesitant to register, as they are more likely to delegate funds to other areas of their business first. Hau adds that while there has been good support for patents, there’s been less support for trademarks and registered designs, which he believes to be equally important, but he cautions businesses not to rush to register everything at once.

“I believe that IP protection should be done one step at a time. It can be very simple in the beginning, with just a trademark registered in Hong Kong in one class, which is affordable for any SME. If the business might have to expand to Southeast Asia or the Chinese mainland, I would suggest to wait until the business grows bigger as the cost of IP protection can become quite costly. An IP solution is not a fixed asset like purchasing a car that you’ll drive for the next 10 years. It should be something that a business builds up step-by-step,” says Hau. 📖

侯遠旭解釋：「現今的關鍵在於你的知識產權組合有多大競爭力。知識產權組合已成為一間機構的最重要和核心競爭優勢所在。智能電話最能說明這一點，製造一具智能電話並不複雜，只要付製造費給工廠和專利費給科技公司，電話可定價100美元出售，但實際上你的成本可能要120美元，因為蘋果、三星或其他公司擁有相關的專利。所以今天重要的不再是設計或產能，而是開發和增加知識產權組合及相關範疇價值的研發能力，和10年前相比，變化很大。」

侯遠旭和黃嘉榮都指出香港政府對知識產權十分重視，但更多的支持和資助更有助推動註冊申請，黃嘉榮指出一些初創公司因經費不足，會將資金先投放到業務營運上，對商標和專利註冊略感遲疑。侯遠旭說對專利註冊的支持已充足，但對商標和外觀設計註冊的支援則還不很足夠，而這兩方面也同樣重要。

不過侯遠旭認為企業沒必要立即甚麼都註冊：「我認為知識產權保障應按部就班進行。可先在香港做商標註冊，這是中小企都可以負擔的。如果你的業務會拓展到東南亞或中國內地，我建議要等有關業務發展到一定規模，才決定下一步驟，因為所需費用頗為昂貴。知識產權方案不像買了一部汽車就可以開10年，那是一項一步一步建立起來的資產。」 📖



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