

# Innovation, Start-ups / IP Commercialisation and Technology Law Services Guide



Murfett Legal have a dedicated team of lawyers who have significant expertise & experience in Technology Law, Intellectual Property, Privacy, Data Protection and Cyber Security.

Murfett Legal are sponsors of the [WA Innovator of the Year Awards](#) (IOTYA) programme and have been on IOTYA's judging panel as well as a member of the [WA Innovation Centre's](#) specialist advisory panel.

Our team acts for a wide range of business owners - from local start-ups to international technology and IP licensing groups.

## **Start-ups**

Have an idea? Starting up a new business in today's technologically advanced world? Where do you begin? What are some of the key commercial practical and legal requirements?

It may be overwhelming as to where to begin, as there is information readily available. As a starting point, some of the key commercial practical and legal requirements you should consider before your business is fully operational include:

- ✓ Technology Law;
- ✓ Intellectual Property and Commercialisation; and
- ✓ Privacy, Data Protection and Cyber Security.

## **Technology Law**

Technology Law provides a legal framework for collecting, storing and disseminating electronic information by way of transactional practices, through innovation, development, licensing, acquiring or selling a business.

We provide complete services in Technology Law related matters including:

- Developments & Licences Agreement for Software and Apps;
- Agency & Distributorship Arrangements; including Hardware Vendor Arrangements;



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- Software-as-a-Service (SaaS) and Service Level Agreements (SLAs);
- Datacentres, 'cloud'-technologies and platform provider arrangements;
- Meta-data Resale Agreements;
- Advice and due diligence on IT related issues arising from acquisition transactions;
- Transitional arrangements through escrow agreements, mergers and sales;
- E-commerce (national and international) related transactions including:
  - Website terms and conditions/terms of use;
  - End-user licences (EULAs);
  - Disclaimers;
  - INCOTERMs advice;
  - Privacy Policies and compliance with the *Privacy Act 1988 (Cth)*; and
  - Media, Trade Practices and other regulatory advices.
- Research and Development (R&D) Grants and legal advice related to such;
- Detailed and bespoke structuring advice to help our clients protect their valuable IP and confidential information; and
- Litigation involving passing off, breach of contractual arrangements, non-compliance with the Office of the Australian Information Commissioner, Australian Securities and Investments Commission and Australia Health Practitioner Regulation Agency.

## **Intellectual Property**

Intellectual Property is more than just trademarks, patents or copyright. It also relates to recipes, procedure, know all, idea, artwork, metadata and proprietary information of a company.

Whilst it may be an intangible asset, it can be very valuable and you may be able to commercialise your Intellectual Property by strategically licensing it.

So, what happens if a third party has stolen your Intellectual Property. Do you have any rights or claim against them? Can you make them stop? Depending of your circumstances you may be able to enforce and recover your Intellectual Property and have them cease and desist using your valuable Intellectual Property.

You ask, how do you protect and properly commercially exploit your Intellectual Property? Some thoughts may be through:

- Correct Intellectual Property Asset Structuring and Master Licensing Arrangements;
- Confidentiality and Non-Disclosure Agreements;
- Registration of your Intellectual Property;
- Brand protection, management, and commercial exploitation of Intellectual Property;



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- Contractor and Consulting Agreements; and/or
- Intellectual Property rights' enforcement and litigation – including also suppression orders and contempt hearings, defamation notices and proceedings.

## **Privacy, Data Protection and Cyber Security**

The Privacy Act has now been amended to include matters dealing with the collection and storage of an individuals' personal information like, name address, date of birth etc. There are strict penalties for non-compliance, with fines up to \$1.7 million dollars for companies and \$340,000 for individuals. Therefore, it is crucial to getting it right in the first instance.

It is important for you to have in place clear and concise policies and procedures dealing with:

- how a business handles personal information collected;
- the way a business uses the personal information for direct marketing; and
- the way a business discloses personal information to people overseas, including by way of "cloud" storage systems & international platform providers.

Some ways you can avoid this is by having a secure platform with encryption, biometric-scans or the like. However, implementing such may be problematic if you do not have the right agreements in place for employees. Therefore, it is crucial to have the right advice before implementation.

We offer advice and strategies on Data Protection and Cyber Security to properly navigate the digital age for all our client. Some of these services include:

- Encryption and data security policies;
- Obtaining Data with and without consent/Opt-in & Opt-out advices; including Freedom of Information issues;
- Privacy and Cyber security audits (in conjunction with IT ad and digital forensics advisers); and
- Cyber-hijacking & attacks' mitigation strategies (in conjunction with specialist IT and insurance advisers).

Murfett Legal differentiate ourselves from other firms as we are not just lawyers, we are also business advisors for clients which assists our client's business growth.

If you would like more information, please contact us on +61 8 9388 3100 or visit our [website](#).



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