Fact sheet – First Nations startups

#4 Branding & intellectual property needs

Intellectual Property **(IP)** rights can provide Startups with exclusive rights when commercialising products and services. Understanding how to register and use IP rights is critical to protecting the brand of a Startup. This fact sheet considers the different IP needs of First Nations Startups, including trademarks and copyright, use and protection of Indigenous Knowledge **(IK)** and registration of business names and domain names.

Trade marks

Trade marks come in a range of different forms such as words and logos. Key benefits of registering a trade mark in Australia are:

- Exclusive rights across Australia to use and allow others to use your registered trade mark as a brand name for the specified goods and/ or services;
- You are in a much stronger position to stop others from using your trade mark in relation to the same or similar goods and/or services - a trade mark registration serves as a direct ticket to take legal action against others who infringe your brand in respect of the same or similar goods/services; and
- You can use the ® symbol on your goods and/or in promotion of your services.

When filing a trade mark application, the owner must specify what goods and services it is seeking protection for. The process for registering a trade mark takes a minimum of 7.5 months from the date of filing an application.

Before using a trade mark, it is necessary to investigate whether other businesses are using the same or a similar trade mark in Australia, in relation to your products or services (or similar products or services). You should conduct searches, including on Google, the Australian Business Names Register and the Australian Trade Marks Register, administered by IP Australia. You should keep records of these searches and ensure that they are dated. You should seek legal advice, before using a trade mark, if your searches identify another business using the same or a similar mark in Australia.

#4

Copyright

Copyright provides an owner of works with exclusive rights to copy, reproduce, adapt, and the right to communicate to the public. **There is no registration system for copyright in Australia.**

Copyright generally lasts for 70 years for works after the death of the author. Copyright law is governed by the *Copyright Act 1968* (Cth)**.** Copyright will protect, amongst others, "literary works", such as articles and novels, "artistic works", "dramatic works", and broadcasts. Importantly, it will not protect ideas, concepts, styles, techniques or information.

Use of a copyright notice on works, which consists of the symbol ©, followed by the name of the copyright owner and the year of first publication informs the public who is claiming copyright.

Indigenous Knowledge

IP Australia uses the term "Indigenous Knowledge" **(IK)** to describe a range of knowledge developed by Aboriginal and/or Torres Strait Islander people. IK includes the following:

- Traditional Cultural Expressions **(TCEs)** – Includes languages, music, stories, dance, symbols, crafts and architecture; and
- Traditional Knowledge **(TK)** – This is knowledge resulting from intellectual activity in a traditional context and includes know-how, practices, skills and innovations.

The protection of IK can become important for a Startup, if is using or incorporating IK as part of its business offering.

Australian law does not comprehensively recognise or protect IK. However, the Australian Government has committed to introducing new stand-alone legislation to protect IK (the legislation has not yet been introduced).

In the absence of adequate laws, it is important for Startups to have strong agreements in place to properly protect any IK that is being used or shared by the Startup.

#4

Registering business names and domain names

Business name
It is an offence to carry on business under a name if that name is not registered to the entity as a business name (subject to a few exceptions). Therefore, it is important to closely follow the steps needed to properly register a business name, including for example, searching for a name that is available and paying the required registration fees to Australian Securities and Investment Commission.

Domain name
Registering a domain name occurs through a commercial service including for example, Domain Names Registrar (Australia), Go Daddy and Crazy Domains. Similarly, searches will be required to check your proposed domain name is available. To do this, select right extensions and complete an online form and pay the relevant fee.

Importantly, registration of a business name or domain name will not provide your Startup with exclusive rights to that name – only trade mark registration will provide such rights.

Please see our other Fact Sheets for First Nations startups here.

For more information, please contact: **probonoteam@hopgoodganim.com.au**

Disclaimer
The content of this fact sheet is current at September 2026 and is intended to provide a general guide to the subject matter only. The fact sheet does not constitute legal advice. Obtaining specialist advice about your specific circumstances is strongly recommended.