



Intellectual
Property
Office



Scottish Business
Resilience Centre

Supply Chain Guidance



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“ Intellectual property plays a vital role in the UK economy and can provide crucial protection for businesses when bringing new products on to the market. ”



Tim Moss
Chief Executive Officer
Intellectual Property Office

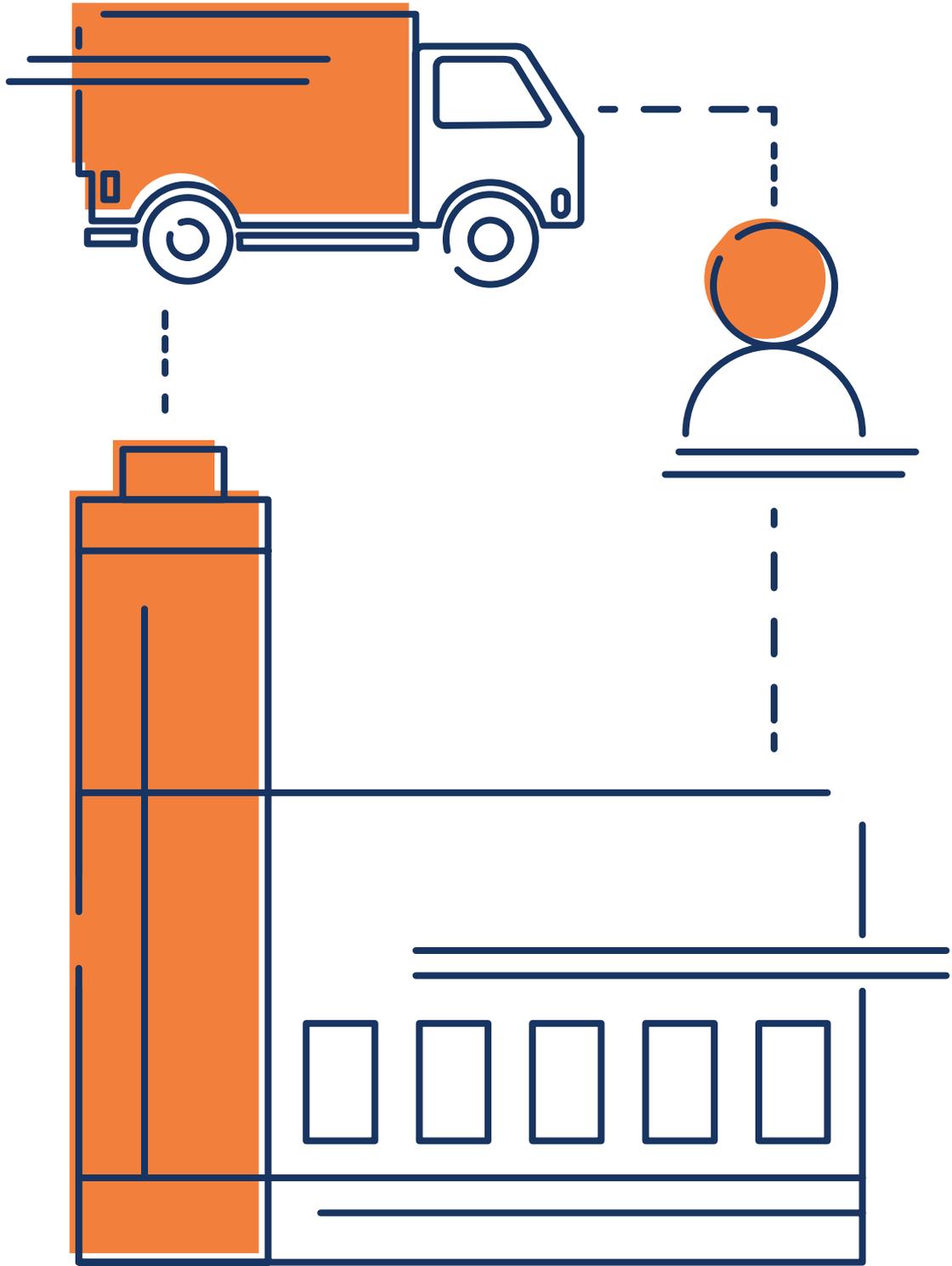
Foreword

Welcome to the new and updated version of the Supply Chain guidance for businesses. This document aims to provide a step by step guide to building supply chain resilience and preserving the integrity of your IP supply chain.

Intellectual property plays a vital role in the UK economy and can provide crucial protection for businesses when bringing new products onto the market. The UK is a world leader in the creation of new brands, creative works and inventions and our creative industries in the UK alone account for £96 billion of Gross Value Added.¹

With the increase in demand for products from across the globe, supply chain resilience is crucial to enable businesses to import and export confidently. Protecting business reputation and ensuring that supply chains are not exploited by criminal networks is a key element of that resilience. A strong and robust supply chain is also a vital component to promote the reputation of a company. It provides customer confidence whilst promoting the UK as a safe place to trade and do business with.

With the assistance of the Scottish Business Resilience Centre this guidance has been written from a business perspective and demonstrates best practice across a range of business sectors. This is illustrated in the case studies section highlighting how businesses have ensured that their supply chains remain resilient, even when threatened by organised criminal networks trying to exploit their legitimate supply chain with counterfeit products.



Introduction

The supply chain describes the process and organisations involved in moving a product or service from a supplier to customers. It can refer to people; technology; activities; information; or other resources. It is essential that businesses realise the importance of security and working collaboratively to ensure the integrity of the supply chain. The repercussions of weak links in supply chains can be severe for any organisation, both in terms of financial losses and reputational damage, so it is vital to have protective measures in place at all stages of the supply chain.

This document has been produced by the Intellectual Property Office (IPO) in collaboration with the Scottish Business Resilience Centre (SBRC). The guidance herein has been developed as a resource for businesses to promote preventative measures, whilst raising awareness of the risk of counterfeit goods entering the legitimate supply chain.

Current situation - IP Global Landscape

Throughout the world, IP laws have become increasingly important in protecting creativity and innovation. There is a clear need for creator's rights, and for brands to be protected by continuing to make the very best of creative opportunities.

In the last decade, the rapid increase in IP crime, namely counterfeiting and piracy, has created one of the biggest problems facing many businesses around the world. IP crime has evolved individuals and organised networks, producing counterfeit/fake products which are often of poor quality and/or unsafe. This can range from designer clothing and footwear to car parts and electrical components.

As more national borders open for trade, so the international threat grows. The greater the opportunities for legitimate businesses to invest in developing countries, the greater the risk from organised crime networks.

IP crime is a clear and serious threat to businesses. It can lead to job losses, higher taxes, higher prices being passed on to customers and taxpayers, additional costs for policing and economic losses. There must be a coordinated approach to counter this, with the government, enforcement agencies and industry using the skills and expertise that are available to them.

All the links in the supply chain must work together to develop business models that protect products, minimise waste as a by-product of both production and distribution, and avoid duplicated efforts at all stages of the supply chain. If good practice is not maintained, it will be difficult to learn from each other and the risk of criminality will increase. This document aims to encourage best practice within the supply chain for businesses from all sectors.

IP Rights - What are they?

Intellectual property (IP) is something that you create using your mind - for example: a story, an invention, an artistic work or a logo.

You own IP if you:

- created it (and it meets the requirements for copyright, a patent or a design)
- bought IP rights from the creator or a previous owner
- have a brand that could be a trade mark, for example, a well-known product name

IP can:

- have more than one owner
- belong to people or businesses
- be sold or transferred

IP rights allow you to make money from the IP you own.



Reviewing your IP assets

Reviewing your IP assets is very much like creating a financial report, except that it lists IP, how it is protected and, if possible, its value to the organisation.

The report can include the following:

- A list of your IP
- How it relates to specific products or services
- The status of the IP – has an application been made, will the rights be registered, unregistered, licensed or assigned?
- Details about the creator or author of the IP including any outside partners
- Agreements with developers, employees, suppliers, retailers, etc
- Prior obligations e.g. ownership agreements
- Copies of confidentiality markings
- Any infringement disputes
- The potential value of the IP to your organisation when it was first disclosed publicly www.gov.uk/guidance/valuing-your-intellectual-property

Identifying and recording IP assets

A large number of business assets now come from innovation and creativity; therefore, it is essential that these IP assets are protected. Prevention and vigilance are the solutions to avoiding problems. Effective security is built on a company's ability to identify and recognise the value of its IP at a very early stage.

Failure to identify and record your IP rights, and have in place a system of checks within your organisation could weaken the security of your IP assets.

It is therefore extremely important to record newly created IP as early as possible, so you must have policies in place. Making a record of your IP can be a simple process. The record should include:

- The creator's name and signature
- A witness signature
- Any plans, including marketing or sales strategies to reveal the IP publicly
- Any other business partners or contributors who have been involved in the creation or development of the IP
- Any drawings
- Any test results or similar information
- A security mark, such as 'confidential' or restricted property'
- A Non-Disclosure Agreement (NDA) if appropriate

You will also have to decide how you wish to protect your IP, whether via registering a patent, trade mark or design, relying on copyright, or keeping it as a trade secret.

The ownership of IP can be the subject of disagreements between businesses, individuals, and organisations. The main issues relate to money, control of the IP, and the use of your rights. Effective partnerships can be extremely useful for large projects.

“ It is always important to start thinking, at an early stage, about how your rights will be used. ”

Licensing is generally used to make sure that the owner of the IP keeps control over how their rights are used by other people or organisations.

So, you must consider using licence agreements and review any existing licences to make sure that the agreed use of IP is clear. Also, if there are any agreements or licences that need to be discussed, you must think carefully about all the ways your IP may be used or presented by the licensee.



Safeguarding your products and preserving your IP rights

Packaging and product design

Packaging design has become a very important way of tackling IP crime. Printing and design help customers to identify authentic products and can also be used to give information or instructions.

It is important that products and their packaging are designed so they cannot be easily produced without permission. This often involves introducing complicated labels or parts that are difficult to produce, but this can increase production costs. Losses from IP crime can be many times higher, however, so to prevent counterfeiting throughout the supply chain many companies are now investing in more advanced labelling systems. This could be a process such as holographic stamping or building their trade marks into all the main parts of their products and packaging.

Assisting enforcement agencies

Making sure that all packaging and labels are strong and distinctive. Many businesses are putting more investment and care into packaging their products on the basis that criminals often cut their costs in this area. This helps enforcers because they know what to look out for including flimsy binding and wrapping and poor-quality printing and logos. Update your packaging as often as you can, it really helps stay one step ahead of the counterfeiters.

What you could do:

- Match the product, model numbers and equipment details across the packaging. Counterfeiters will often put fake electrical or household products in boxes for clothing or other goods, so they can avoid getting caught or paying tax (duty).
- Show the manufacturers contact information. Legitimate companies will normally give customers a contact phone number, website and/or address.
- Include 'safety guarantee' labels on your products. Many products made by legitimate manufacturers will carry safety certificate labels on them.

What you should not do:

- Use plain boxes. These days most product labels and boxes carry a lot of information, including barcodes, trade marks, patent information and recycling instructions. Criminals will not want to spend time and money trying to reproduce these details.
- Ignore spelling or grammatical errors – these are common on the packaging for counterfeit goods.

Manufacturers partnerships and outsourcing

- Make sure you only buy genuine materials and parts from authorised suppliers. Ask for invoices and keep them.
- Try and minimize the number of suppliers you use and if possible, avoid using large sourcing websites which requires disclosure of IP data to many organisations.
- Use business information agencies and Companies House records to check that your suppliers, subcontractors, distributors and customers are legitimate.
- Advise your suppliers that you will only accept genuine goods and give them clear guidance about what you expect from them.
- Develop clear guidance for manufacturers and suppliers from overseas to make sure that containers and packaging are sealed, secure and tamper-proof.
- Make sure contracts contain quality control checks and audits. Also ensure contracts contain termination clauses and conditions for return of products.

Controlling distribution

- Develop a system of checks so that sales and marketing teams can be sure that customers have legitimate outlets for selling or distributing your goods.
- Monitor customers' buying patterns and make further checks if you notice anything out of the ordinary.
- Develop guidance for wholesale and retail customers and give them clear advice about what you expect from them.

- Make clear, in contracts or conditions of trading with sellers, subcontractors and distributors that it is not acceptable for them to deal in fake goods as it may affect your reputation. In addition, you may want to develop guidance for sellers, subcontractors and distributors and give them clear advice about what you expect from them. Only sell to distributors who are legitimate and auditable (have their accounts officially audited).
- Carry out checks on your distributors and partners.
- Look out for, and sign up to, certified retailer or distributor schemes – particularly if the scheme will invest resources into business or countries which suffer from higher levels of IP crime.
- If you identify an issue with counterfeit goods, notify your customers ensuring they know what to look for, and they can be confident you are working hard to protect both your business and theirs.

Maintaining your system of checks

Use 'mystery shopping' to buy back products you sold to distributors and check that the products are priced, packaged and labelled correctly and lawfully.

Use 'track and trace' methods to provide visibility on stock within the supply chain.

Waste management

- Destroy or recycle your waste and damaged products.
- When you recycle waste, make sure that you deal with legitimate, auditable partners.
- Develop guidance for organisations that deal with your recycling and give them clear advice about what you expect from them.
- Regularly check well known internet sites, for example auction sites, to ensure that products sent for destruction have not re-entered the supply chain and report anyone selling or offering for sale to the owners of the website.

Protecting your IP rights

The first step in preventing IP crime is to make sure your rights are protected. Often, IP is protected by more than one type of IP right and these give a different kind of protection. Full details can be found at the [IPO website](#).

These are the main types of registered protection:

Patents

You can use a patent to protect your invention. It gives you the right to take legal action against anyone who makes, uses, sells or imports it without your permission.

To be granted a patent, your invention must be all the following:

- something that can be made or used
- new
- inventive - not just a simple modification to something that already exists

Patents are expensive and difficult to get. Before you apply, check if a patent is right for your business.



Trade Marks

Trade marks are badges of origin. They distinguish the goods or services of one trader from another and can take many forms; for example, words, slogans, logos, shapes, colours and sounds.

A person commits an offence if they intentionally apply a sign identical to, or likely to be mistaken for, a registered trade mark to their goods and/or packaging. **(This must be done without consent from the owner of the trade mark and be done with the intention of either making a personal gain or causing a loss to the owner.)**

It is an offence to sell or hire, offer to sell or hire, or distribute goods with such a sign. It is an offence to have control and/or ownership of anything with such a sign. **(The use of such a sign includes its use on materials for labelling or packaging goods, as a business paper in relation to goods, and for advertising purposes. This includes making any article which is specifically designed or adapted for making copies of a sign identical to or likely to be mistaken for, a registered trade mark.)**

Passing Off

The law of passing off relates to unfair competition. If a trade mark is not registered it may still be entitled to certain protection, called a passing off action. Passing off aims to prevent someone falsely presenting their goods or services as someone else's goods or services; damage to the goodwill and reputation of a business; and the public being misled.

Designs

Designs protect the outward appearance of your product; The look of your design includes the:

- appearance
- physical shape
- configuration (or how different parts of a design are arranged together)
- decoration

Intentionally copying a registered design to make a product is an offence if it is an exact copy of a design; or if it will only differ in material terms from a registered design (i.e. colour), and if the person knows or has reason to believe it is a registered design and doesn't have permission from the owner. It is also an offence to offer/bring to market/import/export/use or stock a product as described above.

Copyright protects your work and stops others from using it without your permission. You get copyright protection automatically - you don't have to apply or pay a fee. There isn't a register of copyright works in the UK.

You automatically get copyright protection when you create:

- original literary, dramatic, musical and artistic work, including illustration and photography
- original non-literary written work, such as software, web content and databases
- sound and music recordings
- film and television recordings
- broadcasts
- the layout of published editions of written, dramatic and musical works

You can't copy or use copyright material without permission. For example, you can't buy a painting and then use copies of it for a book cover or buy a CD and use a track from it in a film.

To use something protected by copyright you must either:

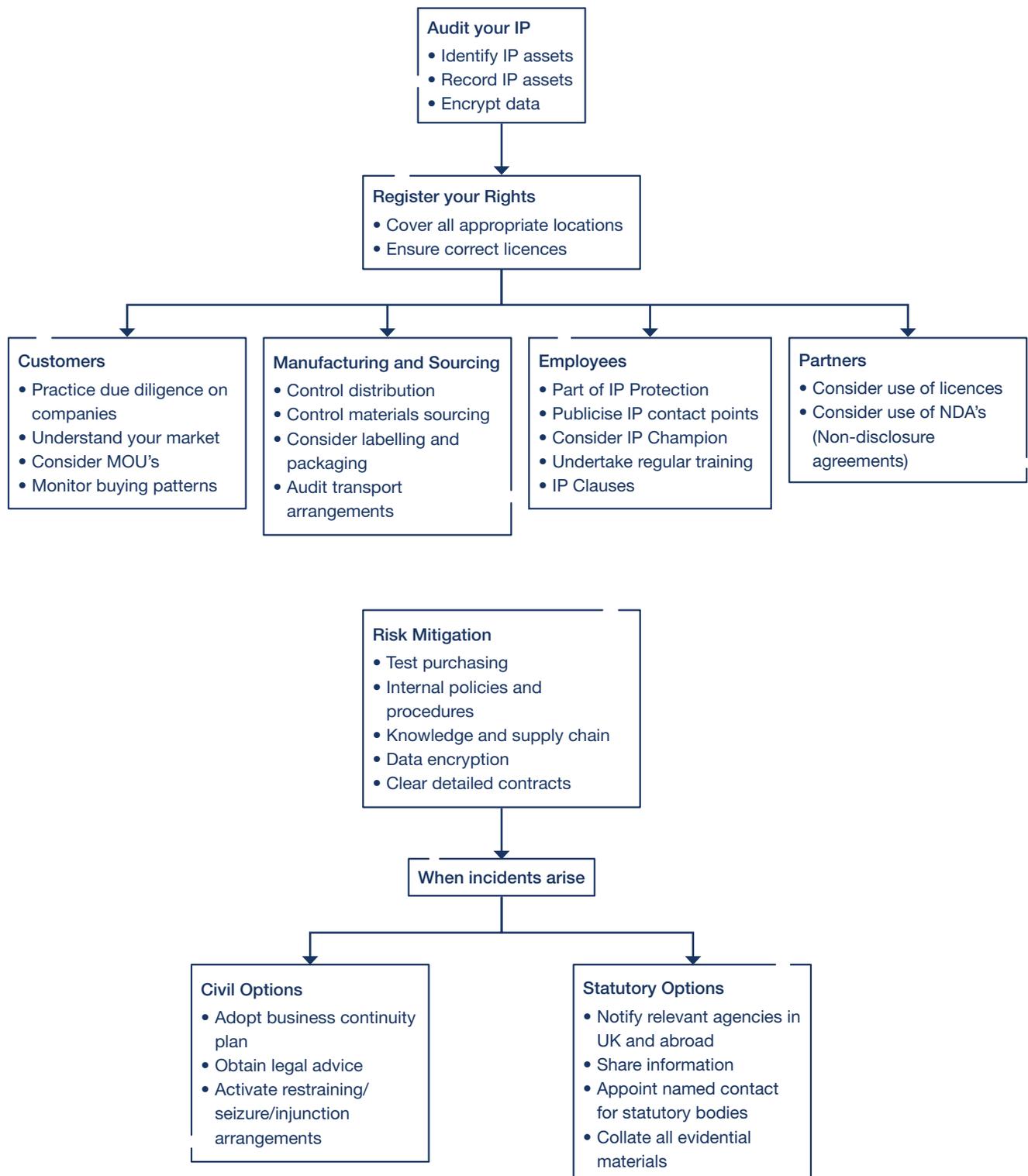
- agree a licence with the owner to use it
- buy or acquire the copyright
- confirm that your intended use falls within the **exceptions to copyright**

IP protection can also extend to trade secrets, varieties of plants, geographical indications, performer's rights and so on.

Trade Secrets

Trade secrets are a type of IP and refer to any secret manufacturing process, device, formula, or method used by a company in creating its products. The term also covers any designs or instruments used in manufacturing, or any information of intrinsic value to the manufacturing process which is not known by those out with the company.

Protecting your rights



Registering your IP rights

You may apply to the [UK IPO](#) if you wish to register a patent, design or trade mark in the UK.

There are other ways if you wish to register elsewhere within the EU, over and above those for the UK.

Patents can be applied for via the [European Patent Office \(EPO\)](#) -

Applications for trade marks and designs can be submitted to the [European Union Intellectual Property Office \(EUIPO\)](#)

The [World Intellectual Property Organisation \(WIPO\)](#) can be used to facilitate the protection of patents, designs and trade marks in many other countries globally.

In the UK, the IPO developed the [IP Health Check tool](#) to help you review and protect your IP assets.

Automatic Rights

There are three IP rights that do not have to be registered:

1. Copyright
2. The unregistered design right (there are two different types of unregistered design right, one applies exclusively to the UK, the other to elsewhere in the EU)
3. Performer's rights

You are automatically protected for each of these rights – there is no requirement to complete a form or pay a fee, and it is often the case that the owner is unaware that these rights are protected. Usually, your copyright work will be automatically protected overseas, in the same way that it is protected within the UK.

Reducing your risks from IP crime

Unfortunately, many companies and rights owners only become aware that their IP has been infringed or, in case of registered designs intentionally copied when the fake goods appear on the streets or are identified as being for sale online. It is important that those who own the rights to the IP or have responsibility for protecting it, have a system in place to identify, as quickly as possible, where a potential breach has occurred.

Due diligence along the whole supply chain and engendering a positive relationship with your own staff, suppliers, distributors, wholesalers and retailers will minimise risks and maximise opportunities for early identification of breaches.

Best practice examples

- Ensure you have appropriate policies and procedures in place relating to the protection of IP which include an incident response guide should a breach be suspected or identified. IP protection should be included in any Company Risk Register.
- Risk registers provide company managers with a list of identified risks, stated clearly and assessed as to their importance to the organisation and the impact they may have. The risk register can lead directly to risk handling and implementation of risk mitigation policies and procedures. There are a range of examples of risk registers online.
- Register trade marks in China if manufacturing, exporting, or even considering exporting or product growth, to, from or via China or Hong Kong.
- Reduce the risk of disclosures resulting from employee negligence by periodically reinforcing your confidentiality policies.
- Ensure your data is encrypted, and when you share information with third parties, make sure they do the same. An NDA (Non-Disclosure Agreement) is a legally binding contract that establishes a confidential relationship.
- The party or parties signing the agreement agree that sensitive information they may obtain will not be made available to any others. If you have NDAs in place, consider including a requirement that sensitive information must be stored in a secure location and in encrypted format. Further information about NDAs can be found at the [IPO website](#).

- IP may well be your most valuable asset and like other business assets you can get insurance to protect against risks associated with your IP. Much of this insurance (but not all) is aimed at businesses who have already secured IP rights. However, you can also protect yourself against inadvertently infringing the rights of others.
www.gov.uk/guidance/intellectual-property-insurance
- As well as encryption, companies should also enforce strong password policies and consider multi-factor authentication which will maintain protection even if passwords are discovered.
- Control who can access sensitive information by maintaining full visibility over where critical information is stored, and who is given administrative privileges and access rights to that information.
- Use file management systems that allow you to set permissions by user and administrative group and ensure physical security to rooms containing sensitive material and set restrictions on who can gain access to these rooms.
- Ongoing training and communication with staff, clients, customs, authorities and enforcement agencies is important to ensure knowledge is current and the actions expected are known and understood and are accessible to all to ensure timeous action.
- Test purchasing of goods can be an effective way of confirming legitimacy or otherwise within stores or online sites. Where breaches of IP rights are identified you should obtain physical evidence to show how and where the goods are offered for sale. This will also enable you to provide good evidence in any criminal or civil proceedings.
- A test purchase can be carried out in an online or on the high street. The purchase can be carried out by a 3rd party on behalf of the IP owner, with no apparent connection to that owner. A test purchase for brand protection is mainly done on behalf of brands or manufacturers in order to gain further insights into the provenance of the product, the seller, the distribution or any other aspect of a suspect supply chain. A growing number of manufacturers all around the world see test purchases as an integral part of their brand protection strategy in order to combat parallel distribution, counterfeiting or other activities that can harm the distribution of their products and the brand itself.
- Detailed knowledge of your supply chain is vital. As a manufacturer you should have transparency about who is moving your goods to markets and any potential sub-contractors involved. Transport Managers or third-party logistics (3PLs) providers should be given clear instruction on what is and what isn't acceptable.
- Restricting the number of outlets that are licensed to sell goods and ensuring the public are widely informed of who these suppliers are, will give protection against fake goods and make identification of unregistered sellers easier to identify.

Be prepared to act quickly when there is a problem

- Keep detailed information about the products for law enforcement authorities including Customs and Trading Standards, and business partners you trust.
- Apply for Customs protection directly [using an Application for Action \(AFA\)](#) if you think that goods in international trade may infringe your rights. Provide as much information as you can about the products, licensees, transport methods and routes and how you believe your IP rights are being abused.
- It will be too late for Customs to act once infringing goods have left the port area and are in free circulation.
- Agree memorandums of understanding (MOUs – written agreements between partners of what they can expect off each other in their working relationship) with UK Customs and overseas customs authorities.
- Provide technical advice and equipment where appropriate.
- Help Customs, the Police and Trading Standards if fake goods are found – you may have to store goods, so they can be examined.
- If the court agrees that your IP rights have been infringed, you may be asked to assist in destroying the Counterfeit goods.
- Share any information you have about counterfeiters, with enforcement agencies and any business partners.
- Make sure all relevant authorities in countries where you carry out your business know how to contact you and you are in possession of their current contact details.
- Ensure you have access to legal advice in all countries in which your company trades. The [UK IPO](#) overseas intellectual property attaché network provide support for UK businesses seeking advice on local IP matters.

“ As criminals look for new ways to expand their illegal activities, security within the supply chain becomes increasingly important. ”

Supply chain security/risks

The following sections are not an exhaustive list and are not intended to be a complete guide to supply chain security.

They aim to raise awareness of the importance of protecting IP and identify areas where businesses might develop ways of working simply, efficiently and securely with their partners in the supply chain.

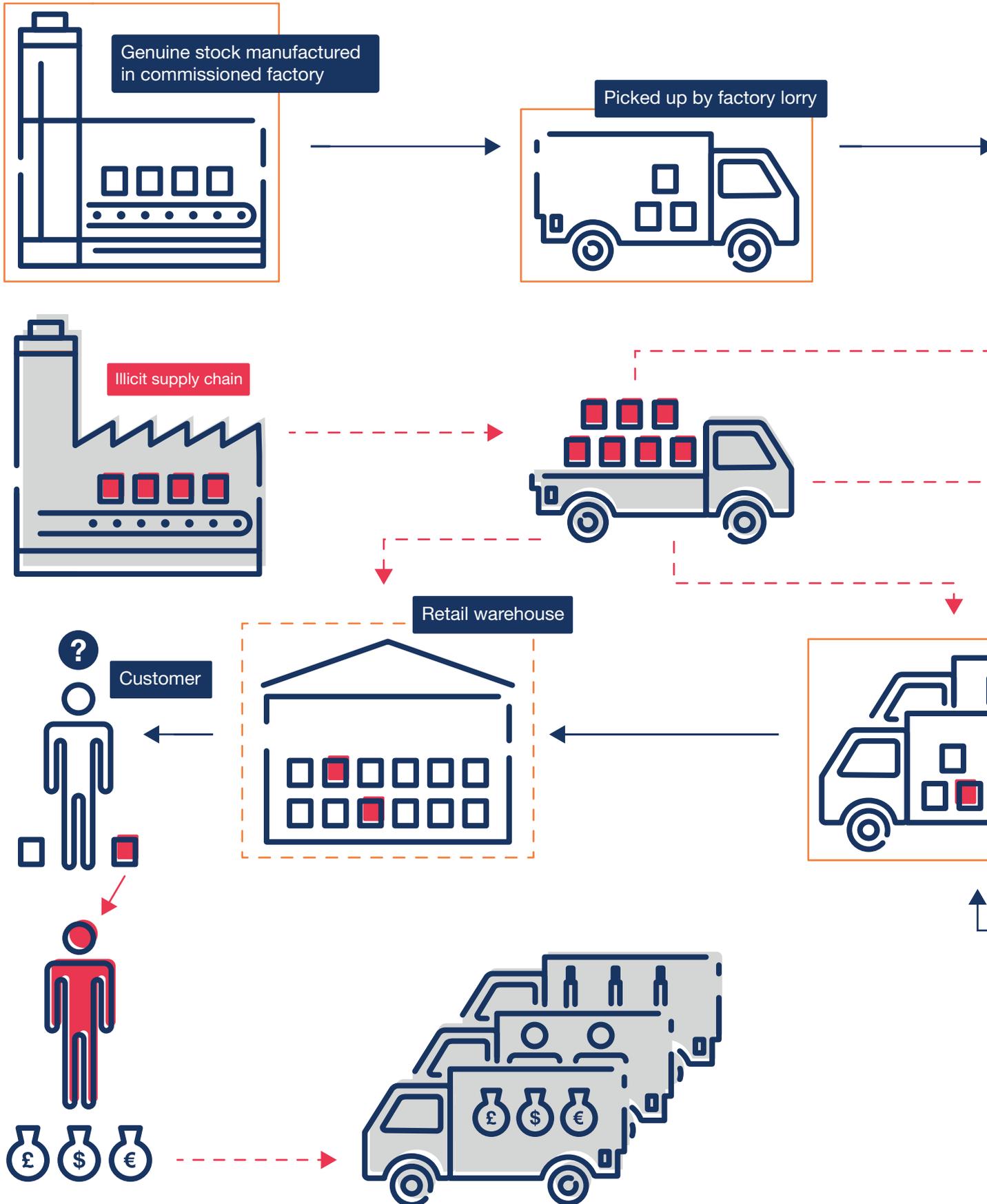
Total security is very difficult to achieve. Having effective policies, procedures and lines of communication with those involved in your supply chains will reduce your exposure to risks and make potential issues easier to identify and mitigate.

As criminals look for new ways to expand their illegal activities, security within the supply chain becomes increasingly important. Businesses must respond by using best practice to manage their communications and transactions efficiently. Investing in greater vigilance in supply chain offers more security, better efficiency, safer markets and can reduce costs in the long term.

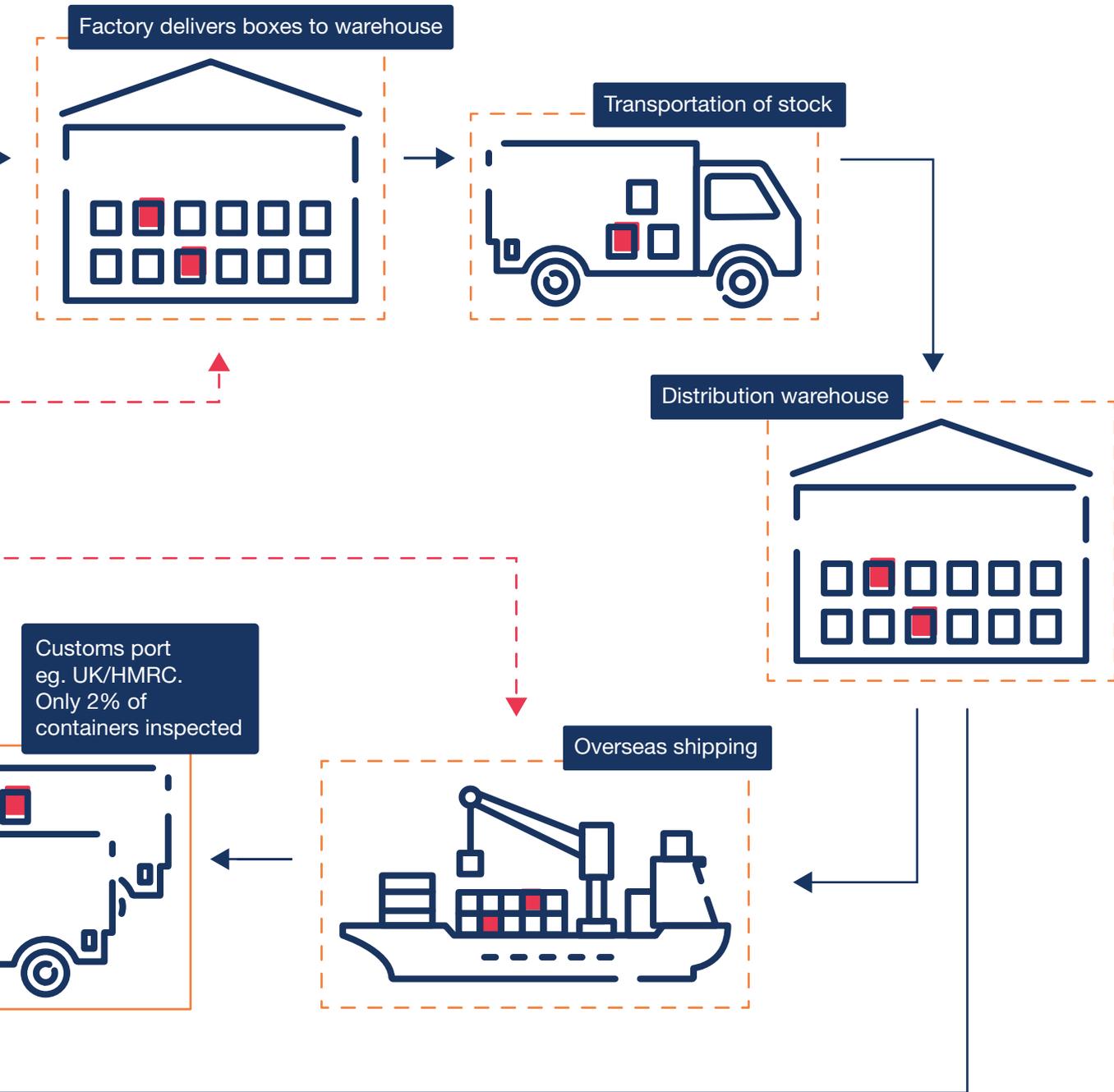
Whilst theft or misuse of IP has a significant impact on the owner and the viability of the business, the issues are multiplied with the involvement of serious and organised crime groups (OCGs) infiltrating your supply chain as the proceeds from sales of goods are then used to proliferate other forms of crime including drugs, child exploitation and people trafficking.

The increase in e-commerce has made it easier for unscrupulous criminals to operate but more difficult for genuine manufacturers and customers to identify where thefts of IP have occurred.

How counterfeiters influence supply chains



Supply - and fund illegal trade



- Official channel
- Non-official channel
- Safe environment
- Open to stock movement in or out
- Genuine stock
- Copycat stock
- Illicit funds

Online supply chain/ market place

The provenance of raw materials or finished goods and how they are sourced is a concern to customers, suppliers, regulators, investors and non-governmental organisations who are increasingly asking companies, including small and medium businesses, to show that the goods on offer online and the websites that sell them are genuine. If you are a business that sources goods and services (including suppliers) from the internet, then there are a number of checks you can carry out to help you in your decision to purchase from such sites.

There are several signs that you should look for when trying to identify if a website is genuine or not. The **IPO website** provides helpful advice for consumers in this area which the same principles apply when sourcing supplies online.





If the price seems too good to be true, it probably is. Beware of websites offering heavily discounted prices.



Contact us! Check if the page contains full contact details including official email address. About us! Check the history of the company.



Watch out for domain names that contain the words genuine, replica or original, discount or offer. Also, websites in English but with a domain from a foreign country.



Look out for grammar and/or spelling mistakes/poor pictures and dead links.



Check the website - [WHOIS](#) lookup tool searches Nominet's directory and returns information about the domain name searched for.



Check if the photos are of bad quality, are resized or difficult to see, or the opposite, are copied from original websites or are stock photos. Illicit websites might use images from a brand's most recent advertising campaign or from the original website to boost their credibility.



Search info about replicas and fakes of the product you intend to buy. Check reviews from other pages, forums and search engines.



Check that the site is secure. Well-known retailers use secure protocol "https".



Beware of retailers asking for payment to be made via bank transfer.



Returns policy - the vast majority of genuine sites have a sales and returns policy. Terms and conditions - a genuine company should display the website terms and conditions including what they do with your data.

Avoid...

- Don't trust websites just because they show the logo or original photos of a reputable brand. This doesn't necessarily mean they are genuine.
- Avoid buying goods from websites that are selling all categories of branded products in a single page.
- Don't buy pharmaceutical products from an unlicensed online pharmacy or via social media.
- If you are asked to pay for product online via a bank transfer, don't.

When in doubt...

- Ask the seller questions about the products, for extra, non-generic pictures, and if they offer an after-sales service, or a guarantee. By contacting the seller, you can also find out if the phone and email address provided are non-existent or fake.
- Contact an authorised re-seller or official representative of the brand to check if they know the seller or the suspicious website. Be aware that some luxury brands cannot be sold on the internet, only in physical shops through an official retail network.

What to do if you spot a fraudulent website

- Exit the site to reduce the chances of a cyber attack
- Report the website to the police via Action Fraud.
- Warn contacts, staff and partners

Protecting IP in your organisation

For any organisation, raising and maintaining awareness of issues relating to IP is vital. It will help to avoid possible losses and protect employees. Protecting IP is a vital part of your business so you must take the time to explain it to your employees. Every employee is responsible for the security of the business and for protecting its IP rights, and when appropriate include an IP clause re the ownership of IP in employees' contracts.

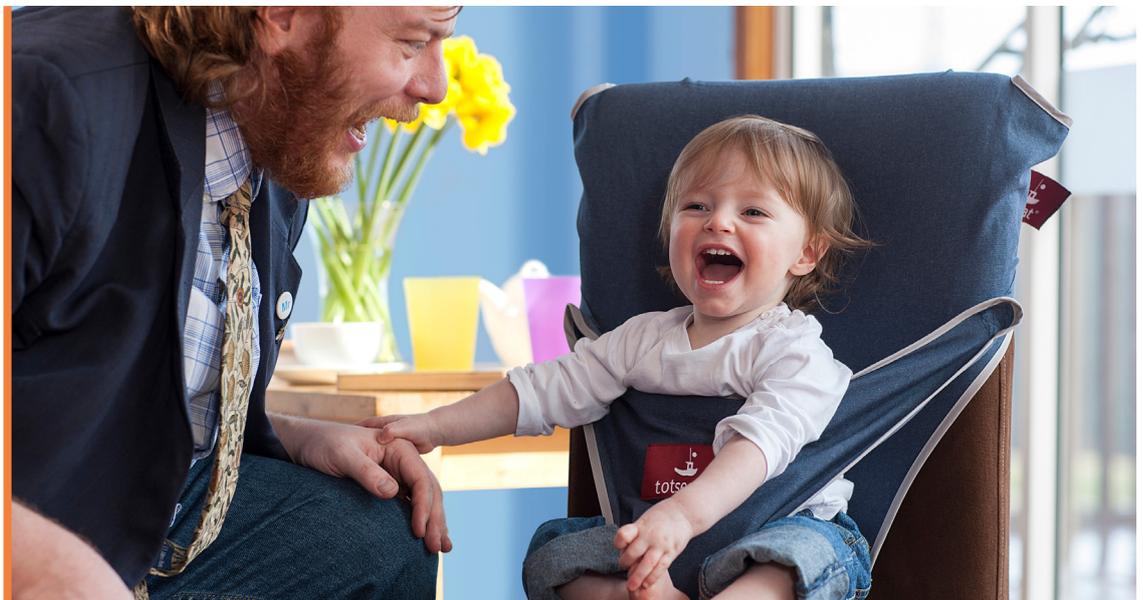
A basic level of awareness is usually enough, there is no requirement to facilitate expensive training programmes when in-house training will suffice. The benefits of an informed workplace include:

- A greater understanding within the workforce of the difference between patents, trade marks, registered designs and other IP rights; and their importance.
- Trade secrets will be safer.
- A greater chance of employees recognising criminality, by way of infringement of IP laws.
- Some companies may wish to consider appointing a dedicated person to oversee all aspects of IP protection. This individual should be responsible for:
 - Creating an up to date inventory
 - Reviewing the systems used to monitor IP protection
 - Perform risk assessments and prioritise any identified protection needs
 - Raise and maintain awareness of issues relating to IP
 - Be the single point of contact (SPOC) for reporting any infringements
 - Maintaining a directory of similar IP contacts within the organisation at other levels
 - Identify best practice in terms of IP advice distribution

Case studies

Totseat

Created in 2005, the Totseat chair harness, 'for babies who lunch', safely and securely envelops a small child in an adult chair providing an instant highchair alternative when on the move. Designed in Edinburgh and originally manufactured in the UK, sourcing was moved offshore to supply major export markets a few years into its journey.



At the point of the 50th export territory being reached, counterfeit products coming into the UK were seized by Border Force at Southampton, thanks to the business having registered the Totseat with the EUIPO Enforcement Database.

<https://euipo.europa.eu/ohimportal/en/home>

Taking immediate action against the importer, with the help of Trading Standards and the IPO, the business owners made haste to China to learn, directly from the Alibaba team, what could be done to identify fakes online and remove them from sale. The official reporting procedures for each marketplace were subsequently used to prove the Totseat's originality in each case, uploading the appropriate registered rights to ensure the fakes were taken off-line immediately.

Working directly with the factory, with no middlemen, it was evident the fakes did not originate from the commissioned manufacturer. Keen for consumers to be able to tell fake from genuine, the Totseat team introduced updated specifications for the product, enabling counterfeits to be identified in three simple steps. The team continues to refresh these attributes, and packaging, regularly.

Using the Totseat's many registered trade marks and design rights, counterfeits and copies were slowly but surely identified and removed from the main online platforms - in China and wider afield - over a period of months: preventing their purchase, export, import and distribution. Border Force registrations, in territories such as the US and Australia also helped to make other major territories aware of the issue.

“ Thankfully, considerable effort and expertise in identifying and removing fakes worked, ensuring customers were kept safe and the business survived. ”

Totseat Ltd continues to monitor and remove any counterfeit and copies from sale, using both registered rights and copyright (which is an unregistered right) to do so. All have proved to be worth their weight in gold ... and probably more so!

The Totseat experience led its founder to develop SnapDragon: online brand protection software for SMEs.



Philips Automotive

The sale of counterfeit goods is not a new issue in the automotive industry. Increasingly, however, it has become a real problem for manufacturers and is one whose impact can extend far beyond the simple act of buying or selling a counterfeit part.

The issue of counterfeit product is not simply a legal or even a business matter. Buying, selling, or even being in possession of such a product is illegal, but when it comes to vehicle lighting, as with many other critical automotive components, it is also potentially a lethal safety issue.

In the automotive lighting sector, there has been a notable growth in recent times, with counterfeiters targeting replacement Xenon headlamp bulbs. Xenon bulbs are at the top end of Automotive lighting, both in performance and cost terms, so these “high ticket” items are an attractive target for the counterfeiters. With the growth in the area of Xenon lighting (one in every five cars now being equipped with Xenon headlights as Original Equipment) the demand for Xenon replacements continues to grow.



Image: Philips Automotive

Phillips has monitored a steady rise in counterfeit replacement Xenon bulbs coming onto the market – particularly on the Internet. These invariably are very poor imitations and are of dramatically inferior quality compared to the Philips genuine product that is fitted as Original Equipment.

Philips is now fighting back against those who manufacture and distribute counterfeit products to the automotive trade and ultimately to the motorist with a number of measures to tackle the issue by;

- Taking the major step of changing our packaging. All Philips C1 and S1 Xenon bulbs will come in packaging that carries a Philips Certificate of Authenticity, which comes in the form of a Hologram and a product number coding system unique to the bulb.

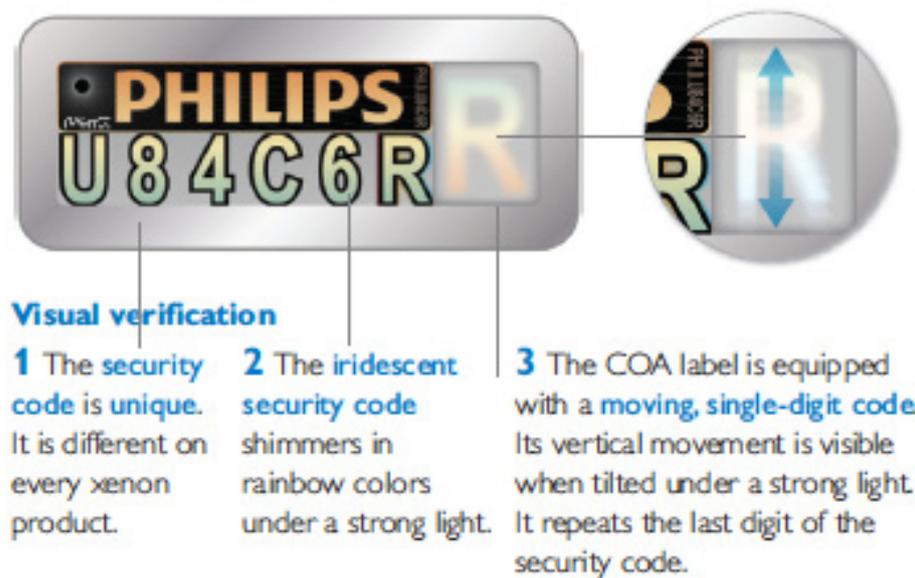


Image: Philips Automotive

- Creating a special microsite - www.philips.com/original. This has been set up to enable customers to instantly check they have purchased genuine Philips product by simply typing in the product coding on the packaging. The packaging also carries a QR code, making the microsite instantly accessible to those with a smartphone and allowing authenticity to be verifiable in, for instance, a workshop environment, where it is likely to be most applicable.
- Philips is supporting this and other similar campaigns with a number of marketing and communication measures, so that those who stock or purchase automotive lighting products, and those who fit and use the product are aware of any supply or counterfeit issues and the measures in place to combat it.

Richard Armstrong - Philips Automotive (Lumileds) UK country manager.

Further advice/ information

As well as the statutory bodies involved in the management and investigation into IP and potential infringements, a large number of additional organisations exist that can provide advice, guidance and information that may be helpful in providing further general advice or some specific circumstances.

Intellectual Property Office (IPO)

IP is a complicated area and covers a wide range of topics. [The IPO](#) offers guidance on all aspects of IP. It also provides detail guidance on [IP crime and infringement](#).

Law enforcement

In the UK, cases of counterfeiting and piracy may involve a number of crimes being committed, so there are a number of ways that criminal law may be applied. This could mean that more than one enforcement authority is involved in any investigation. The most relevant authorities within the UK are:

- The Police.
- Action Fraud (England & Wales only)
- Trading Standards (both national & local government officers)
- Customs, (as appropriate) and/or Border Force
- IPO Intelligence Unit

You should always consider making a complaint to the authorities even in the case of infringement.

Laws relating to trade marks, copyright, product design and patents are the same across the UK, although there are three separate criminal justice systems, one each for Scotland, Northern Ireland, and England and Wales.

Investigations will often involve more than one organisation. Procedures and requirements for the prosecution of cases may differ, but guidance will be provided by the lead enforcement authority.

Action fraud

Action Fraud is the national fraud and internet crime reporting centre for England & Wales and Northern Ireland. It provides a central point of contact for information about fraud and financially motivated internet crime, including IP crime.

The service is run by the City of London Police working alongside the [National Fraud Intelligence Bureau](#) (NFIB) who are responsible for assessment of the reports and to ensure that reports are forwarded to the appropriate authority. The City of London Police is the national policing lead for economic crime.

When you report an incident to Action Fraud you will receive a police crime reference number for offences in England & Wales or Northern Ireland. Reports taken are passed to the National Fraud Intelligence Bureau. Action Fraud does not investigate the cases and cannot advise you on the progress of a case.

Action Fraud can be contacted at www.actionfraud.police.uk For offences in Scotland, contact Police Scotland on 101.

Trading standards

Trading standards usually has the largest role in investigating and prosecuting counterfeiting and piracy cases (except in Northern Ireland, where the main authority is the Police Service of Northern Ireland).

Trading Standards Officers (TSOs) can make test purchases and they have the authority to enter premises to inspect and seize goods and documents.

Your local trading standards office can be found at www.gov.uk/find-local-trading-standards-office

Customs/Border Force

[Border Force](#) secures the border and facilitates the legitimate movement of individuals and goods, whilst preventing those that would cause harm from entering the UK. This is achieved through the immigration and customs checks carried out by staff at ports and airports.

The main Customs instrument for tackling IP infringements at the European Community's border is Regulation (EC) 608/2013

Under the Regulation, rights holders are required to apply for protection of their rights in an [Application for Action \(AFA\)](#) before customs administrations can take action. An application may be made for protection within any number of EU Member States. [Customs Notice 34](#) explains how HMRC operates in terms of the EU procedures regarding customs enforcement of IP rights at the external border of the UK. A separate application will be required for protection with the UK now that we have left the EU.

IPO intelligence unit (intel hub)

The [Intel Hub](#) acts as the UK's central point for collecting, analysing and disseminating intellectual property (IP) intelligence.

The hub supports law enforcement investigations, placing the right information in the hands of the right people at the right time. The hub also provides the link between the rights holders and various law enforcement agencies.

The intelligence hub collates intelligence on intellectual property crime and receives information from sources such as industry, Trading Standards, Police, HM Revenue & Customs and Border Force.

The intelligence hub follows the National Intelligence Model (NIM) guidelines and national codes of practice for intelligence collection, storage and dissemination.

Preparing a legal case

Law enforcement authorities have limited resources, the more information you can provide the more likely enquiries will lead to a successful conclusion.

As with any other criminal investigation, witnesses should appreciate that they are likely to be required to provide testimony in court should the investigation get to that stage.

You may be required to:

- demonstrate your status and your authority to act as an expert witness.
- examine, and give statements about the goods, to prove that they are counterfeit.
- prove that your IP rights are registered (a [certified](#) copy of the registered certificate will usually be enough).
- confirm that you have not given the person accused permission to use the rights.

If you have not registered your IP rights, you, as the rights owner or the authorised representative, will be required to verify that you have not given the suspect person permission to use the rights.

Taking action whether through civil processes or through the courts will deter others from attempting to commit similar offences against you or others. Consider seeking legal advice if you are unsure of either your rights or how to proceed.

Checklist

Points to be considered	Yes	No
Do you have any assets that can be classed as IP?		
Have you correctly registered your rights?		
Do you have policies and procedures that will protect your rights or that will quickly identify where a potential breach may have occurred?		
Have you identified and implemented risk mitigation strategies which protect your rights throughout your supply chain?		
Cyber criminals are continuously active, are you sufficiently protected against online attack and can you identify fake websites or fraudulent communications?		
Do you know the Enforcement Agencies that deal with IP investigations and how to contact their local representatives?		
Could you start to prepare a legal case against any perpetrators?		
If you need further advice or assistance, do you know where to go or who to contact?		
Do you have any assets that can be classed as IP?		

Useful contacts - UK

As well as the statutory bodies involved in the management and investigation into IP and potential infringements, a large number of additional organisations exist that can provide advice, guidance and information that may be helpful in providing further general advice or some specific circumstances.

A list of potential sources and their areas of expertise can be found at: [\[link to where the IP Crime Group page will seat on the IPO page\]](#).

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