



IP fitness check - guidelines

Bates Wells will undertake a general review of the client's ('Your') publicly-visible materials with a view to identifying protectable and protected intellectual property, and any gaps or deficiencies in Your current protection. The fitness check will include (but may not be limited to) the following areas:

Trade mark protection

- A review of all Your names and brands. These could include 'house marks' (Your registered and operational names), 'sub brands' (e.g. the names of key services or campaigns), logos, slogans and any other elements that are used to identify You and Your activities.
- Basic trade mark searches in relation to such names and brands. Have You registered them as trade marks? Has someone else registered them or acquired rights in them?
- Is the current registered protection appropriate? If not, what could be done to improve the situation? This could include – consolidating existing registered marks to help reduce future costs; applying to register new trade marks; adding or removing goods or services to or from existing registered marks; or applying to register marks in new territories. We will provide advice as to the most effective (and most cost-effective) process.
- Entry of existing/any new registered trade marks on Bates Wells' records (if You want us to). This means that all information concerning these important assets will be held in one secure place. It will also allow us to remind You when each registration is coming due for renewal.

Other name registration-related issues

- Are any working names properly filed with the England and Wales Charity Commission?
- Are Your website and other publicly-visible materials compliant with English Company Law rules concerning display of full details?
- Who is the recorded owner of Your domain names? A recurring problem is ownership of the domain name by an employee or a designer. This may place the domain outside Your full control. We can advise on any remedial steps.

- Are there any other available domain names that it would be prudent for You to acquire?
 - Are there any other registered domain names that may present a threat?
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Copyright protection

- A review of a sample of publicly-viewable materials and other materials provided by You for consideration (within reason), including:
 - In what materials is copyright likely to exist?
 - Advice regarding ownership of copyright in materials including books, leaflets and other publications, as well as website content (including images and user-generated content on social media). Are You the owner or the licensee of the copyright material? Or do remedial steps need to be taken? Usually this is primarily done by a self-audit with guidance from Bates Wells.
 - Advice regarding use of others' rights in Your publicly-viewable materials, including identifying possible liabilities.
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Databases

- Specific advice on databases including copyright issues discussed above, and database rights.
 - If requested (and at extra charge) we can provide detailed data protection advice (e.g. writing Your data protection policy, data collection statements etc.)
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Defensive measures and enforcement

- Are You using appropriate indications to show others that Your names, brands, materials etc. are protected by Intellectual Property rights?
 - Are You adequately monitoring others' potential infringements of Your rights?
 - We can consider whether You will benefit from our 'trial' trade mark watching service, for a period of six months, that will alert You if another party tries to register a brand that is too close to Your own.
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Charges

- The fitness check is carried on a fixed fee basis at **£1500 plus VAT**. The work undertaken is capped at six hours of senior lawyer (senior associate or partner) time. The 'usual' value of this time is approximately **£2000 plus VAT**.
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***Publicly-visible means visible and reasonably easily identified either on Your website.*

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