

HOW TO PROTECT YOUR INTELLECTUAL PROPERTY

Your business's intellectual property (IP) is an asset – one that has to be protected from other businesses copying you. In the United States, some forms of IP are automatically protected while others need you to act to get the right protection. As early as you can, get legal or professional advice before you commence your business about your potential IP.

OnoGrindz Cake Café™ and OnoGrindz Organic Granola™

Charting the intellectual property journey of a café, who make muffins by day and manufacture their secret recipe granola at night, run by Catherine and Leia.



1 Automatic IP Protection

Sometimes you don't have to apply for intellectual property protection. If you've written a book, composed a song, filmed a movie, or painted a work of art, it will be protected by copyright automatically. You'll need to prove you've created it, but you won't have to apply for copyright. For example the OnoGrindz Café owner made up a jingle for a radio advert. It's automatically protected.



TIP

You may want to register a copyright to help recover certain damages if someone infringes on your rights. For more info visit www.copyright.gov.

2 Trademarks

Catherine registered the café and granola name as a Trademark, a play on Ono and Grindz as words that mean delicious. Trademarks are the best way to protect letters, words, sounds or designs. The USPTO Trademark Electronic Search System (TESS) checks that the item you want to protect isn't currently trademarked. If not, you can then apply to register your name. The USPTO has great help on Trademark basics.



TIP

Use the ™ symbol after your name immediately so everyone knows you're seeking a TradeMark. Then use ® once it's registered.

3 Patent

Leia invented a new type of convection oven that bakes muffins five times faster. If she applies for a patent, it will stop others from copying her oven process for up to 20 years. A patent is an exclusive right granted by the Government that protects the concept or idea behind your product. Conduct a patent search see if your idea is already been invented, and then review the patent process to double check it's something you want to do.



TIP

Keep the idea a secret and file as early as you can just in case someone is also doing something similar without you, or them, knowing.

4 Web Site Domain Name

Catherine registered onograindz.com before the café opened. as soon as she started, to sell her T Shirts and Mugs through her online store.



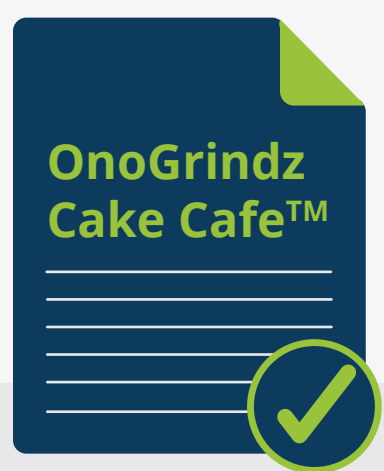
TIP

Search a domain name database first to see if your name exists, like www.godaddy.com (there are loads of others).



TIP

You can also apply for a Service Mark if you want to protect a service, instead of a product. You have the same rights as a Trademark and apply the same way.



5 A Company Name

Even though Catherine and Leia had a trademark on their name, they also formed a company with the same name to double their chance of protection, as no other company can be registered under the same name. Register your business with the Department of Commerce and Consumer Affairs in Hawaii here.



TIP

Search the WebCheck Database to check your preferred company name hasn't already been taken.

6 Trade Secrets

The recipe for their muesli has been handed down by the family for generations and wasn't protected as trade secrets don't expire. It's simply written down and kept in the family safe!



TIP

Protect trade secrets with employee confidentiality agreements, encrypt or password protect data, and lock access to any important documents.

7 Arrangements

Catherine has a verbal promise from her organic Goji berry supplier to only sell to her as a preferred customer, as long as she orders a minimum amount each month.



TIP

Keep in contact with key suppliers or customers on a regular basis to form strong relationships.

8 Business Know How

Leia sells the muesli into the ABC chain. Over the years she knows exactly when to make contact about her contract by understanding when they review new products, existing contracts and their budgets.



TIP

If you have key employees who share this business know how, keep them close with long term contracts, restraint of trade clauses or make them a business partner.

Finally, should you protect your IP?



✓ YES, IF:

- You gain a competitive advantage that customers will pay for
- It makes the business more valuable when selling
- You can sell or license the IP

✗ NO, IF:

- You're unlikely to take legal action if you were copied

NEXT STEPS:

- Review your business and identify all your IP.
- Take the necessary steps to protect any IP that isn't currently.
- Get legal advice before you do anything else

Please note that the information provided isn't intended and should not be relied upon as professional or personal financial product advice. You should seek professional advice before making any decision that could affect the financial health of your business.



AMERICAN
Savings Bank