



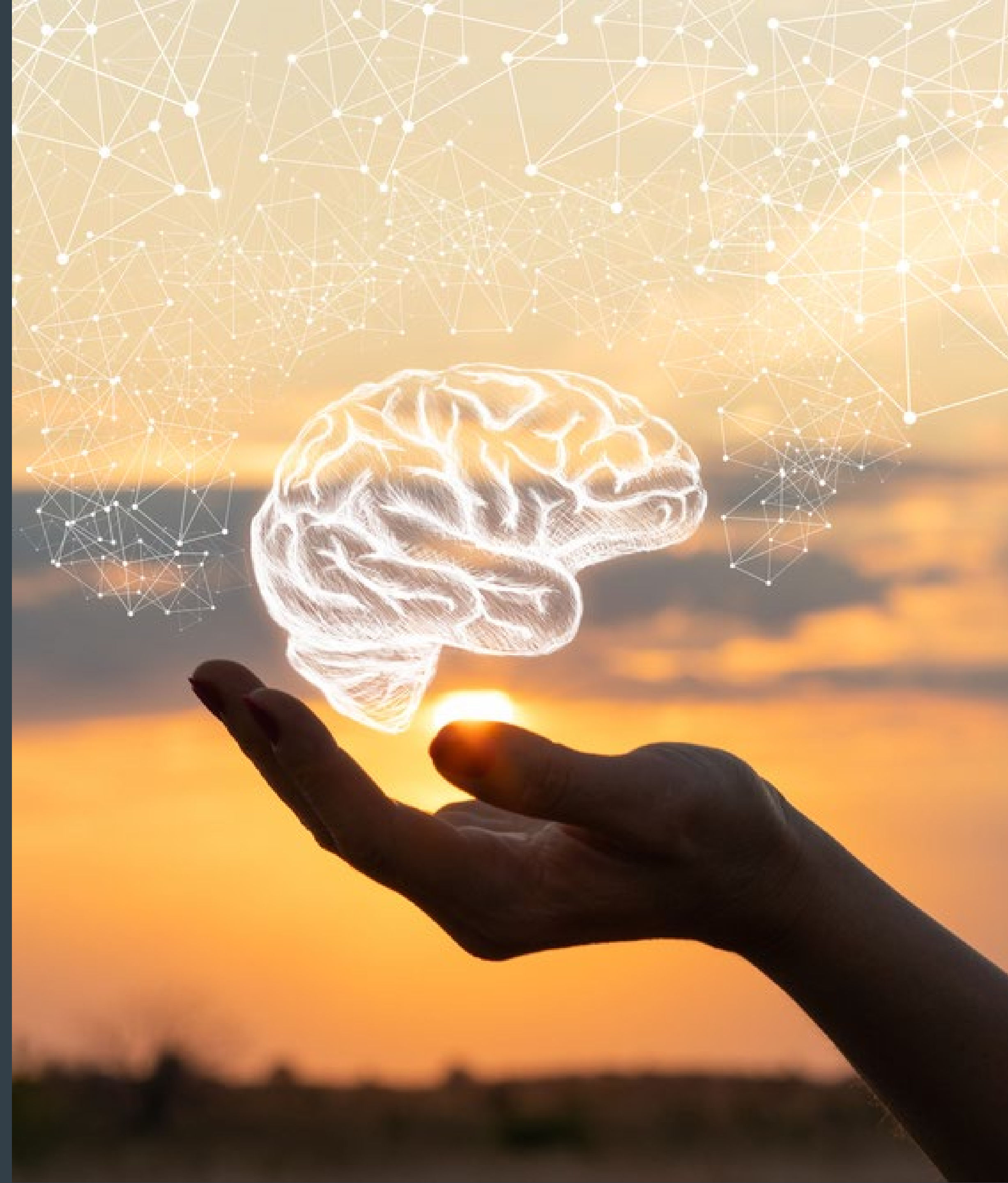
Australian Government

IP Australia

# Trade marks in the Australian Olive Industry

Presenter : Tim Dehelean  
Trade Mark Examiner, IP Australia

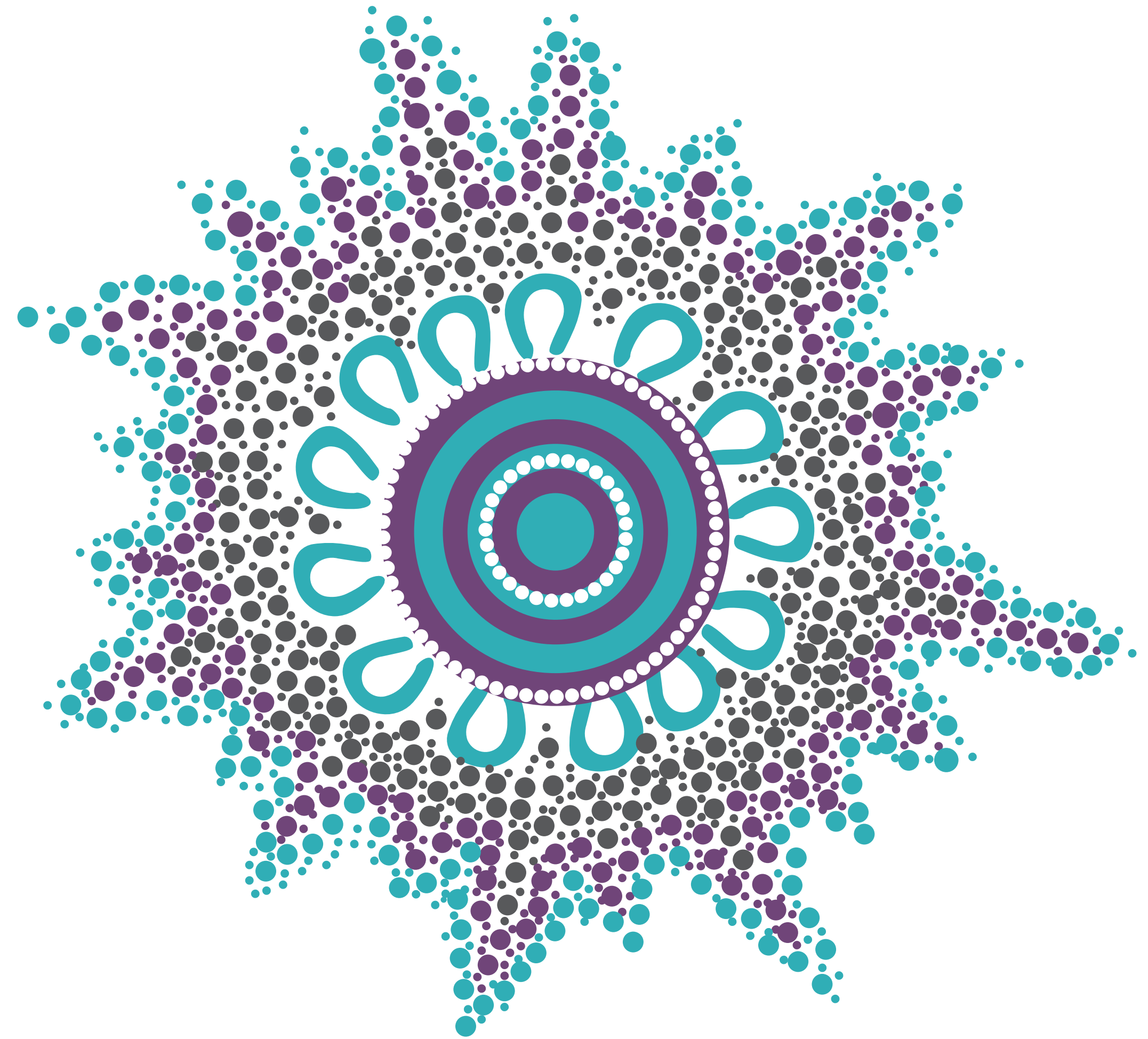
26 October 2023



# Acknowledgement of Country

IP Australia acknowledges Aboriginal and Torres Strait Islander peoples of Australia. We acknowledge the Traditional Custodians of the lands on which our agency is located and where we conduct our business.

We pay our respects to ancestors and Elders, past, present and emerging. IP Australia acknowledges Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to society.



## The role of IP Australia

The Australian government agency that administers intellectual property (IP) rights and legislation relating to patents, trade marks, design rights and plant breeder's rights.

IP Australia contributes to the innovation system more broadly by using our skills and experience to advise government and Australian businesses to make the most of their IP.



**Vision - a world  
leading IP system  
that builds prosperity  
for Australia.**

# What's intellectual property (IP)?

- Anytime you create something new and original, you are creating IP
- Australia's IP laws provide a legal framework to protect your creative ideas through IP rights.



# The IP system in practice using coffee

## Registered IP



### Plant Breeder's Rights

Protect the variety of the coffee plant



### Patents

Protect how the coffee pod works



### Designs

Protect the appearance of the coffee cup



### Trade Marks

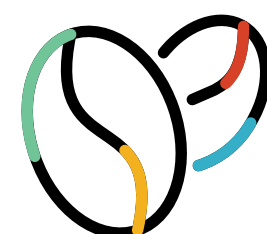
Protect the logo that helps identify this brand

## Unregistered IP



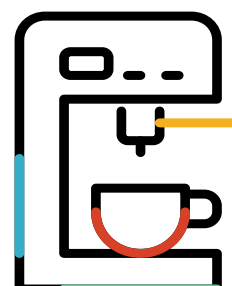
### Copyright

Protects promotional materials like an advertising campaign



### Trade Secrets

Protect the secret blend of different coffee beans



### Circuit Layouts

Protect the layout of an integrated circuit in the coffee machine



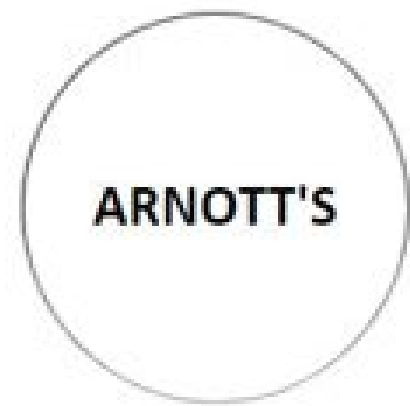
## Why register IP rights?

- gives you the exclusive right to determine **who** can use your IP and **how** it can be used
- gives you the opportunity to sell, license, promote or develop your product while limiting competition for set periods
- reduces the chance of your idea being replicated and passed off as those of competitor
- can be sold for financial benefit

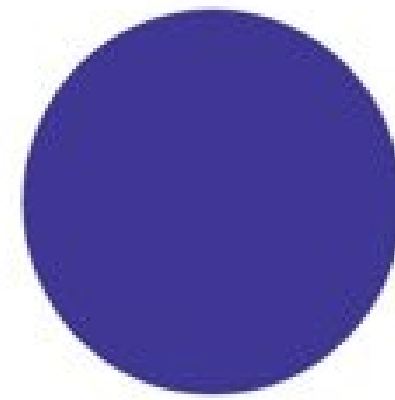


# IP in everyday life

## Examples of trade marks



Words



Colours



Logos

## Examples of patents



Google maps



Cochlear implant



Wi-Fi

## Examples design rights



Chair



Mixer

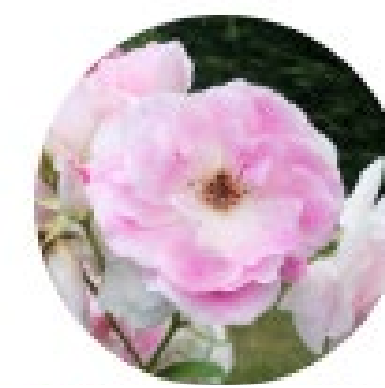


Barbeque

## Examples of plant varieties



Sir Walter lawn turf



Pink Iceberg roses



Scarlet Royal red grapes

# Trade marks



A trade mark is not just a brand name or a logo, it's an identity. It helps customers differentiate your products or services from those of your competitors.

It can be a letter, number, word, phrase, colour, sound, smell, shape, logo, picture, movement, aspect of packaging, or a combination of these.



This protection gives you the exclusive right to determine how your trade mark can be used and who can use it.



Protection initially lasts for 10 years. This can be renewed indefinitely.

## Examples of trade marks



Words

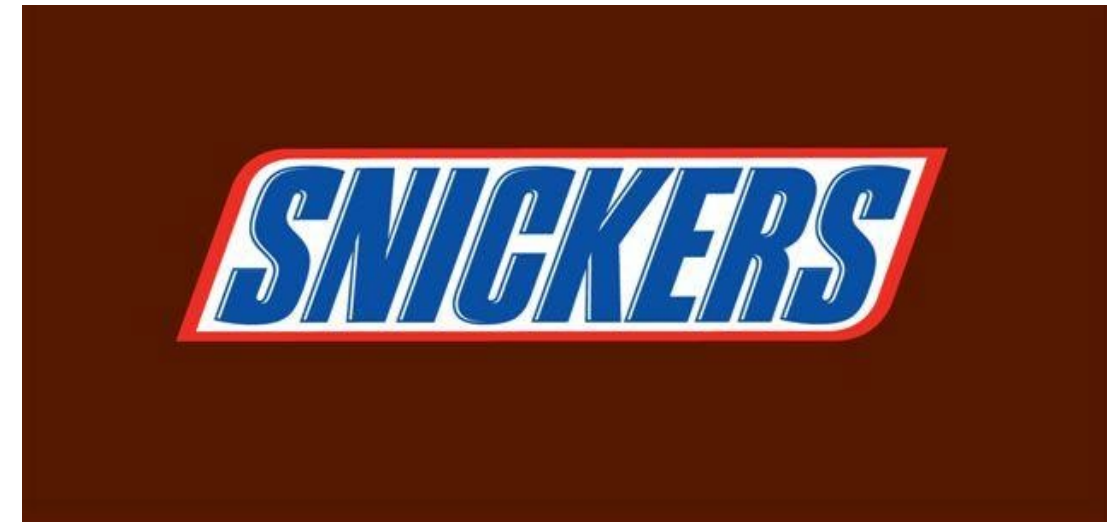


Colours



Logos





**Different** trade marks  
**Similar** goods & services



Venture capital firm



Safety helmets

**ANTLER**

Luggage

**Similar** trade marks  
**Different** goods & services

Everyday language and symbols should remain open for all to use. This means that it can be difficult to protect:

- descriptive words
- generic terms
- geographical names
- common surnames
- trade symbols



# 'Agrumato' Olive Oil

## Timeline:

- 5 January 2022: Application was received
- 29 March 2022: Application received an objection based on examiner assessment
- 4 October 2022: Objection maintained
- 16 January 2023: Amendment made to goods and services and application accepted
- 2 month time period for the trade mark to be opposed
- Intention to oppose was given, closely followed by the Statement of Grounds and Particulars
- Applicant did not defend

## How are potentially problematic trade marks prevented from being registered:

- IP Australia applies the law to the best of its ability
- Owners of IP monitoring the register and trade mark ecosystem



# 'The Great All Rounder'



- 'The Great All Rounder' in relation to olive oil
- The trade mark was initially given a section 41 grounds for rejection
- The applicant submitted evidence of use to overcome the objection
- The application was then opposed by third parties and then defended by the applicant
- The resulting evidence was seen by a hearings officer who maintained the s41 grounds for rejection

# Infringement and enforcement

Infringement of your intellectual property (IP) can lead to serious impacts on your product, business and brand.

Here are some ways to prevent infringement of your IP rights:

- create an infringement strategy
- monitor the market
- get professional assistance.

Each IP right has its own legislation which determines:

- the action you can take against a person who infringes your right
- your legal options
- possible remedies.





# Protect your brand with a registered trade mark



AN INITIAL CHECK ONLY TAKES A FEW MINUTES



IF YOU DECIDE TO APPLY, IT CAN COST AS LITTLE AS \$330

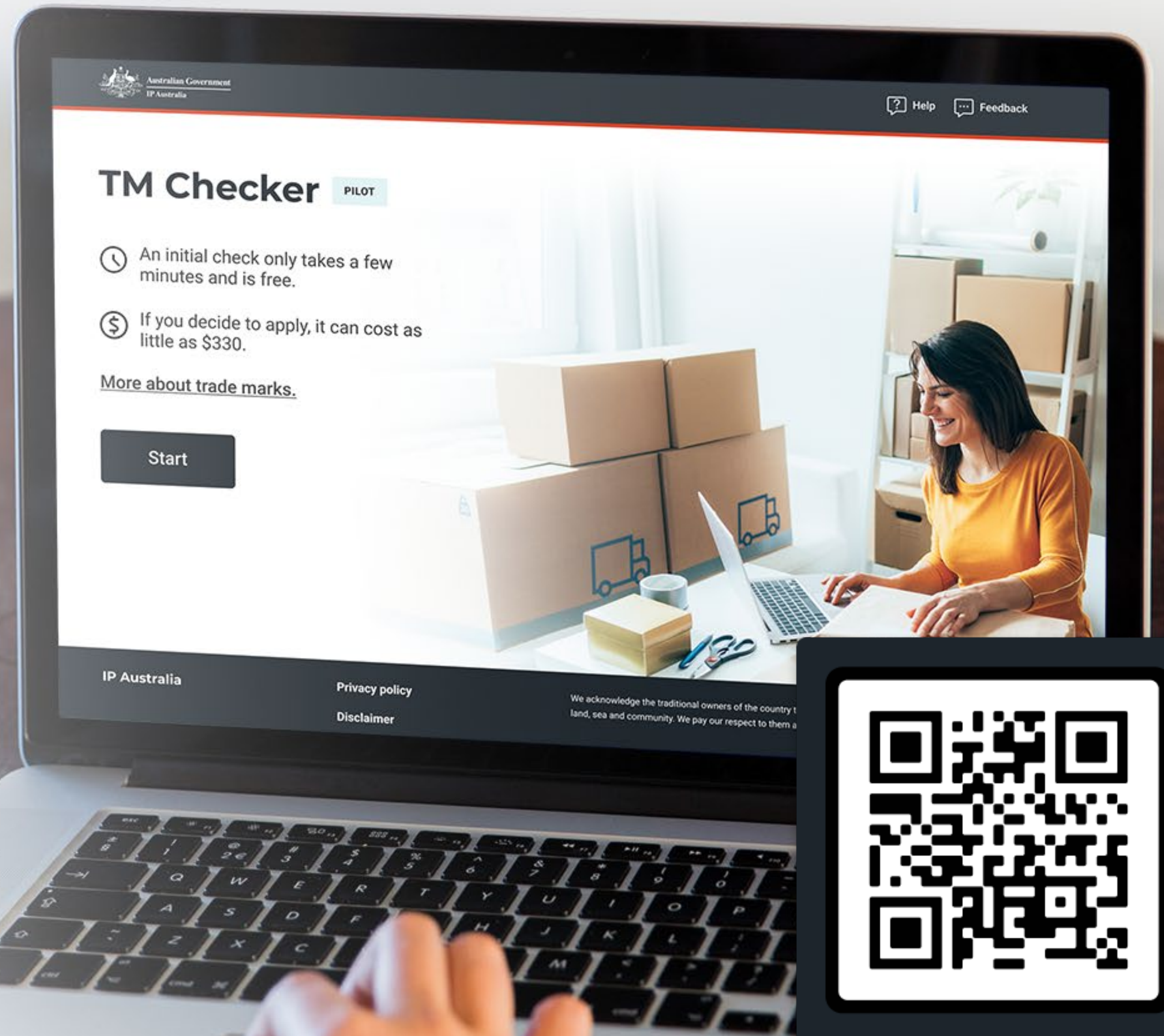


A TRADE MARK PROTECTS YOUR BRAND FOR 10 YEARS



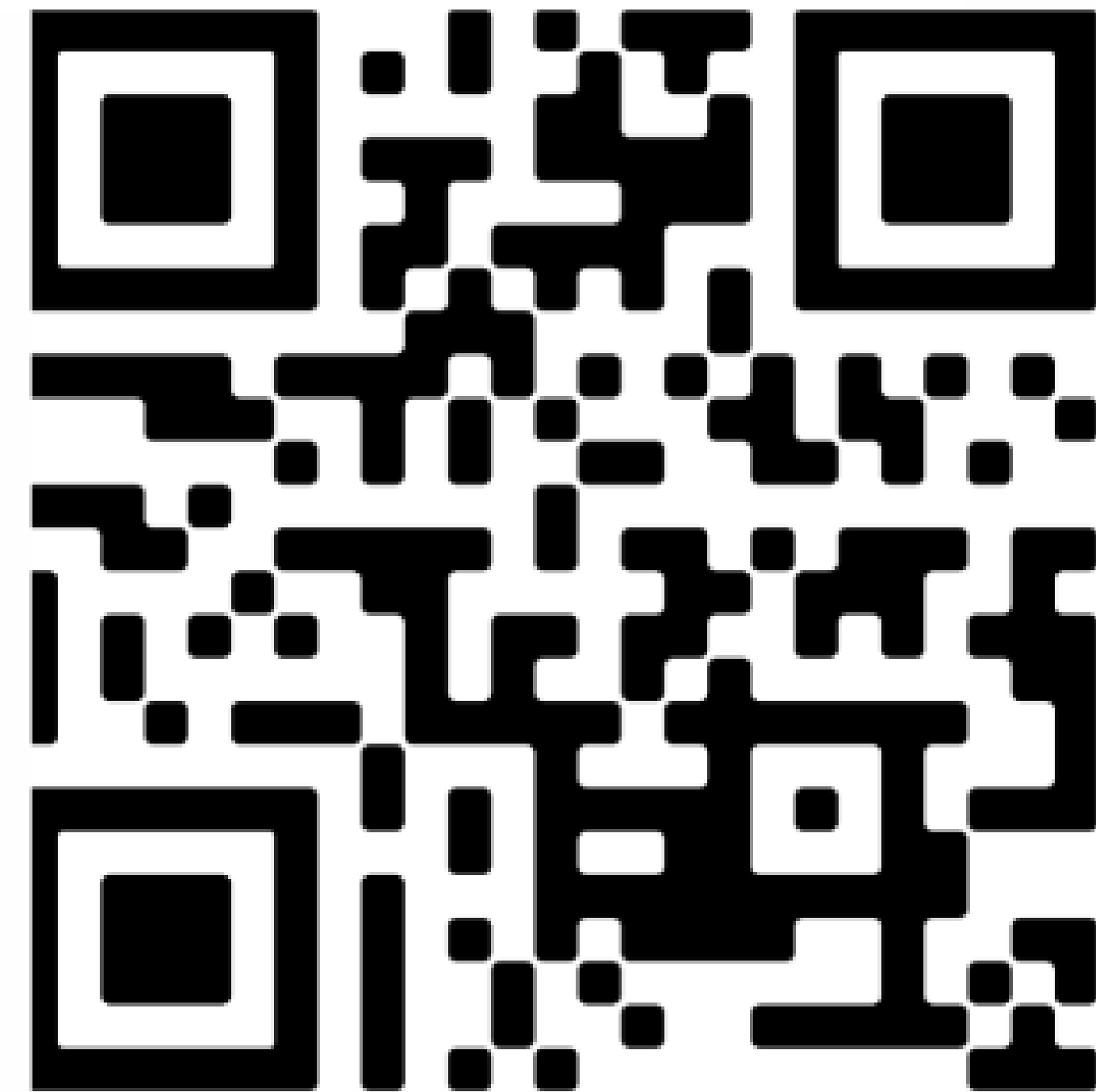
*...the trade mark checking experience was extraordinarily straight forward and easy to use compared to the past. It made it a very efficient and easy decision to continue with the application!*

Deborah Daly, Impetus for Change



Scan to check your trade mark

# How do I know my trade mark is available? Search!



<https://search.ipaustralia.gov.au/trademarks>



<https://search.ipaustralia.gov.au/trademarks>

Word  Part AND  Part +

Image  Part AND  Part +

Word phrase   Single

Class  Associated ...

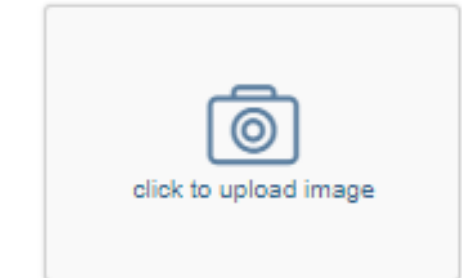
Status group  Status

- 1. All
- 2. Pending, Registered and Refused
- 3. Pending and Registered
- 4. Pending
- 5. Registered
- 6. Refused
- 7. Removed
- 8. Never Registered

From  To

Trade mark numbers  IR numbers

Publication type  Publication date (YYYY-MM-DD)  From  To



Search

Save X Clear



# Certification Trade Mark

A certification trade mark identifies that your goods or services have certain qualities or characteristics that help set them apart in the market.

While a standard trade mark is designed to distinguish your goods or services from those of another trader, a certification trade mark indicates that your goods or services have certain qualities or characteristics.

It might indicate that it's:

- Of a particular quality or meets a particular standard
- Made from particular materials or ingredients
- Manufactured using a particular production method
- Sourced exclusively from, or made in a specific geographic location.



# Current Olive Industry trade marks

**The 'Olive Care' logo is trade marked in Australia and indicates to buyers the olive oil is certified**

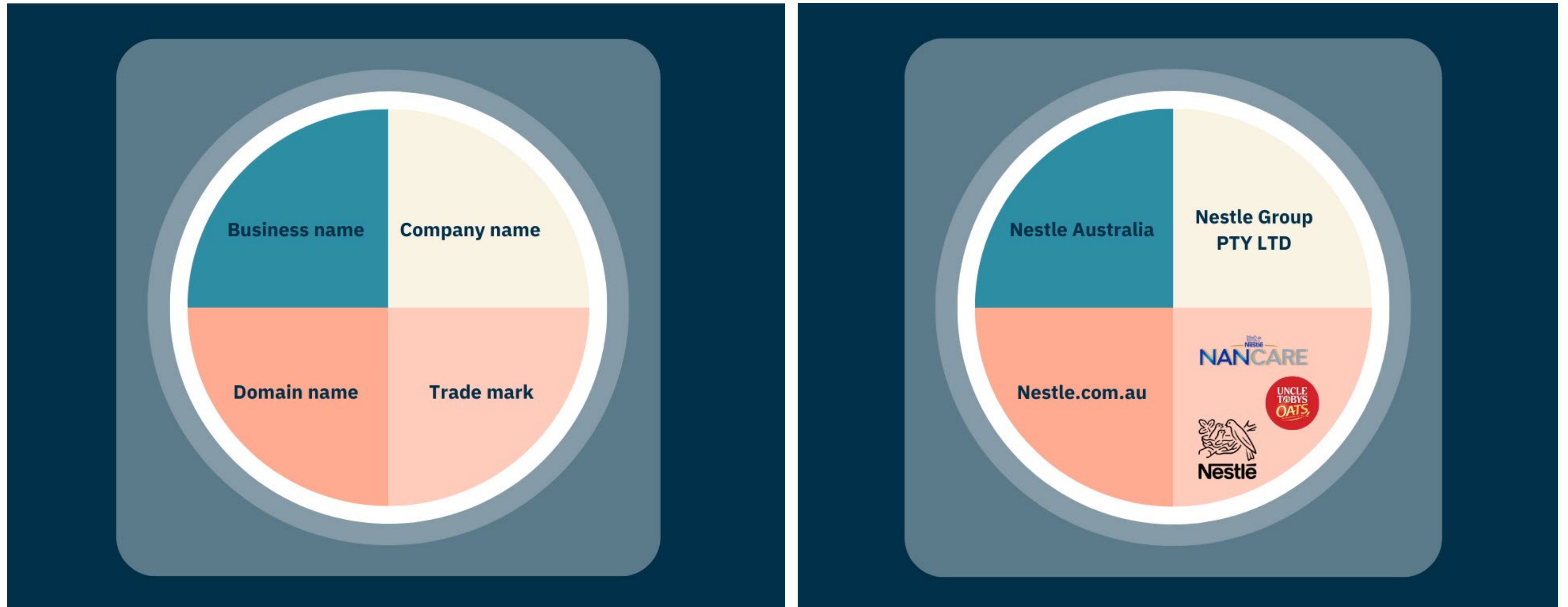
It is a recognisable brand for customers to establish authenticity and quality of Australian olive products.

The Olive Care logo means the business has signed the Australian Olive Industry's Code of Practice

It helps provide security and confidence for consumers and investors in Australia and overseas



# Common misconception: A business name is not a trade mark



# Global considerations

- Develop your global strategy
- Is there a similar product already in that market?
- Can you register your IP in that market?
- Is your product suited to that market?
- Where would you generate the best returns?
- Language and cultural sensitivities?
- Access to resources?
- IP protection overseas
- Financial modelling
- Engage with an IP professional
- Beware of risks



# Madrid System

## Benefits of the Madrid System:

- Apply for protection in multiple countries at once
- Save time and costs by avoiding preparing and filing multiple applications directly to each target country
- Have your application examined according to the trade mark legislation and laws in the designated country or region
- File without needing to find an agent in each country first
- Make a single request for changes of details, or to renew international registrations
- Add other member countries at a later date
- Communicate with WIPO in English.



# Plant breeder's rights

PBR



Plant breeder's rights are exclusive commercial rights for a registered variety of plant.

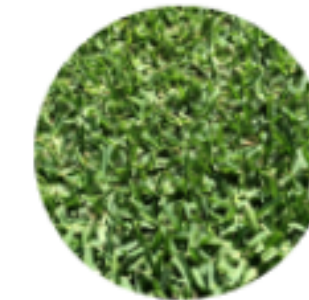


Plant breeder's rights protects plant breeders and gives them a commercial monopoly for a period of time.



Protection can last for a maximum of 20 years for most plant species and 25 years for some vines and trees.

## Examples of plant varieties



Sir Walter lawn turf



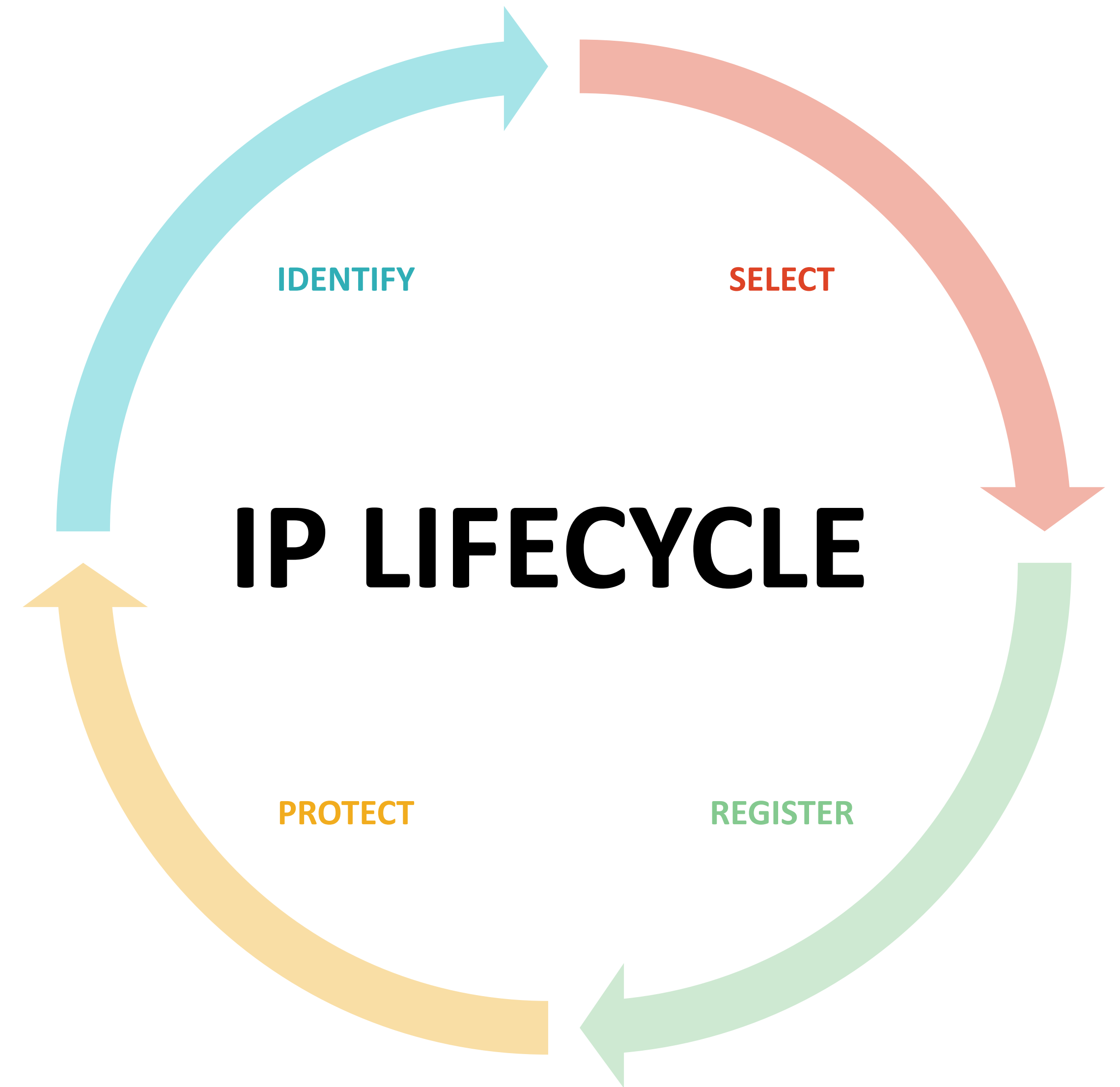
Pink Iceberg roses



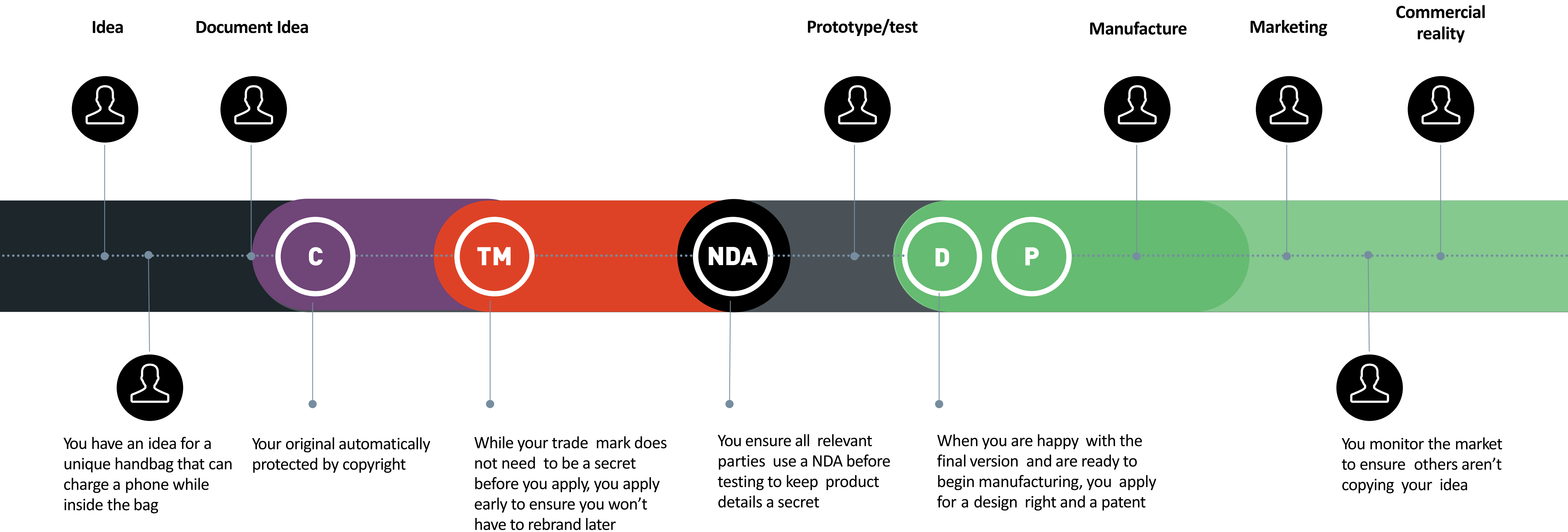
Scarlet Royal red grapes

# IP strategy and commercialisation

- Identify your IP (background and co-created)
- Register and protect your IP (file)
- Enable innovation
- Commercialise IP – financial benefit



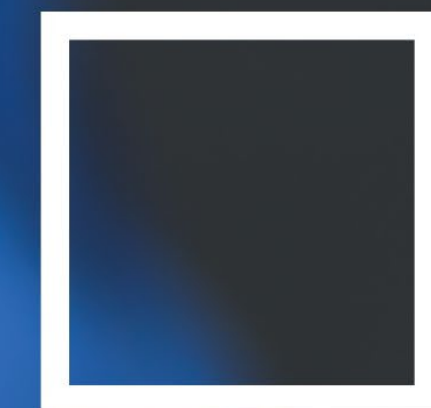
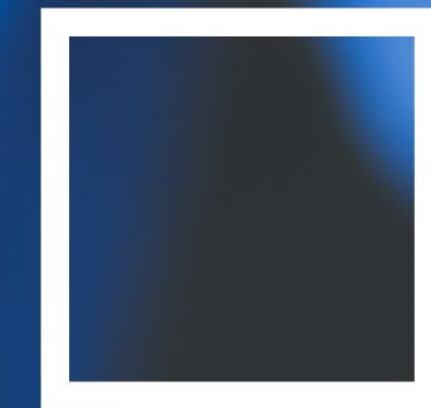
# Commercialisation – typical roadmap





# Ways to benefit from IP

- **Manufacture and sell** - or manufacture for others to sell
- **Assign** – the IP is transferred to someone else, usually in exchange for a nominated sum (sale).
- **Franchise** – the IP is still owned but forms part of a business expansion model, used by a third party under agreed conditions to use as/in their own business e.g. Boost.
- **License** – the IP is still owned but one or multiple parties may be licensed to commercialise the IP (exclusive or non-exclusive) e.g. Intel.
- **Can benefit from competitors adopting and further developing your technology** – e.g. Tesla, IBM





# Support and tools



Scan this code to visit our **tools and resources** page to find everything in the one place

**Follow us on social media and subscribe to our newsletter** to stay up to date with the latest IP Australia news.



## TM Headstart

A trade mark service that gives you a quick indication of whether your trade mark is unique, or whether you might encounter any problems, all before you file your application.



## Trade mark basics course - Upskill

A free, self-based training for small business owners and individual applicants that teaches all the basics you need to know before submitting a trade mark application.



## Patent Case Manager

This is a service for patent applicants from small and medium enterprises (SMEs) and connects you with a dedicated IP Australia subject matter expert who is your single point of contact to assist in your patent application process.

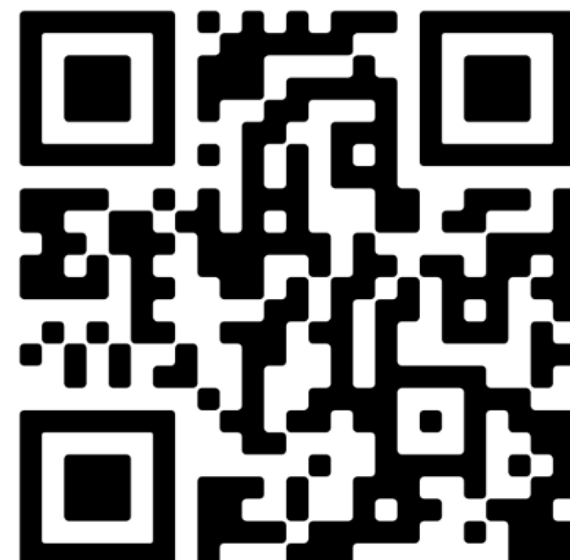


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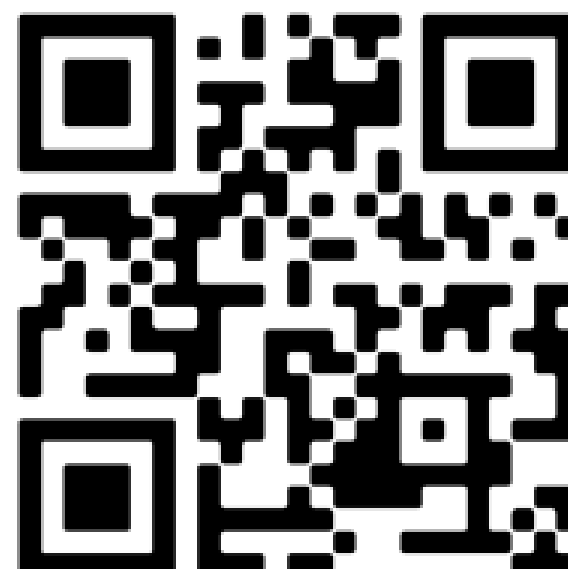
# Education and resources



IP stories



Short videos answering FAQs



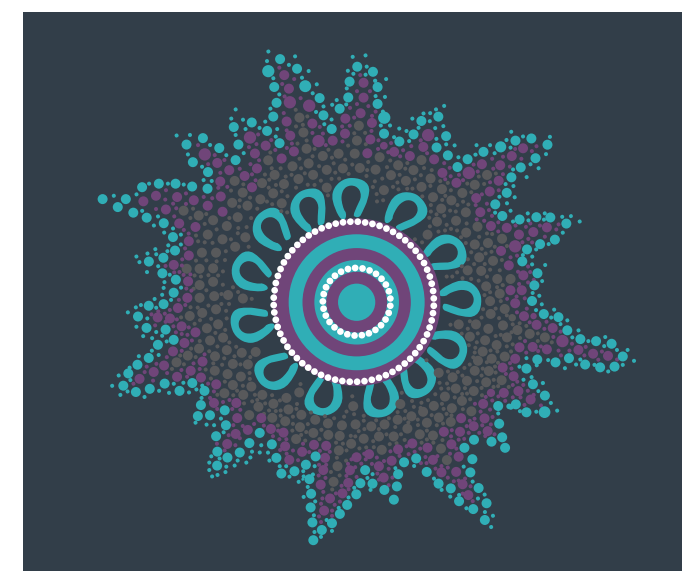
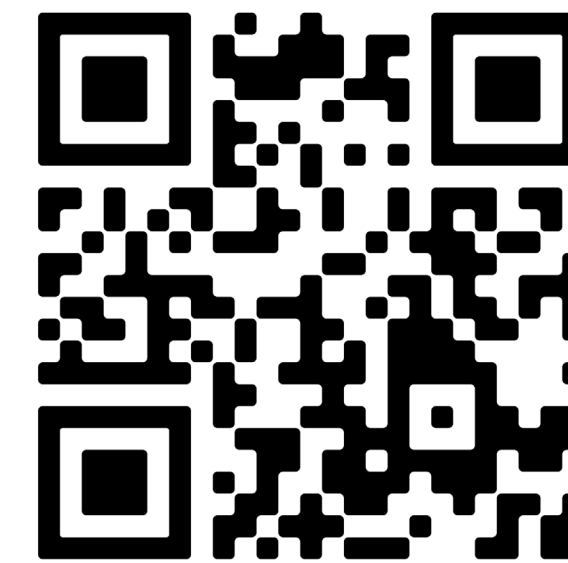
On-demand webinars



Choosing the right IP



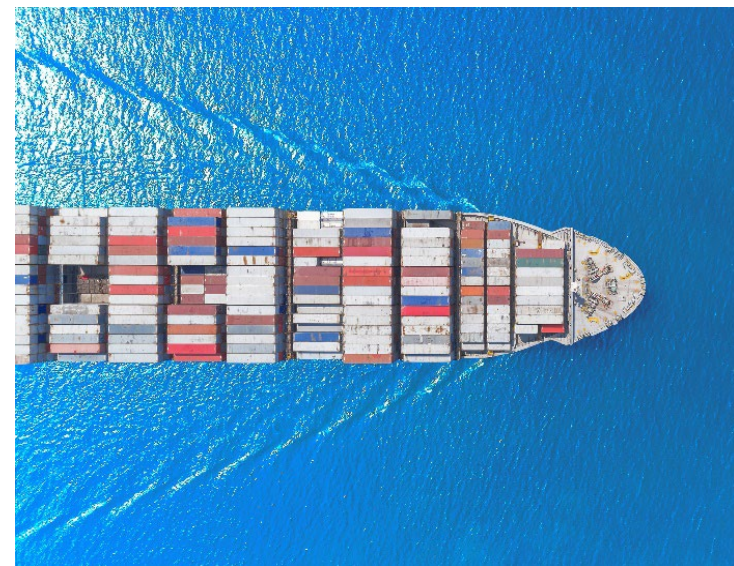
Commercialisation and collaboration



Indigenous knowledge and IP short videos



# Exporting, economic papers and research



[How to apply for IP overseas](#)



[Economic papers](#)



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