

The business cycle for artisans and craft entrepreneurs

Market research

- ❑ Maintaining and improving enterprise image.
- ❑ Identifying new markets.
- ❑ Finding new customers.
- ❑ Seeking out new product niches.
- ❑ Analysing product sales from past year (identifying weak/strong products to discard/continue/modify).

Analysis



Marketing strategy (up to five years ahead)

- ❑ Product, position, price, promotion (based on market research).

Business planning

- ❑ Enterprise image updating and application.
- ❑ Product development and design plan.
- ❑ Production and pricing plan.
- ❑ Promotion plan, packaging, labelling and advertising.
- ❑ Distribution plan.
- ❑ After-sales service, including return policy plan.

Strategy and planning



Product development and adaptation

- ❑ Design based on market research findings.
- ❑ Prototype making.

Product costing and pricing

- ❑ Related to market research and production realities.

Market-testing products

- ❑ Limited production to check:
 - Customer reactions;
 - Production systems.

Product promotion

- ❑ Advertising, catalogue mailings, media, fairs and exhibitions.

Product launch

- ❑ Dispatch of samples to new and existing customers.
- ❑ Order processing and dispatch, customer relations.

Action



The business cycle is then repeated on a regular basis, usually annually

For artisans and craft entrepreneurs it is considered essential that they go through all the stages listed above, in order to maximise the potential benefits of thorough planning at every stage of their business operation.

Visual artists are unlikely to have had much experience in using many of the processes above, but it is still important to plan business activity and study all possibilities for ensuring cost-effective management and the best use of IP.

(More detailed information on each part of the business cycle appears in pages 22–55, together with the role of IP in each part.)

Product design process

Product design is an integral part of product development. It is an activity which can be done by either creative artisans or craft entrepreneurs, or qualified product designers contracted to develop ranges to the specifications of the client enterprise. Because craft enterprises must keep developing new products, either at the request of customers or to be competitive, the *regular design of new products* is of major importance. Effective use of design adds value to a product by:

- ❑ Creating higher perceived value through aesthetically pleasing industrial designs;
- ❑ Creating variety in the commercial world;
- ❑ Highlighting differences between competing products;
- ❑ Creating particular products and ranges for specific target market segments, ranging from basic household utilitarian products, such as pottery utensils and household textiles, through to expensive items, such as unique ceramic pieces and one-off batik paintings;
- ❑ Generating long-standing relationships with customers, which translate into greater market share, better prices and bigger profits.

Many businesses have successfully improved their sales through strong focus on product design. Most successful artisans and craft entrepreneurs recognize that design excellence brings stronger brand recognition and better profitability.

The product design process is the conversion of a product concept, described in the product brief, into a functioning prototype, which can be assessed and refined into a viable commercial product. The process is influenced to varying degrees by all the following factors:

- ❑ ***Function, use and maintenance*** of the product by the end user. All products must perform their function to suit the needs of the end user. If there is a mechanical function, such as a folding mechanism for a wooden chair, then the user must be able to learn the function easily and quickly, without undue need for lengthy written instructions. For example, the user of the chair should find it comfortable, durable, and should be provided with simple instructions for any product maintenance needed.
- ❑ ***Product dimensions*** in target markets, particularly export markets. Using footwear as example, it is important to use dimensions for a sandal which suit the target market customer. A sandal size made to be comfortable to a South-East Asian consumer would not necessarily fit or be comfortable to a North American. When fitting a product to human beings, the use of standardized human dimensions (ergonomic statistics) is important. These statistics are available for furniture and clothing markets, and differ from region to region of the world.
- ❑ ***International and national standards*** used in the target market are very important. As with the sandal dimensions, there are internationally agreed standards, regional standards such as those in the EU, and individual national standards. Products intended for export should conform to standards used in the target market. For example, in certain importing countries wooden toys can be confiscated and destroyed if they fail a toxicity or toy safety test, i.e. if they are painted with toxic paints or contain small and/or sharp components. It is the producer's and importer's responsibility to ensure their products conform to relevant standards.
- ❑ ***Production processes, technology and raw materials*** available to the maker have a great effect on the design of a product. Customers may expect to

available to stop infringement. Remedies generally involve working closely with an IP expert skilled in copyright practice, who will help to devise and take the necessary steps. Collective management societies and other non-profit organizations⁵⁷ may in some cases be prepared to act on behalf of individual copyright owners whose copyright has been infringed.

Industrial designs

What is an industrial design?

An industrial design refers to the **aesthetic aspects** or **outward appearance** of a product. It may consist of three-dimensional features, such as the shape or configuration of a product; two-dimensional features, such as patterns, lines or colours; or a combination of such features.

Can design embodied in crafts and visual arts products be protected as an industrial design?

Only the **aesthetic aspects** or the **distinct outward appearance** of a product can be protected by an industrial design. Industrial designs may be embodied in a wide range of crafts and visual arts products such as watches, jewellery, housewares, architectural structures, textile, tapestries, shoes, leisure goods, toys, furniture, ceramics, pottery and packaging.

Examples: The shape of a lamp, the design of an earring or the ornamentation of a teapot may be protectable as industrial designs.

What rights does an industrial design grant?

An artisan or visual artist who owns the rights over an industrial design embodied in a product can **prevent** all others from producing, importing, selling, or distributing products that have an appearance which is identical to, or does not substantially differ from, that of the protected appearance.

Example: Maria has designed a teapot with an innovative design which she has registered at the IP office of her country. As a result, Maria has exclusive rights over teapots bearing that design. This means that if Maria discovers that a competitor is making, selling or importing teapots with the same or a very similar design in her country, she has the legal right to prevent the competitor from using her design and may also be able to obtain ‘damages’ which her business has suffered from the unauthorized use of that design.

Why are industrial designs relevant to crafts and visual arts?

Design protection is, generally speaking, relatively easily accessible to individual artisans and artists, in both industrialized and developing countries. There are good reasons for artisans and visual artists to protect the distinctive and original appearance of their products:

□ **Designs attract and win customers** – A well-designed chair is not just a pleasure to sit on, but a pleasure to look at as well. This can be said for

⁵⁷ Such as the National Indigenous Arts Advocacy Association in Australia, for instance.

the region. However, if a country applies the concept of **international exhaustion**, the IPRs are exhausted once the product has been sold by the artisan or visual artist or with his or her consent in any part of the world, that is, whether sold in the domestic market or abroad.

National IP offices, or IP agents and attorneys, should be able to provide guidance as to which provisions or case law apply in the relevant country for each type of IPR.¹⁰¹

Commercializing intellectual property

IPRs represent **property rights**. They can be used by the IPR owner or they can be transferred to others. Artisans and visual artists who own any IPRs can sell their rights to another person. More importantly, IPRs have the particular advantage that they may be **exploited simultaneously by several people**. This can be done through licensing, character merchandising or franchising.

What is licensing and how does it work?

The word licence simply means **permission** – a person grants permission to another to do something. A licence agreement is a contractual agreement under which a licensor (the person who owns the IP) permits another (licensee) to use the right. It does not transfer the ownership of the IP.

For a license of IP to be effective, the following basic conditions must be met:

- The licensor must **own** the relevant IP or must have authorization from the owner to grant a licence.
- The IP must be **protected** by law or at least eligible for protection: this means also that licences can only be granted in foreign countries if the IP in question is legally protected in those countries.
- The licence agreement must specify what **rights** it grants to the licensee.
- The payment or other **compensation** must be clearly stated.
- Most countries require that a licence agreement be **written**, and many countries require that it be **recorded** with the local IP office, or other government agency. The agreement should be signed by both parties.

Why should artisans and visual artists consider licensing?

There are many reasons for artisans and visual artists to license out some or all of the IPRs they own.¹⁰²

- Artisans and visual artists who own rights in a design, patent, know-how, or other IP assets, but **cannot or do not want to be involved in the manufacturing of products**, could benefit by relying on the better manufacturing capacity, wider distribution outlets, greater local knowledge and management expertise of someone else (the licensee).
- Licensing out may be used to **gain access to new markets**. The licensee may agree to make all the adaptations required for entering a foreign market,

¹⁰¹ For further information, see document ATRIP/GVA/99/6 'Parallel Imports and International Trade' at www.wipo.int/sme/en/activities/meetings/pdf/atrip_gva_99_6.pdf.

¹⁰² WIPO's article on 'IP Licensing: Reaping the Benefits' analyses the main advantages and disadvantages of licensing – see: www.wipo.int/sme/en/documents/wipo_magazine/06_2003.pdf.

and thread densities) have been complied with, it is stamped with the Certification Mark – or ‘orb’ mark as it is known throughout the world. The orb stamp is the mark of authenticity and the label confirms it.



For more information, see the Harris Tweed Authority website: www.harristweed.org

Toi Iho – A certification mark for Maori arts and crafts

This is an exciting initiative for Maori artisans, visual artists and businesses.

The **Toi Iho™** mark of authenticity is a promotional initiative recognising Maori (New Zealand) art and artists. It involves a registered certification mark denoting that the products are authentic quality indigenous art forms.

For more than 20 years Maori artists had criticized the ever-increasing quantity of Maori design products that were produced offshore or by non-Maori artists for the tourism sector, and called for assistance to retain ownership and control of their Maori designs. In 2001, Te Waka Toi, the Maori arts board of Creative New Zealand, developed and implemented the creation of the toi iho mark in consultation with Maori artists.

The **Toi Iho™** mark enables artists to identify themselves as authentic and quality Maori artists and enables consumers to purchase products with the full knowledge of their authenticity. The mark is for use by Maori artists on works they produce for sale. It can also be used to authenticate exhibitions and performances by Maori artists.



There are four categories of the toi iho™ mark:

- ❑ The **Toi Iho™ Maori Made Mark**, which is exclusively for artists of Maori descent;
- ❑ The **Toi Iho™ Mainly Maori Mark**, which is for groups of artists, most of whom are of Maori descent, who work together to produce, present or perform works across artforms;
- ❑ The **Toi Iho™ Maori Co-production Mark**, which is for Maori and non-Maori artists and businesses working collaboratively to produce, present or perform works across artforms;
- ❑ The **Toi Iho™ Licensed Stockist Mark**, which is for art and craft retailers and galleries who stock the work of licensed mark users.

The commercial benefits of the Maori Co-production Mark are exciting. A manufacturer, for instance, might collaborate with a Maori designer to produce