

ANDREAS NEOCLEOUS & CO LLC
Advocates & Legal Consultants

INTELLECTUAL PROPERTY

 NEOCLEOUS

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Our intellectual property department

Intellectual property (IP) is an evolving field that affects the functioning of the world at large. Its range of influence is immense, since it dominates areas of technology, social development and economic growth. It encapsulates a number of separate areas of creation. Article 2 of the World Intellectual Property Convention of 1968 defines IP as including:

- Literary, artistic and scientific works;
- Performances of performing artists, phonograms and broadcasts;
- Inventions in all fields of human endeavour;
- Scientific discoveries;
- Industrial designs;
- Trademarks, service marks and commercial names and designations;
- Protection against unfair competition; and
- All other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Cyprus

In recent years, IP protection in Cyprus has attracted much attention. This can be attributed mainly to the increasing importance of Cyprus as an international commercial centre and to its accession to the European Union, which has resulted in a greater awareness of the need to protect IP rights.

Cyprus has been developing this area of law along with the rest of the world so as to protect local as well as international IP rights. It is a signatory to a number of treaties and its law in the field of IP is fully aligned with the *acquis communautaire*, international IP laws and the surrounding concepts. The courts and authorities in Cyprus adhere strictly to the relevant provisions of the law so as to ensure the protection of intellectual property rights against piracy and infringement.

Tax benefits

In addition to the protection it provides, Cyprus also offers significant tax advantages as a jurisdiction in which to hold IP. In 2012 Cyprus introduced an "intellectual property box" regime which exempts four-fifths of income from intellectual property assets from tax and results in an effective tax rate of less than 2.5% on such income. Furthermore, gains on disposal of intellectual property assets can be fully sheltered from tax. Further details of the intellectual property box are given at pages 21 to 23.

Our credentials

Andreas Neocleous & Co LLC, established in 1965 and now one of the largest law firms in southern Europe and the Middle East, was the first Cyprus law firm to provide a full

service in the specific field of intellectual property, from trade mark registration to international litigation.

Our philosophy is to recognise each client, whether individual or corporate, local or overseas, as unique, with particular business concerns and objectives. We offer a broad range of services individually tailored to the requirements of each client and we exercise a personal commitment to all of them. Our aims are to understand their objectives quickly, to protect their interests and to deliver effective solutions by means of clear and practical legal advice and action, based on expertise and experience.

Our intellectual property department is based at our Nicosia office in the same building as the Registrar of Companies, Trade Marks & Patents, allowing us to deliver a rapid and efficient service. The department has a long and successful record in the fields of trade marks, patents, business names, copyright, designs, domain name registration and data protection, and has established long-term relationships with many international law firms and specialists.

We have expertise in the following areas:

- Registration and renewal of trade marks (including EC Trade Marks and international registration of trademarks through WIPO), patents (national, European and international), industrial designs (including EC Designs) and copyrights;
- Search and investigation services;
- Trade mark watching and infringement services;
- Technology transfer agreements;
- IP arbitration and mediation;
- Trade mark oppositions, cancellations and counterfeiting actions;
- Litigation of other IP rights;
- Valuation of IP rights in assignments, mergers or acquisitions; and
- Counselling on licensing and franchising.

A distinguishing aspect of our work is high-level advice for major multinational corporations on protection and licensing of their intellectual property. We have pioneered the use of Cyprus as a jurisdiction to hold intellectual property rights in order to optimise their cross-border exploitation.

Team members

The department is staffed by highly qualified professionals who undertake ongoing research to ensure that they remain informed about the latest developments in the protection and tax-efficient exploitation of intellectual property rights. The key personnel are:

MARIA KYRIACOU, born in Nicosia, Cyprus. Maria is a Barrister-at-Law (Middle

Temple) London (1968-1971), with 35 years' experience in corporate law, patent and trade mark legislation, intellectual property and insolvency. She is a member of the Cyprus Parliament and the former Registrar of Companies of Cyprus, Official Receiver and Registrar of Patents, Trade Marks and Copyright. In this capacity she was actively involved in the protection of copyright and the harmonisation of company law with the *acquis communautaire*, taking part in the relevant negotiations with the European Union. She chaired the Copyright Authority and was a visiting lecturer on corporate law at the International Management Institute of the Cyprus Productivity Centre. She was also a member of the Board of the European Patent Office in Munich.

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NICHOLAS KTENAS, born in Nicosia, Cyprus. Linos graduated in law from Sheffield University in 1997 and obtained his LL.M in European Law from Nottingham University in 1998. He was admitted to the Cyprus Bar in 1999. His main areas of practice are company, competition, contract, employment, EU, intellectual property and maritime law. He is the co-author of the Cyprus chapter of *Trademark Practice & Forms*, published by Oceana Publications Inc. in 2005.

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RAMONA LIVERA is also based at the Nicosia office. A law graduate of the University of Kent at Canterbury, Ramona was admitted to the Cyprus Bar in 1988 and has extensive knowledge in intellectual property law, competition law and corporate law. Ramona speaks Greek, English, French and Spanish.

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Any litigation in the field of intellectual property rights is conducted by:

CHRISTOS MELIDES, born in Nicosia, Cyprus. He graduated in law from Athens University in 1980 and was admitted to the Cyprus Bar in 1981. Mr Melides is a partner of the firm and head of Team 4 of its litigation and dispute resolution department. His main areas of practice are administrative and public law, general commercial and civil litigation, intellectual property law and matrimonial law. He is Chairman of the Limassol Bar Association and a member of the International Academy of Matrimonial Lawyers.

He is a co-author of *Introduction to Cyprus Law* by Andreas Neocleous & Co (2000) and of *Handbook of Laws of Cyprus*, published by Nomiki Bibliothiki (2008).

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CHRYSANTHOS CHRISTOFOROU was born in Limassol, Cyprus. He graduated in law from the University of East Anglia in 2002 and obtained an LL.M in International Commercial and Business Law in 2003 and an LL.M in International Trade Law from the University of Northumbria in 2006. He was admitted to the Cyprus Bar in 2004. His main areas of practice are contract law, international trade law, competition law and general commercial litigation.

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Trade marks

The principal law dealing with the registration and protection of marks in relation to goods and services is the Trade Marks Law, Cap. 268, as amended by Laws 63/62, 69/71, 206/90, 176(I)/2000 and 121(I)/2006 and by the Regulations of 1951-1992 as amended. The Nice Classification is used, under which goods are categorized into 34 classes and services into 11 classes.

Application for registration. To register a mark, an applicant or a lawyer licensed to practise law in Cyprus must file with the Trade Marks Registrar a full application (in Greek) containing all relevant details, including the name, address and occupation of the applicant, the name and/or picture of the mark and a form signed by the applicant authorizing the lawyer to file the application.

Examination of the application by the Registrar. On receipt of the application, the Registrar appoints a filing date, allocates a number to the mark and conducts a search to establish the registrability of the mark. Where the mark is not registrable, the Registrar may either object to such registration or impose conditions.

If the conditions imposed by the Registrar are not satisfied, the application may be rejected. If the Registrar refuses the registration, the applicant may apply for judicial review of the decision, under article 146 of the Constitution, to the Supreme Court of Cyprus in its revisional jurisdiction.

Registration. When the Registrar has accepted the application, whether absolutely or conditionally, the mark will be registered and its registration will be advertised in the Official Gazette of the Republic of Cyprus.

Any person may, within two months from the date of the advertisement of an application, give notice to the Registrar of opposition to the registration. The Registrar sends a copy of the notice of opposition to the applicant who is required to file, in the prescribed manner, a counter-statement of the grounds on which he relies for his application. The Registrar must provide a copy of any counter-statement to the person opposing registration. After hearing the parties and considering the evidence, the Registrar determines whether and subject to what conditions, if any, registration is to be granted.

Protection against infringement. Section 6 of the Law defines the following possible infringements of registered trade marks:

Section 6(2)(a) - identical goods and/or services

If a mark for goods or services is identical with a registered trade mark, there is an infringement. The classic legal test in this case is explained in Kerly's Law of Trade Marks and Trade Names, 12th edition, page 154, paragraphs 10-11, where it is noted: "The question whether goods are 'of the same description' is one of fact; it cannot be decided merely by reference to the Registrar's classification...."

Section 6(2)(b) - similarity

Where there is identity or similarity between goods or services and/or similarity between the defendant's sign and the plaintiff's mark, there may be infringement if the plaintiff proves that "there exists a likelihood of confusion on the part of the public, which includes a likelihood of association with the trade mark."

Section 6(2)(c) - marks known in Cyprus

Where a mark has a reputation in the Republic of Cyprus, it is an infringement to use an identical or similar sign for dissimilar goods or services, where "the use of the sign, being without due cause, takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the mark."

Available remedies. The usual remedy in the case of an infringement of a registered or unregistered trade mark is the filing of an action in the District Court, seeking an interim order to prevent the use of the mark pending the full hearing of the case. In the case of a registered mark the only onus of proof on the applicant is to prove the registration. On the other hand a defendant will usually resort to the following arguments by way of defence:

- No title by the plaintiff;
- Invalid registration;
- No infringement; or
- The plaintiff is debarred from suing the defendant for all or part of the relief he seeks by an agreement or some personal estoppel, because the mark is deceptive or because his business is fraudulent.

Duration of registration and protection. Trade marks are registered for an initial period of 7 years and may be renewed on application for 14 years periodically.

Community Trade Mark. Following its accession to the European Union on 1 May 2004, Cyprus became a full member of the Office of Harmonisation in the Internal Market (Trade Marks and Industrial Designs). Since 1 May 2004, applications for the registration of Community Trade Marks (CTMs) may be filed directly with the Registrar of Trade Marks in Cyprus, while all CTMs registered or applied for before the date of accession will automatically be extended to Cyprus (Council Regulation 40/94 on the Community Trade Mark).

Cyprus is also a contracting member of the Madrid Agreement Concerning the International Registration of Marks and of the Protocol Relating to the Madrid Agreement, allowing for the designation in an international application based on the WIPO registration system and for the trade mark subsequently to be registered nationally.

Patents

The law regulating the registration and protection of patents is the Patents Law 16(I)/98, as amended by Laws 21(I)/99, 153(I)/2000, 163(I)/2002 and 122(I)/2006 and by the relevant patent regulations of 1999 and 2000 (the Regulations).

Application for registration. To register a patent, an applicant or a lawyer licensed to practise law in Cyprus must file a full application with the Patent Registrar on behalf of the applicant. This application must be written in Greek, using the prescribed form P9, and must contain all the prescribed information including:

- A request for a patent to be granted;
- The name, address and nationality of the applicant, the inventor and the representative;
- The title of the invention in a summary form which must be accurate and precise and must state the item or use to which the invention is related;
- Something which *prima facie* appears to be a description of the invention for which the patent has been applied;
- Something which *prima facie* appears to be a claim or claims, which must be presented in the manner prescribed by law and must state in detail, free from any inaccuracies or ambiguities, the extent of the protection to be conferred by the application for a patent or the patent itself;
- Any drawings referred to in the description or claims; and
- An abstract of the invention, in the form of a comprehensive and succinct summary, in no more than 150 words, of the matters included in the description of the invention.

Examination of the application by the Registrar. Once the application has been filed with the Registrar and the relevant fees paid, the application will be forwarded to an examiner to determine whether it complies with all the requirements contained in the Law and the Regulations. The examiner will then submit his findings to the Registrar. The application is published in the Official Gazette eighteen months after the date of filing or the priority date of the application.

Where the application as filed is not in compliance with the provisions of the Law, the applicant will be given an opportunity to make observations on the report of the examiner and to make any necessary amendments before the Registrar determines the application. If no problems or complications arise, the applicant must then file within the prescribed period a search report prepared by a prescribed authority which must cover any technological matters that must be taken into consideration to ascertain whether the subject matter of the application refers to an invention capable of patent protection, according to the provisions contained in the Law.

Registration. If an application is accepted, the Registrar will grant a patent on the basis of the application upon payment of the prescribed fee. The Registrar will then issue a patent certificate, which will be advertised with the search report in the Official Gazette.

If the application is refused, the applicant may apply to the Supreme Court of Cyprus for judicial review of the decision under article 146 of the Constitution.

Protection against infringement. Once a patent has been registered and a certificate of registration granted and published, any person other than the patentee is expressly prohibited from manufacturing, selling, importing or otherwise commercially exploiting either the patented product or a product obtained by the patented process. In the event of infringement the patentee may bring an action in court seeking an injunction, damages or both.

The most important grounds upon which any action for infringement of a patent may be defended are that:

- The patent is not for an invention within the meaning of the Law;
- The invention was not novel;
- The invention was obvious;
- The invention is not capable of industrial application;
- The invention belongs to a category of excluded subject-matter such as methods of treating humans and animals;
- The claims of the complete specification are ambiguous;
- The complete specification is insufficiently explicit; or
- The application for the patent was not in order.

Duration of registration and protection. A patent granted in accordance with the Law lasts for a period of 20 years from the date of the filing of the application. The maintenance of a patent is subject to annual renewal and to the payment of a modest renewal fee.

Exhaustion of rights. The Law is in line with European Union case law, setting limits on the rights granted to patent owners. For example, once a product has been put on the market by the patent owner or with his express consent, he cannot restrict the use or the resale of the product, nor can he prevent private acts that do not substantially affect the financial benefit of the right holder, such as acts done for non-commercial purposes.

Priority rights. The Law contains provisions for priority rights in accordance with the Paris Convention for the Protection of Industrial Property for patent applications already filed with other signatory states. A patent application claiming priority in one or more previous states, for regional or international applications filed by the applicant in any state which is signatory to the Convention, must be accompanied by a copy of the initial application, certified by the relevant authority with which the initial application was filed or, in the case of an international application filed according to the Patent Co-operation Convention, by the International Bureau of the World Intellectual Property Organisation.

Copyright

Copyrights in Cyprus are regulated by the Right of Intellectual Property Law 59/76, as amended by Laws 63/77, 18/93, 54(I)/99, 12(I)/2001, 128(I)/2002, 128(I)/2004, 123(I)/2006, 181(I)/2007 and 207(I)/2012. Rights are recognized under the Law for every protected object whose beneficiary or, if there is more than one beneficiary, any one of them is at the time of the creation of the right, or if it is a broadcast, the time of the transmission of the broadcast, a qualifying person, namely:

- A person who is a citizen of the Republic of Cyprus or who habitually resides in the Republic;
- A legal person, established in accordance with the laws of the Republic; or
- A citizen of another member state of the European Union.

Protection against infringement. The Right of Intellectual Property Law provides remedies for copyright infringement. For the criminal offences listed in the Law, penalties include a fine or imprisonment for up to three years. In addition, the court may order the offender to destroy any copies of the work in his possession or to deliver them to the copyright owner. Civil remedies include damages, destruction or delivery of infringing copies and the equipment by which copies are produced, an account of profits and an injunction.

Duration of registration and protection. There is no system of copyright registration in Cyprus. Copyright is conferred on works once created, as of right. Copyright law protects Cyprus nationals for their works which are published anywhere in the world, and foreign nationals for their works published in Cyprus. Copyright exists in:

- Scientific works, literary works including computer software, musical works, artistic works including photographs and an original database for a period of 70 years, commencing from the death of the author.
- Films, for a period of 70 years, commencing from the death of the last survivor of the following, irrespective of whether they have been appointed conventionally, or are considered by law, as co-creators:
 - producer
 - primary director
 - script writer
 - screenplay writer
 - composer of any music specially composed for the film.

The 2002 amendment of the Right of Intellectual Property Law harmonises domestic legislation with the EU Copyright Directive 93/98 which itself harmonized the term of protection of copyright and certain related rights. At the same time it implements other EU directives on the legal protection of software, rental and lending rights, copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission and the

legal protection of databases.

The 2004 amendment establishes a new type of copyright within the framework of the information society; it expands the legal protection afforded in relation to reproductions and contains new provisions on interactive, on-demand broadcasting and rights-management information. In an effort to combat copyright infringement, a further development is the substantial increase in the amount of fines and the term of imprisonment imposed on persons infringing copyright.

Law 123(I)/2006 amends copyright law to facilitate the disclosure of information by any person who is in possession of illegal products on a commercial scale or who has been found using illegal services on a commercial scale, regarding their origin and distribution channels.

Law 181(I)/2007 prohibits the reproduction of the euro note and coins.

Law 207(1) 2012 amends the Copyright Law as regards the burden of proof, placing the burden of proving the existence of a license or the authority of the rightful owner on the accused in criminal proceedings. It also gives the police power to accept an out of court settlement for certain suspected infringements, subject to proper approval, and to destroy the infringing goods and take any other measure necessary to prevent the persons concerned from infringing intellectual property rights

Designs

Industrial designs. A newly developed legal concept, both internationally and domestically, industrial design is the protection given to industrial objects or work of craftsmanship used or sold in industry. Such objects are protected because they usually increase the marketability, and consequently the value, of a product of which they form part.

In line with the efforts of the government to harmonise domestic legislation with the *acquis communautaire*, the House of Representatives enacted the Legal Protection of Industrial Designs and Samples Law, 4(I) of 2002 (amended by Law 170(I)/2003), where previously there had been no specific law in force in relation to the protection of industrial designs.

For a design to be eligible for protection, it generally needs to be both “new” and to have an “individual character”. Law 4(I)/2002 specifies the following requirements:

Novelty. Section 4(2) provides that a design is considered to be new if, up to the filing or priority date, no identical design or sample has been disclosed to the public. “Identical” designs or samples are those whose characteristics differ only in minor details.

Individual character. Section 4(3) provides that a design or sample has individual character if the overall impression it makes on the informed user differs from that made by a design or sample which is disclosed to the public before the filing or priority date. In order to appraise the individual character of a design or sample, consideration is given to the degree of free will of its creator at the time of its creation.

Disclosure to the public. Section 4(4) provides the definition of disclosure to the public. A design or sample is considered to have been disclosed if it has been:

- Published, through its filing or by any other means; or
- Exposed; or
- Used in commerce; or
- Disclosed in any other way.

However, disclosure will prevent a design from receiving protection only when it is used during normal business practice in the area concerned by professionals who operate either within Cyprus or the European Union, before the filing date of the application or the priority date. Additionally, a design or sample is not disclosed to the public when it is disclosed to someone under an explicit or implicit term.

When the design has been disclosed by its creator, beneficiary or a third party acting on their behalf, within the twelve month period before the filing or priority date, this does not invalidate novelty, according to section 4(5)(a). This also applies when the disclosure has taken place as a result of abusive misconduct against the creator or the beneficiary.

Exclusions from protection. The following are not entitled to protection under the Law:

- A design or sample that is contrary to public order or public morality,
- A product whose characteristics of appearance derive exclusively from its technical function,
- A design or sample whose characteristics of appearance must necessarily be reproduced identically for interconnection with another product so that they will enable the latter to perform its function. However, a design or sample that enables the multiple assembly or connection of interchangeable products inside a modular system does not fall under this exclusion as long as it satisfies the criteria of novelty and individual character.

Eligibility for applications for industrial design protection is available to:

- Individuals who are residents of, or have their usual residence in, Cyprus or in another EU member state; and
- Companies or other legal entities that have their actual industrial or commercial establishment in Cyprus or in another EU member state.

Procedure for design or sample registration. To register a design or sample, a lawyer licensed to practise in Cyprus must file with the Registrar on behalf of the applicant:

- A fully completed application (in Greek) containing all relevant details, including full name, nationality and address of the applicant;
- The specification of the article to which the design or sample is to be attached;
- A written or photographic representation of the design or sample that can be produced.

Exclusive rights and their limitation. The protection of an industrial design or sample grants to its proprietor the exclusive right to use the design or sample, and prohibit others from using it without his consent. The Law itself defines the term “use” as including manufacture, offer, marketing, import and export and use or possession for these purposes of a product incorporating or applying the said design or sample.

The above rights are not infringed by private acts done for non-commercial purposes, acts done for experimental purposes or acts done to reproduce the design or sample for educational reasons.

Duration of protection. The maximum duration of protection of a design is 25 years from the filing date of the application, divided into 5 periods of 5 years. The proprietor is entitled to renew the duration of the protection for one or more periods up to 25 years by paying the relevant fees. As in the case of patents, the renewal fees are modest.

Community registered designs. As with Community Trade Marks, since 1 May 2004 it has been possible to file applications for the registration of Community designs direct with the Registrar of Industrial Designs in Cyprus, and all Community designs registered, protected or applied for before the date of accession are automatically extended to Cyprus.

Business names

Business names may be registered in Cyprus under the provisions of the Partnerships and Business Names Law, Cap.116.

Application for registration. Registration of a business name is effected by sending to the Registrar of Companies, within one month of the date on which the business in Cyprus is commenced, an application (in Greek) containing the following particulars:

- The business name;
- The general nature of the business;
- The principal place of business in Cyprus;
- The date of commencement of the business; and
- The name, residence and nationality of the applicant.

Examination of the application by the Registrar. The Registrar may refuse to register a business name which is too similar to an existing one or is considered to be misleading or confusing.

Registration. After the name has been entered in the Register, it is published in the Official Gazette.

Protection against infringement. In the event of infringement of the business name by a third party, the only remedy is an action for passing off under section 35 of the Civil Wrongs Law, Cap.148, claiming damages, an injunction or both.

Duration of registration and protection. Once registered, a business name remains on the register until an application for removal is filed by the trader. Section 57 of the Partnership and Business Names Law provides that where a firm, individual or corporation has registered a business name and ceases to carry on business, the Registrar must be informed within one month after the business has ceased. The Registrar will then remove the name from the register.

Taxation - the "Intellectual Property Box"

With effect from 1 January 2012 Cyprus has had in place an attractive package of incentives and exemptions aimed at promoting the island as a jurisdiction in which to hold intellectual property assets. The incentives and exemptions apply to all expenditure for the acquisition or development of intangible assets incurred by a person carrying on a business. They apply to all categories of intellectual property. The main features are as follows.

Five year amortisation period

The cost of acquisition or development of an IP right acquired by a Cyprus company may be capitalised and written off on a straight line basis over five years, giving an annual writing down allowance of 20 per cent.

Four-fifths deduction of revenue from exploitation of IP rights

Four-fifths of the profit earned from the use of intangible assets (including any compensation for improper use) is deducted for tax purposes. Therefore, only 20 per cent of IP income after deduction of the costs of earning the income (including amortisation), is taken into account.

Cyprus's corporate tax rate is 12.5 per cent, among the lowest in the EU, which means that the maximum rate of tax on income from IP assets is 2.5 per cent. This is half the rate offered by the next most attractive scheme (the Netherlands). However, given the deductibility of expenses including amortisation, most Cyprus companies will suffer an actual rate of less than 2.5 per cent.

In the event that the revenue earned from IP assets is less than IP-related costs and deductions, the loss may be offset against other income for the year or carried forward for up to five years.

Tax exemption of dividends resulting from IP activities

Any dividends generated out of royalty income earned by a Cyprus company and paid to its non-resident shareholders are fully exempt from Cyprus tax of any description.

Four-fifths deduction of profits on disposal of IP rights

Four-fifths of any profit resulting from the disposal of relevant intangible assets is disregarded for tax purposes.

While this is a more generous exemption than is available under any competing regime, in most cases a more beneficial result from the taxpayer's viewpoint can be achieved by holding the assets concerned in a separate company and disposing of the shares in that company, rather than the actual intellectual property assets. This option would result in full exemption of the gain, as well as stamp duty savings, since gains on disposals of qualifying securities (which includes shares) are exempt from all forms of taxation in Cyprus except to the extent that they derive from the disposal of immovable property located in Cyprus.

Comparison with other European IP box regimes

The following table summarises the key differences:

	Cyprus	Belgium	France	Hungary	Luxembourg	Netherlands	Spain	UK
Effective tax rate	2.5%	6.8%	15%	9.5%	5.76%	5%	15%	10%
Qualifying IP assets	All IP assets, including patents, trademarks, copyright, formulas, designs, knowhow and processes.	Patents and supplementary patent certificates.	Patents, extensions, patentable inventions and industrial fabrication processes	Patents, know-how, trademarks, business names, know-how and copyrights	Patents, trademarks, designs, domain names, models and software copyrights	Self-developed IP relating to patents or approved R&D.	Patents, formulas, processes, plans, models, designs and know-how	UK and European patents, supplementary protection certificates and plant variety rights
Ineligible IP assets	None	Know-how, trademarks, designs, models, formulas or processes	Acquired IP rights held for less than two years	None	Know-how, formulas, copyrights (other than software),	Trademarks and brands. Acquired IP	Trademarks, copyrights of literary, artistic, or scientific work, including software	Trademarks, copyrights and designs
Internally developed or acquired?	Applies to both internally developed and acquired IP	Internally developed IP and improvements to acquired IP	Applies to both internally developed and acquired IP	Applies to both internally developed and acquired IP	Applies to both internally developed and acquired IP, but not IP acquired from a related party	Self-developed only	Self-developed only	Self developed and "actively managed" (used in business) only
Limitations on where R&D takes place	None	Some	None	None	None	Some	Some	None
Qualifying revenue	All income, including compensation for breach of rights, net of costs	Patent income	Royalties net of cost of managing qualifying IP	Royalties	Royalties net of costs (amortization, R&D costs, interest etc)	Net income from qualifying assets	Gross income from qualifying assets	Net income from qualifying IP
Deduction rate	80%	80%	None – reduced tax rate	50%	80%	None – reduced tax rate	50%	None – reduced tax rate
Overall limit of deduction	None	100% of pre-tax income	None	50% of pre-tax income	None	None	Six times the cost of developing the IP	None
Gains on disposal included	Yes	No	Yes	Yes	Yes	Yes	No	Yes

As noted above, Cyprus's IP box regime provides a maximum tax rate of 2.5 per cent on income earned from IP assets. The comparable rate in its nearest competitor, the Netherlands, is twice that amount, at 5 per cent. Luxembourg (5.76 per cent) and Belgium (6.8 per cent) are close behind the Netherlands but far behind Cyprus.

The Cyprus IP box regime applies to a wider range of income than any other European scheme, most of which restrict benefits to income from patents and supplementary patent certificates. There is no cap on benefits, such as applies in Belgium, Hungary and Spain, there is no requirement regarding self-development of the IP and there are no restrictions on where the expenditure on acquisition or development of IP is incurred.

While the French, Hungarian, Luxembourg, Netherlands and United Kingdom schemes offer

partial exemption of gains on disposal, the exemptions are less generous than those provided by the Cyprus scheme, due to limitations on qualifying assets and less generous deduction rates. Furthermore, full exemption can be relatively easily obtained in Cyprus by holding the IP assets in a separate company and disposing of the shares in the company, as described earlier.

In most comparisons of the benefits offered by different jurisdictions there is a trade-off to be made. One jurisdiction will be better on certain aspects, but another will be better on others, and the differences will have to be assessed and weighed against one another to arrive at the best overall solution. In the case of the IP box regime there is no need for this, as Cyprus is the clear leader on every aspect.

Cyprus IP structures

A Cyprus company can hold intellectual property assets and enter into licensing agreements with entities located in jurisdictions accessible to low withholding tax rates, whether via a double tax agreement or the EU Interest and Royalties directive. Cyprus has an extensive network of double tax treaties and is also a member of the EU, giving Cyprus resident companies the benefits of the Interest and Royalties directive. Cyprus is therefore an ideal location for the establishment and maintenance of the IP owner which will generate royalty income that will be substantially exempt from taxation in Cyprus. There will no longer be any need to maintain a structure involving entities in several jurisdictions, with the administrative burden and costs that that entails.

Appendix - International conventions

The Republic of Cyprus has ratified the following Conventions with regard to IP rights:

- The Berne Convention on the Protection of Literary and Artistic Works (Act of Paris 1971), Law 86 of 1979;
- The Paris Convention for the Protection of Industrial Property (Lisbon Act), Law 63 of 1965 and (Stockholm Act), Law 66 of 1983;
- The Convention Establishing the World Intellectual Property Organisation (WIPO), Law 36 of 1984;
- The Nairobi Treaty on the Protection of the Olympic Symbol, Law 9 of 1985;
- The Paris Universal Copyright Convention, Law 151 of 1990;
- The Geneva Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms, Law 21(III) of 1992;
- The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), Law 16(III) of 1995;
- The European Convention relating to Questions on Copyright Law and Neighbouring Rights in the Framework of Transfrontier Broadcasting by Satellite, Law 29 (III) of 1995;
- The Geneva Trade Marks Law Treaty 1994, Law 12 (III) of 1996;
- The European Patent Convention 1973, Law 26 (III) of 1997;
- The Patent Co-operation Treaty 1970, Law 27 (III) of 1997;
- The Rome Convention for the Protection of Performers and Producers of Phonograms and Broadcasting Organisations of 26 October 1996, Law 14 (III)/1999;
- The Madrid Agreement Concerning the International Registration of Marks of 14 April 1891, as last revised at Stockholm on 14 July 1967 and as amended on 28 September 1979, Law 3(III)/2003;
- The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on 27 June 1989, Law 4(III)/2003.

