







ARE YOU 'SWIPING RIGHT' TO PROTECT YOUR SOFTWARE?



Have you developed an app?
 Are you concerned that your app idea, brand, or interface will be copied?
 Are you looking to raise investment for your app?

Software start-ups should strongly consider registering their intellectual property. Registered intellectual property can:

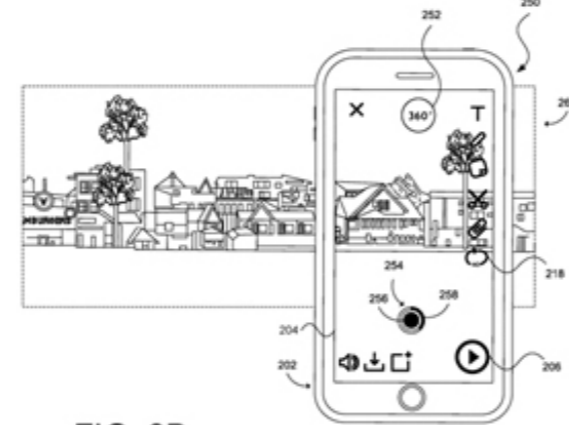
-  Attract venture capital funding
-  Protect the functionality of your software
-  Provide a competitive advantage
-  Provide licensing revenue
-  Provide value
-  Help your start-up be acquired



PATENTS

You only need to look at a shortlist of the most successful apps to see that most are protected using one or more patents. The functionality of Instagram®, Whatsapp®, Facebook®, Snapchat®, Twitter®, Pokemon Go®, Spotify®, Pandora®, Netflix® and Shazam® are all protected by patents.

Snapchat patent - Spherical video editing



Patents prevent other parties from copying the unique functionality of your app. To successfully protect your software using a patent, it must meet three fundamental criteria:

- Your software must be novel
- Your software must involve an inventive step (not be obvious)
- Your software should solve a technical problem with a technical solution (i.e. patentable subject matter)

A patent specification is a complex legal document describing the app in sufficient technical detail whilst defining the scope of protection. We recommend that you seek the advice of a registered patent attorney prior to disclosure, if you wish to seek patent protection for your app.



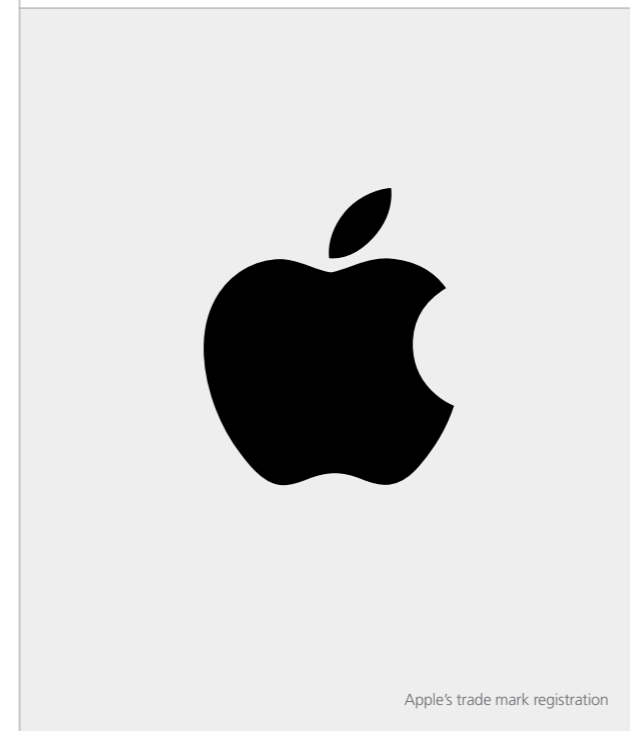
TRADE MARKS

A trade mark identifies your brand and distinguishes it from others. The name of your app is how people identify your goods and services, and how customers interact with you by pressing your app tile. Your brand name and the name of your app can be registered as trade marks if they are distinctive and not the same as, or similar to, a trade mark owned by another party.

As start-ups grow, one of the most valuable pieces of intellectual property is their registered trade mark. Apple's registered trade mark is currently estimated to be worth US\$29.5 billion.

To successfully register a trade mark, the mark must not be deceptively similar or substantially identical to others, and the mark must operate as a 'badge of origin'.

We recommend that start-ups seek professional advice in relation to a trade mark filing strategy to avoid the emotional and financial pain if forced to rebrand.



Apple's trade mark registration



DESIGNS

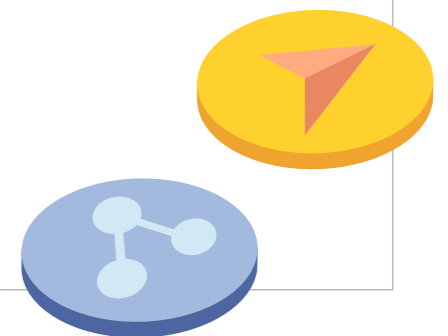
Significant time and effort is spent by app developers creating the perfect look and feel of the user interface of their app. There is an app for that – it is called a design registration. A design registration protects the way your app looks and gives you rights to allow or exclude others from making, selling, or hiring the protected design.



An early Apple design registration

The iconic interfaces of top-tier apps and operating systems are routinely protected by design registrations. In the United States, this protection is very strong, whilst in Australia many registrations are filed under the assumption that Australian practice will be harmonised with US practice.

A design registration protects the visual appearance of your app and prevents competitors from using interfaces that are visually similar. It is critical that a design application is filed in Australia prior to disclosure. Together with trade marks, design registrations are a powerful tool to ensure that your app is recognisably unique.



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CASE STUDY: FYUSE®

A well protected and clever mobile app is FYUSE® by Fyusion, Inc (<https://fyusion.com>).

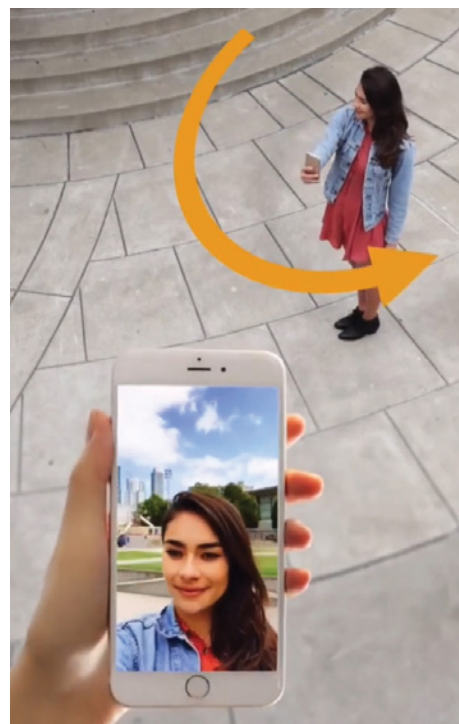
FYUSE® generates "surround view" images that fuse the capabilities of a traditional photo, a panoramic photo, motion capture and 3D. A surround view image initially appears 2-dimensional on the screen. As the user rotates the smart phone or tablet, the image rotates thereby creating the impression of the object being viewed from different angles.

This functionality is covered by 23 granted US Patents and over 50 pending US patent applications.

Fyusion has raised approximately US\$71 million in funding including:

- US\$3.4 million in seed funding
- US\$13 million in Series A financing
- US\$22 million in Series B financing
- US\$30 million in Series C financing
- US\$3 million in corporate round financing

In this time, Fyusion has been able to supplement this investment with licensing revenue from customers. In Fyusion's case, their registered intellectual property has been crucial to their business growth and financial success.



FYUSE® provides a spatio-temporal platform utilising advanced sensor fusion and computer vision algorithms to generate the surround view images.

Trade marks have also been filed and registered by Fyusion for:

FYUSE



US Trademark
Registration
No. 5845721

US Trademark
Registration
No. 5402291



US Trademark
Registration
No. 5475947

FYUSION



US Trademark
Registration
No. 5475731

US Trademark
Application
No. 86529249

Don't 'swipe left' on your intellectual property – swipe right and make sure that your software is well protected.

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