



# **IP CHECKLIST**

# Intellectual property checklist

Do you have a new :

YES NO

- **Business;**
- **product and/or service;**
- **idea;**

Does any of the above apply to you? If you answered yes, then (registering) **Intellectual Property (IP)** might be relevant for you.

Having a business plan is a strategic tool, which helps you to achieve short-term and long-term objectives. This document serves as a checklist to determine which **IP** right would best suit your needs. Learn how to protect your IP and make it part of your **business strategy**.

This is an **interactive PDF**. You can **click** on underlined words in the text to access additional information or registration options. Use the **fields and checkboxes** to identify your IP.

# What is your current situation?

**I have a business**

**I have a logo, (potential) trademark etc**

**I have an idea, concept, business- or marketing plan etc.**

**I have written a book, script, song, created a visual- or digital work etc.**

**I have conceived a (technical) invention**

**I need assistance with my IP**

## I have a business

The registration of your **trade name** with the **Chamber of Commerce** is different from the registration of your **trademark** with **BIP**. The main objective of the Chamber of Commerce is to register your company, whereas the main objective with BIP is to register your trade name, under which you wish to provide certain goods and/or services. The protection of your trade name, when not being registered as a trademark, falls under the general scope of the unlawful act, meaning that when your trade name is infringed upon, the infringement has to be proven based on an unlawful act. When the trade name is registered as a trademark, the scope of protection extends to trademark law, which gives you a wider protection in the event of infringement. Taken into consideration the burden of proof is lower for the trademark holder and grounds for infringement are more extensive. This gives the trademark holder a stronger right to enforce his trade name.

**What is your planned trade name?  
Enter the options here.**

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## Trade name

- **Is your trade name distinctive?**

You can check your trade name using the Chamber of Commerce's registry

- **Is your trade name distinctive?**

If you think that you have a good trade name, it is time to start thinking about your trademark.

- **Do you use your trade name to advertise your product or service, as a web address, as a logo or on social media?**

If you think that you have a good trade name, it is time to start thinking about your trademark.

**If you answer YES to one or more of these questions, your trade name is also a trademark.**

**YES**

**If you answered NO to one or more of these questions, go to page 4 for more information.**

**NO**

# I have a logo, (potential) trademark etc.

A **trademark** is a sign that **distinguishes** your products or services from those of your competitors. Your business and your products and/or services have a sign which consist of a name or a logo or a combination of the two. These can be your trademarks if you **register**.

Trademarks point consumers and other customers in the direction of your **products and services**, symbolize, **represent** your company and are a **financial asset**. Registering your trademark in the Sint Maarten register at BIP SXM gives you the **exclusive right** to use the trademark for certain goods (products) and services within Sint Maarten, for a(n) **(extendable)** period of **10 years**.

## Which trade names, product names, slogans and logos do you use? Enter the options here.

## Trademarks

- **Are the signs distinctive?**

This is the most common ground for refusal of a (potential) trademark. A trademark is a sign which distinguishes company's goods or services. A sign is not distinctive when it describes the kind, quality, quantity, intended purpose, value, place of origin, the time of production, or are common language and established practices of the trade of the country, of the goods or services, where protection is claimed.

### **Some examples of signs which lack of distinctive character:**

- BIOMILD: for mild yoghurt made in an organic way
- HAPPY VACATIONS: for organizing trips
- NEW ENERGY: for the supply and distribution of energy such as electricity, gas and water

In a nutshell, the total impression of the word and (possibly) visual elements left with the public by the trademark is relevant.

- **In which countries do you do business?**

Sint Maarten

Europe

Specific countries

# Trademarks

- **Is your trademark still available?**

You can check here if your mark is still available:

- Sint Maarten: check the BIP SXM register: [Registering a trademark in Sint Maarten | bip](#)
- Europe: check the European trademark register: [EUIPO- eSearch \(europa.eu\)](#)
- Specific countries: [WIPO Madrid Monitor](#)



If your mark is still available on Sint Maarten, you can register your trademark online. You can do this through BIP SXM or with the assistance of a trademark representative. Registration of trademarks is jurisdictional. You can file for international trademark registration via BIP SXM, or you can register your trademark in the designated countries through the relevant Intellectual Property Offices, also with the assistance of a trademark representative.

For more information about trademarks, kindly click the following [link](#).

# I have an idea, concept, business- or marketing plan etc.

As soon as you create an idea, concept, business- or marketing plan etc. you **automatically acquire** copyright to it. You don't have to register to acquire the right. The person who has the copyright has the **exclusive right** to publish and reproduce the work. **But how do you prove** that you hold the copyright to your work or creation?

The **i-Envelope** is a **legal means of proof** that issues a date stamp for your idea or creation. It allows you to prove that your idea or creation already existed on a certain date. The date stamp issued by BIP SXM can be compared to the **date stamp** of the tax inspectorate or a notarial deed. You can use your i-Envelope to record your idea, concept, business- or marketing plan and more.



# Copyright

- Do you need proof that you are the author/creator?  
Record an i-envelope at BIP SXM
- Let people know that it is your idea.  
Place the © symbol, the year of initial publication and the author's name on all copyright protected works (e.g.: logo's, webpages, brochures, ads, photos, software, manuals, artwork etc.).
- Copyright equals contracts.  
Enter into (contractual) agreements with third parties regarding the use of copyright protected works.  
Also enter into specific, contractual agreements with (temporary) employees regarding the development of copyright protected works.
- Keep a record of what has been agreed  
For example, keep a record of any agreements you have made concerning the use of copyright-protected works, such as e-mails, minutes etc.

For more information about copyright, kindly click the following [link](#).

For more information about i-Envelope, kindly click the following [link](#).

# I have written a book, script, song, created a visual- or digital work etc.

## Copyright

**Copyright** gives the creator of an **original** 'work of literature, science or art' the **exclusive right** to publish and/or duplicate it. For example, if you have written a book or created a work of art, you will want to prevent others from publishing or duplicating your work without your **permission**. Copyright is established automatically as soon as a work is created, provided that said work is original. **But how do you prove** that you hold the copyright to your work or creation?

Having an **i-Envelope** recorded at BIP SXM may be quite useful: if somebody else claims the creation is his or hers, your i-Envelope will allow you to **disprove that claim**. Having recorded evidence of your authorship at BIP SXM can be extremely essential in the event of a **(legal) dispute**. The **date stamp** serves as a **legal means of proof**. However, **the i-Envelope itself does not provide (intellectual property) rights** or legal protection. The rights on a creation exist by law.



- Do you need proof that you are the author/creator?  
Record an i-envelope at BIP SXM
- Let people know that it is your idea.  
Place the © symbol, the year of initial publication and the author's name on all copyright protected works (e.g.: logo's, webpages, brochures, ads, photos, software, manuals, artwork etc.).
- Copyright equals contracts.  
Enter into (contractual) agreements with third parties regarding the use of copyright protected works.  
Also enter into specific, contractual agreements with (temporary) employees regarding the development of copyright protected works.
- Keep a record of what has been agreed  
For example, keep a record of any agreements you have made concerning the use of copyright-protected works, such as e-mails, minutes etc.

For more information about copyright, kindly click the following [link](#).

For more information about i-Envelope, kindly click the following [link](#).

## I have conceived a (technical) invention

A **patent** is an **exclusive right** granted for an **invention**, for a **specific period of time**, which can be a **product as well as a process**. An inventor can commercialize his or her invention without the fear of competition from others and therefore obtain all the possible benefits of the invention. To obtain the right to a Patent, **technical information** about the invention must be **disclosed to the public** in the **patent application**.

A patent must meet three conditions. It must be:

- Novel
- Inventive
- Industrially applicable

Check whether it is worth your while applying for a patent. It is advisable to have your application drawn up by a patent attorney. A patent attorney specializes in patent law and is trained in technical and legal matters. You can search for a patent attorney in the [Register of Patent Attorneys](#).

## Patent

1. Have you disclosed your invention? **YES** **NO**  
If no, see next question.

2. Is your invention new?  
Check whether your invention is new by looking in shops, on the internet and in the [Espacenet](#) patent database.

3. A patent right is costly.

Kindly specify how the patent would generate income for you (check relevant box(es)):

- Exclusivity
- Licensing
- Selling the patent
- Collaboration with others
- Other, please specify:



# Patent

4. When is the right time/moment to apply for a patent?

A You have a new (potential) invention

B When the invention is not known to others (public)

C You have a new invention, it is not known to others, and is well researched.

The answer is C.

5. Are you confident that your invention is patentable?

If so, prepare your patent application. Your invention will be protected and you may disclose it from the date on which you file your patent application.

For more info on patents for small and medium businesses, kindly see [link](#).



## I need assistance with my IP

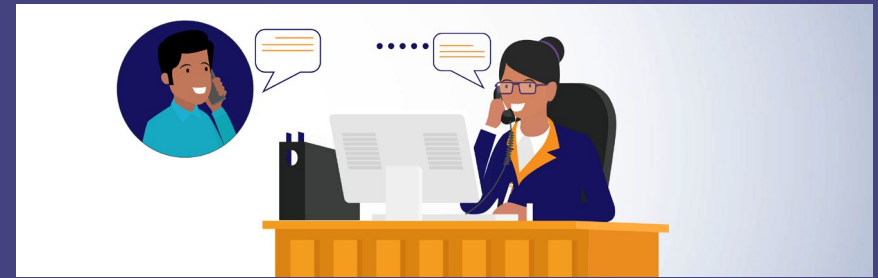
If you wish, you can submit the application(s) of your trademark(s) yourself. However, you should not forget that all kinds of practical and legal issues play a role in providing optimal protection of your trademark(s). Trademark law is a specialist field and a lot of companies do not have the necessary expertise available. It is therefore recommended to seek advice from a trademark representative. For trademarks representatives registered with BIP SXM click this [link](#).

Disclaimer:

*All information that is shared by BIP SXM is merely for educational and informational purposes. It is not intended as a substitute for professional legal advice. Should you decide to act upon any information based on this pdf, you do so at your own risk.*

*The Bureau for Intellectual Property Sint Maarten, the director, its employees and third parties cannot be held liable for the use of and reliance of the opinions and findings in these documents.*

## Trademark representative



## Intellectual Property

Intellectual property is the collective term for a number of specific legal areas. It relates to having a right to a non-material (intangible) subject. These rights give the owner an exclusive right to manufacture or sell a product, to use the product's name or to duplicate a work. The most well-known intellectual property rights are trademarks, patents and copyrights. If you have a product, service or company, it is important to protect your IP. We believe that using you IP strategically is crucial to the success of your core business.

## About BIP SXM:

The Bureau is the official agency responsible for the registration of trademarks in accordance with the National Ordinance on trademarks, recordal of i-Envelopes and providing information to the public about Intellectual Property rights.

BIP SXM registers National and International trademarks, for private persons, domestic and foreign companies.


BIP SXM provides an online trademark registration system that is accessible and available 24/7.

## Contact BIP

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## More information

### Trade name

Chamber of Commerce (Sint Maarten)

### Domain name

iCann foundation

The **Internet Corporation for Assigned Names and Numbers** is an American multistakeholder group and nonprofit organization responsible for coordinating the maintenance and procedures of several databases related to the namespaces and numerical spaces of the Internet, ensuring the network's stable and secure operation.

Bureau Telecommunication and Post (BTP) (Sint Maarten)

### Copyright (this list is not limited)

ACCS (Trinidad)

JAMCOPY (Jamaica)

ECCORIGHTS

### Trademarks

Bureau for Intellectual Property Sint Maarten (BIP SXM)