



Intellectual
Property
Office

IP Audits Plus Application Pack



IP Audits Plus Guidance For Applicants'

Introduction

This guidance is intended to provide applicants with information about the support available through the Intellectual Property Office's IP Audits Plus service.

The service has been developed to ensure that SMEs identified as having potential to grow receive the right guidance and advice through dedicated channels. This includes support in respect of IP management, commercialisation and marketing, to ensure that SMEs can deploy their IP assets into their wider business strategy, and maximise their value.

This service offers access to dedicated IP and commercialisation support and advice. To be considered eligible for this support you must be engaged with one of the IPO partner business support schemes. Current partners are GrowthAccelerator, Scottish Enterprise (including Highlands and Islands Enterprise) and Welsh Government.

The aim of the service is to connect SMEs with good quality guidance and advice along with the services that they need to make their IP work for them as they work to grow their business. This is about more than putting registered rights in place; it's about making sure that businesses can identify opportunities to use their IP to generate income/value, such as through licensing and franchising, and more importantly, that they are able to seize those opportunities.

It is also about making sure that businesses are aware of the risks and understand how to manage them (not just potential infringement but also internal IP management strategies; for example, ensuring that employee contracts, amongst other things, are sound). The long term goal is to ensure that SMEs are able to integrate IP into their wider business strategy.

What can my business expect from the IP Audits Plus Service?

As part of this service you can apply for an IPO funded IP audit (see below for more information). A nominated contact from one of our partner organisations will advise you as to whether an IP audit would be applicable for your business; they will also oversee and submit your application to the IPO on your behalf.

Please note that there are a limited number of audits available; applications that do not meet the criteria will not be accepted. Applications for an IP audit should demonstrate that the IP audit will form a key part of achieving your business growth plans. Additionally if you are successful in receiving funding for an IP audit you will be strongly encouraged to act upon the recommendations within the report. Therefore, your business must be in a position to dedicate resource, including potential financial resource, to your IP strategy.

Following receipt of the IP audit report you will receive dedicated follow up support from your nominated contact. They will discuss the report's recommendations and work with you to identify your next steps and priorities in respect of your IP.

The opportunity to discuss the report's recommendations with a qualified IP Professional is also available. This is offered on a one hour pro bono basis. It is strongly recommended that your nominated contact attend this meeting with you to ensure consistency of approach.



The qualified IP Professional will provide you with clear and transparent cost projections for the delivery of the services required to take forward the recommendations. This will allow you to budget effectively in order to manage the development and protection of your IP.

What is an IP Audit?

An IP audit allows you to gain a clear picture of your IP assets to ensure you are able to manage your own IP and develop an effective management plan or strategy to grow your business. It is particularly relevant for SME's identified as having potential to grow.

The audit should provide advice and guidance towards identifying and maximising the value of IP. It is particularly useful where further guidance is required in respect of managing and developing an IP strategy and/or it has been demonstrated that IP protection is significant to the development and commercialisation of the product/service. It will help to ensure that potential intellectual property assets are identified and appropriately managed.

What should an IP Audit cover?

The service, provided by a qualified IP Professional, should involve research/preparation work, a visit or meeting and the provision of a report. The report should set out clear recommendations/action points as to how your business could leverage value out of your IP and how to develop an IP management plan to integrate your IP assets into your wider business strategy.

Below is a guide as to what should be included (this is not a definitive list). The issues considered and content of the report should be tailored to meet the needs of your business:-

- Patents - identify pending applications, granted patents, potential patentable technology;
- Trade Marks - identify registered and unregistered trade marks, searching procedures prior to introduction of trade mark;
- Designs - identify registered and unregistered rights, possible protection through Design Right and Community Design Right;
- Copyright – identify copyright (databases, websites, marketing/promotional material, photography, film), ownership/assignment of copyright when commissioning work from creators, procedure for establishing date of creation, copyright indicators on protectable works, database rights;
- Third party Searching – using publicly available databases to identify potential infringements in respect of patents, trade marks and designs;
- IP Management - to include confidentiality (or non-disclosure) agreements, trade secrets, technical know-how, employee agreements and dissemination of IP policy throughout the company, contracts, licensing including royalty payments, evaluating existing IP, IP policy including registration, renewal systems, monitoring/watching services and enforcement and international filing strategies.
- Recommendations outlining what action should be taken to develop an effective IP management strategy and protect the IP identified.

The service **cannot** be used to prepare and file an application for a patent, registered trade mark or registered design. The total funding available for an audit is up to the value of £3,000 (including VAT).

Following receipt of the IP audit report you will also be offered:-



- Dedicated follow up support from your nominated contact who will discuss the report's recommendations and work with you to identify your next steps and priorities in respect of your IP;
- The opportunity to discuss the report's recommendations with a qualified IP Professional. This is offered on a one hour pro bono basis. It is strongly recommended that your nominated contact attend this meeting with you to ensure consistency of approach.
- Clear and transparent cost projections, provided by the qualified IP Professional, for delivery of the services required to take forward the recommendations. This will allow you to budget effectively in order to manage the development and protection of your IP.

Where do I find a suitably qualified IP Professional?

There are a variety of professional individuals who are qualified to undertake audits to the required standard. It is your responsibility to choose an appropriate adviser and to ensure that the audit report contains the above information. It is recommended that you speak to your nominated contact when considering this; they may be able to assist you with the selection and briefing process.

Before making contact with a qualified IP Professional it is recommended that you read the IPO's "Choosing the Right Adviser" booklet. This booklet sets out the steps to take when choosing an IP Adviser and the questions to ask to ensure that the adviser can deliver the services required. The booklet can be found on the IPO website at <http://www.ipo.gov.uk/ipadviserbooklet.pdf>

As the aforementioned booklet outlines, The Chartered Institute of Patent Attorneys (<http://www.cipa.org.uk/>) and the Institute of Trade Mark Attorneys (<http://www.itma.org.uk/>) provide a list of their members in your area.

The selected IP Professional completing both the audit report and pro bono advice may be one and the same, if this decision meets your business needs. However, it should be noted that in some instances it may be necessary to use a different IP Professional to complete the IP audit report and follow up advice.

Please note the qualified IP Professional you appoint must be UK based.

Who should submit the IP audit report and invoice?

The IP Professional appointed to complete the audit report should submit the report and invoice to the IPO for payment. The IPO will confirm the date by which the IP audit report should be submitted; this is normally 2 months from the date of approval of the application. You should ensure that the IP Professional is aware of this date.

The IPO will pay the IP Professional directly for their work. Prior to this it is recommended that the IP Professional send a draft version of the report to you and your nominated contact for approval. On approval, the IP Professional should send the completed audit report to the IPO along with the invoice. A copy of the final report should also be sent to you and your nominated contact.

The audit report is deemed "commercially sensitive" by the IPO and kept confidential.



State Aid – De Minimis Regulation

The assistance for the IP Audit constitutes State aid as defined under Articles 107 and 108 of the Treaty on the Functioning of the European Union and is being granted as 'de minimis' aid under Commission Regulation (EC) No 1998/2006 of 15 December 2006 – OJ L379, 28.12.2006 (the "de minimis" aid regulation).

European Commission rules prohibit any undertaking from receiving more than €200,000 'de minimis' aid over any period of three fiscal years. Any 'de minimis' aid granted over the €200,000 limit may be subject to repayment with interest. If you have received any 'de minimis' aid over the last three years (from any source) you should inform us immediately with details of the dates and amounts of aid received. Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'de minimis' aid for the next three years.

To establish whether you are eligible to receive de minimis aid you must declare the full amount of de minimis aid which you have already been granted during the previous two fiscal years and the current fiscal year. Potentially any assistance you may have received from a public body might be a de minimis aid. This could be from central, regional, devolved governments or agencies or a local council. The following is not a comprehensive list of all possible forms of aid. However, it should give you an indication of common forms of aid which you may have been given over the past three years.

You should have received a letter informing you if you were given assistance under the de minimis regulation. If you are not sure whether or not any public assistance you have received is de minimis aid, please contact the body which granted the assistance to clarify this and provide information about all forms of public assistance under €200,000 you have received in the last three years.

Forms of possible aid:

- State grants;
- interest rate relief;
- tax relief;
- tax credits;
- State guarantees or holdings;
- State provision of goods or services on preferential terms;
- direct subsidies;
- tax exemptions;
- preferential interest rates;
- guarantees of loans on especially favourable terms;
- acquisition of land or buildings either gratuitously or on favourable terms;
- provision of goods and services on preferential terms;
- indemnities against operating losses;
- reimbursement of costs in the event of success;
- State guarantees, whether direct or indirect, to credit operations preferential re-discount rates;
- dividend guarantees;
- preferential public ordering;
- reduction of, or exemption from, charges or taxes, including accelerated depreciation and the reduction of social contributions;
- deferred collection of fiscal or social contributions;
- assistance financed by special levies;
- capital transfers;
- certain State holdings in the capital of undertakings.



IP Audit Application Form

Intellectual Property Office IP Audits Plus – application for an IP audit

Referred/submitted by GrowthAccelerator/Scottish Enterprise/Welsh Government (delete as appropriate).

Name of nominated contact within referring/submitting partner:

Nominated contact details:

Applicant Details

Organisation name:	
Address 1:	
Address 2:	
Address 3:	
Town:	
Postcode:	
Nature of Business:	Size of business:
	Turnover:
	No. of Employees:
Lead Person contact details:	
Name:	
Email:	
Phone:	



Criteria

Please note the application will be measured against the following criteria:-

- IP has been identified by the applicant;
- Further guidance, as identified by the applicant and nominated contact, is required in respect of managing and developing an IP strategy;
- IP will be significant to the development and commercialisation of the product/service allowing the business to grow.

Brief background of the business including products and/or services including a summary of the identified IP.

Outline the scope and focus for the IP audit and the expected actions/benefits from audit. (Refer to criteria above).



Terms and Conditions (mandatory requirement)

1. The applicant agrees to act on the findings from the audit report;
2. The applicant agrees to the IPO and their nominated contact receiving a copy of the audit report;
3. The applicant agrees to complete a questionnaire from the IPO and, if required, provide a case study following receipt of the audit report for the purposes of evaluating and promoting the scheme.
4. The applicant has read and noted the guidance above and has declared the full amount of de minimis aid they have received in the current fiscal year and the previous two fiscal years.

Amount of de minimis aid received (if applicable):-

Previous two fiscal years –

Current fiscal year –

I confirm my agreement to the above terms and conditions.

Applicant's Signature

Date (mandatory):

Completed applications MUST be returned to your nominated contact who will submit it to the IPO on your behalf.