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“Intellectual Property lies at the centre of the modern company's economic success or failure”

Lester Thurow : Economist

Trade marks & Brands

Patents & Inventions

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Database rights

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Licensing and Franchising

Intellectual Property agreements

New Media Agreements such as directors and authors rights

Transactional Intellectual Property

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An Introduction To Franchising

by Elizabeth Ward
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Franchising is a much abused term in the English language. It is used to describe many business relationships but, in its true legal sense, it is a particular form of licensing. Franchising usually occurs where one company has a tried and tested product and business model. This tried and tested business can then be rolled out to other potential businesses on a nationwide or indeed international basis. Franchising is particularly popular in the USA.

Successful franchising occurs in a range of industries and often works well where there is a customer service element as well as a recognised product and brand. Examples of successful franchising include McDonalds as a fast food retailer and AutoGlym which sells car care products.

In franchising the "know-how" of a business i.e. its underlying business strategy is key to its success. Franchising works particularly well where the franchisor advertises on a national basis and brings a well-known, tried and tested brand to the market. The franchisee gets the benefit of a head start in business by selling well-known goods and services. In simple terms a franchise is a sophisticated know how and trade mark licence. In order to maintain brand standards the franchisor will often control the supply chain and direct that products are sourced from specific suppliers and are sold in a particular way. The franchisor may also specify things such as staff training and may coordinate new customer enquiries which will come in via their national network.

As with licensing, franchising can be extremely flexible and can work very well for both parties provided that the franchise agreement is drafted fairly. Franchisees pay a royalty for the benefit of using the brand, the know-how and the franchisor's expertise. In return the franchisor gets the benefit of nationwide market penetration and can enjoy considerable success from a royalty stream.

Exhibitions are held around the country where you can visit businesses offering a franchise and discuss how it works. The British Franchise Exhibition is one. Attending a show like this can give you the opportunity to have an initial look at what is on offer and is also the source of valuable advice and information.

In order to avoid legal pitfalls and getting tied into onerous terms it is important to have the support you need from experienced legal advisors and accountants. Some franchise agreements contain unfair obligations and liabilities on you as the franchisee. Remember the old adage an ounce of prevention is worth a pound of cure. Other organisations such as Business Link may also be able to offer you advice and guidance on setting up such a business.