

## Doing Business in the United States: for Australian Companies

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## Establishing Your "Beachhead"

- IP
  - Trademarks
  - Copyrights
  - Patents
  - Trade Secrets
  - Domain Names
- Mechanism/Structure
  - Distributor
  - Doing it Yourself
- Costs = Investment

## Across the Board

- You Can't Do It From Australia
- A Must: Your Own People on the Ground in the U.S.
  - U.S. Lawyers
  - U.S. Accountants
  - U.S. Managers/Legal Immigrants

Someone at Trade Show



## Distributor(s)

- Get It in Writing
  - No "handshakes"
- Proper Licenses of IP
  - "Naked" license
- Minimum Sales
- Escape Clauses
  - Perform
    - Exclusive/Non-exclusive
    - Time Period
    - Territory
- Due Diligence
- Arbitration/Dispute Resolution



## Doing Your Own Thing

- Entity
  - 50 jurisdictions
  - Corporation
  - LLC
  - Tax
- Double Tax Treaty
- Immigration
- Who Will Head in U.S.?
- Costs



## IP

- Patents
  - Utility
  - Design

Direct File  
PCT

U.S. Patent but no  
Australian Patent  
Australian Patent is not a  
U.S. Patent  
No Rights Until Issued by  
USPTO

Timing  
Filing  
National Phase (PCT)

Clearance  
Will Your Product Infringe?  
ITC  
Lawsuit  
Enforcement  
Defense  
Cross-Licensing  
Marking  
U.S. Pat. No. X, XXX,XXX  
Costs

## IP (cont.)

- Trademarks
  - Co. name is not adequate
  - Clearances
  - File Trademarks
  - Timing
  - 2-3 years
- ITU
- Paris Convention Priority
- Madrid Protocol
  - Goods/Descriptions,  
    Services
- Marking ® ™
- Record with Customs
- Costs



## Copyrights

- Register in U.S?
  - Attorney's Fees
  - Statutory Damages
  - Record with Customs

Marking: ©, year, owner  
Costs

## Trade Secrets

- Must Keep it a Secret!
- NDA's
- Do Not Expire



## Domain Names

- .com
- Register similar and typo domains

## Thank You!

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