



Intellectual Property

What is Intellectual Property?

Intellectual property is something you create using your mind - for example, a story, an invention, an artistic work or a symbol.

Intellectual property rights allow you to monetise the intellectual property you own.

You usually will not own the intellectual property for something you created as part of your work while you were employed by someone else. The organisation would own the intellectual property and be able to make use of it.

Having the right type of intellectual property protection helps you to stop people stealing or copying:

- your inventions
- things you write, make or produce
- the design or look of your products
- the names of your products or brands

Intellectual Property can:

- have more than one owner
- belong to people or businesses
- be sold or transferred

IP Infringement

Using someone's trademark, patent, copyright or design without their permission is known as 'IP infringement' and could lead to a fine, imprisonment or both.

Copyright, patents, designs and trademarks are all types of intellectual property protection. You get some types of protection automatically, whilst for others you have to make formal applications.

To use someone else's intellectual property, it is necessary to buy the rights or obtain permission to use it from them.



What is a Patent?

A patent is a type of intellectual property that gives its owner the legal right to exclude others from making, using, or selling an invention for a limited period of time in exchange for publishing an enabling disclosure of the invention.

The UK Intellectual Property Office grants patents which are a legal right over a new invention. This allows the owner of that patent to prevent others using that invention without permission through taking legal action. Patents registered in the UK have a maximum duration of 20 years from the date the patent application is filed.

Granted patents will lapse unless a renewal fee is paid annually starting from the fourth anniversary of the date the application was filed. Patents are granted for distinct territories, with UK patents only applying in the UK; to protect an invention outside of the UK additional patent applications would need to be made territory by territory.

When an invention is made, it belongs to the inventor unless their rights have been given to somebody else, for example, by agreement or through a contract of employment.

Something can be patentable if it meets four criteria:

- Be new
- Involve an inventive step (not an obvious development of what already exists)
- Be capable of industrial application
- Not be deemed as 'excluded' (such as works of art and scientific theories)

The following categories are excluded from patent protection:

- Scientific or mathematical discoveries, theories or methods
- Literary, dramatic, musical or artistic works
- Ways of conducting certain acts, like playing a game or doing business
- The presentation of information
- Inventions contrary to public policy or morality
- Plant and animal varieties
- Methods for medical treatment or diagnosis

Copyright

Copyright protects your work and stops others from using it without your permission.

You get copyright protection automatically - there is no requirement to apply or pay a fee. In the UK there isn't a register of copyrighted works. Copyright protection starts as soon as a work is created and when it expires, anyone can use or copy your work.

You automatically get copyright protection when you create:

- original literary, dramatic, musical and artistic work, including illustration and photography
- original non-literary written work, such as software, web content and databases
- sound and music recordings
- film and television recordings
- broadcasts
- the layout of published editions of written, dramatic and musical works

You can mark your work with the copyright symbol (©), your name and the year of creation. Whether you mark the work or not doesn't affect the level of protection you have.

You can license the use of your work if you own the copyright. You can also decide how your work is used. This applies whether the owner is an individual or an organisation.

Copyright protects your work by preventing people from:

- copying your work
- distributing copies of it, whether free of charge or for sale
- renting or lending copies of your work
- performing, showing or playing your work in public
- making an adaptation of your work
- putting it on the internet

How long UK copyright usually lasts:

- Written, dramatic, musical and artistic work 70 years after the author's death
- Sound and music recording 70 years from when it's first published
- Films 70 years after the death of the director, screenplay author and composer
- Broadcasts 50 years from when it's first broadcast
- Layout of published editions of written, dramatic or musical works 25 years from when it's first published

Licencing

A licence is a contractual agreement between the copyright owner and user, which sets out what the user can do with a work. Any licence agreed can relate to one or more of the rights granted by copyright and can also be limited in time or any other way.

Commercialisation

New developments have the potential to generate income. There are a range of options from selling the development out right to allowing not-for-profit usage whilst charging only those looking to profit financially from their usage.

When commercialising something that you or your colleagues have developed, ensure that it does not contain content which is available on a not-for-profit usage only basis, as this would breach the usage conditions.

Using Licenced Products

It is an option to allow limited access without charge. One way to do this is by using a Creative Commons Licence. Some products are available for not-for-profit use without charge, allowing cost-free use in the public and third sectors.

If using a licenced product, it is important to comply with the licencing requirements, as breaches can lead to legal action.

Public Domain

In some circumstances there are no or very limited intellectual property restrictions. This could be where copyright has lapsed or a decision has been made to allow ready usage, such as with open-source software.

Intellectual Property and You

Being aware of the potential intellectual property implications for an innovation is a good starting point. As this can be a complex area of activity, if in doubt, seek advice from an experienced colleague or a specialist in intellectual property.

