

Wales Council for Voluntary Action

Supporting charities, volunteers and communities

9. Assets

9.6 Intellectual property



Intellectual property, often known as IP, allows people to own their creativity and innovation in the same way that they can own physical property. The owner of IP can control and be rewarded for its use, and this encourages further innovation and creativity to the benefit of us all.

In some cases IP gives rise to protection for ideas but in other areas there will have to be more elaboration of an idea before protection can arise. It will often not be possible to protect IP and gain IP rights (or IPRs) unless they have been applied for and granted, but some IP protection such as copyright arises automatically, without any registration, as soon as there is a record in some form of what has been created.

The four main types of IP are:

- **Patents** for inventions - new and improved products and processes that are capable of industrial application.
- **Trade marks** for brand identity - of goods and services allowing distinctions to be made between different traders.
- **Designs** for product appearance - of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product itself or its ornamentation.
- **Copyright** for material - literary and artistic material, music, films, sound recordings and broadcasts, including software and multimedia.

What is a patent?

A patent gives an inventor the right for a limited period to stop others from making, using or selling an invention without the permission of the inventor. It is a deal between an inventor and the state, in which the inventor is allowed a short-term monopoly in return for allowing the invention to be made public.

Patents are about functional and technical aspects of products and processes. Most patents are for incremental improvements in known technology - evolution rather than revolution. The technology does not have to be complex. A patented invention is recorded in a patent document.

The original patent document of a patent application is published by a patent office. The application then adds to the state of the art for later applications, and anyone can comment on the application. Often the patent document needs altering or amending to

meet the conditions above before a patent can be granted. The final version of the granted patent document is then republished. If more information about the state of the art is discovered after being granted, the patent document can be amended and republished again. Patent rights are territorial; a UK patent does not give rights outside of the UK. Patent rights last for up to 20 years in the UK.

Trade mark

A trade mark is any sign which can distinguish the goods and services of one trader from those of another. A sign includes words, logos, colours, slogans, three-dimensional shapes and sometimes sounds and gestures.

A trade mark is therefore a 'badge' of trade origin. It is used as a marketing tool so that customers can recognise the product of a particular trader. To be registrable in the UK it must also be capable of being represented graphically, that is, in words and/or pictures.

Design

A design refers to the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its ornamentation.

In the United Kingdom designs are protected by three legal rights:

- registered designs
- unregistered design right
- artistic copyright

Design registration gives the owner a monopoly on their product design, i.e. the right for a limited period to stop others from making, using or selling a product to which the design has been applied, or in which it has been incorporated, without their permission and is additional to any design right or copyright protection that may exist automatically in the design.

Copyright

Copyright gives the creators of a wide range of material, such as literature, art, music, sound recordings, films and broadcasts, economic rights enabling them to control use of their material in a number of ways, such as by making copies, issuing copies to the public, performing in public, broadcasting and use on-line. It also gives moral rights to be identified as the creator of certain kinds of material, and to object to distortion or mutilation of it. (Material protected by copyright is termed a 'work'.)

However, copyright does not protect ideas, or such things as names or titles.

The purpose of copyright is to allow creators to gain economic rewards for their efforts and so encourage future creativity and the development of new material, which benefits us all. Copyright material is usually the result of creative skill and/or significant labour and/or investment, and without protection, it would often be very easy for others to exploit material without paying the creator.

Most uses of copyright material therefore require permission from the copyright owner. However there are exceptions to copyright, so that some minor uses may not infringe copyright.

Copyright protection is automatic as soon as there is a record in any form of the material that has been created, and there is no official registration or form or fee. But creators can take certain steps to help prove that material is theirs.

Other IP rights

Although copyright, designs, patents and trade marks provide a range of IP protection, there are a number of other forms of IP and subjects related to IP:

- Rights in performances for performers and those making recordings of performances.
- Protection for trade secrets under confidentiality agreements.
- Database right for some types of database (other types may be protected by copyright).
- Protection for semi-conductor topographies.
- Plant breeders' rights in plant varieties.
- Protection for geographical indications of origin.
- Protection of conditional access technology for broadcasts and other transmission.
- Protection against unfair competition under "passing off" law.
- Publication right for first publication of material in which copyright has expired.
- Protection against circumvention of copy protection devices.

In some countries, the rights of the producers of sound recordings and broadcasters are known as neighbouring or related rights. In the UK producers and broadcasters get copyright protection in their material.

Further information

Intellectual Property

www.intellectual-property.gov.uk

World Intellectual Property Organisation

www.wipo.int

IP Institute

www.ip-institute.org.uk

Managing Intellectual Property

www.managingip.com

UK Patent office

www.patent.gov.uk

Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

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