

IP and its Successful Commercialisation

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Presentation

- **What do we mean by IP?**
- **Why is IP important?**
- **Who owns IP?**
- **How to protect IP?**
- **How to commercialise IP?**

What do we mean by Intellectual Property?

- Legal rights that protect your ideas and inventions (IPRs) – e.g., patents, copyright, design rights and trade marks
- Human capital (intangible asset) – e.g., confidential information, know how, reputation and publications

Why is IP important?

- Critical to the development and commercialisation of new ideas
- Output of research (Research Excellence Framework (REF))
- Often allows you to stay ahead of your competition
- Financial benefits to the inventor and/ or research institution

Who owns the IP?

- Student or HEI? – IP Policy, Post-grad or Undergraduate
- Commissioner of the research? – Business, Research Council, European Commission....
- Consortium? – IP Agreement
- Evidence of ownership – Lab books, reports

How do you protect IP?

- Copyright
- Patents
- Trade mark
- Design Rights
- Confidentiality

What is Copyright?

- An unregistered right (unlike patents, design rights, etc)
- No need to register, so no official action to be taken
- Automatic right
- Good idea to use © symbol followed by name and date

Copyright exists in many forms

- Literary works, e.g. reports, thesis, computer programs
- Dramatic works, including dance and mine
- Musical and artistic works, e.g. paintings, photographs, maps, logos
- Sound recordings on any medium (tape / CD)
- Films, including videos and broadcasts

Ideas or concepts are not protected!!

Who owns Copyright?

- Generally the **author is the first owner** (literary, dramatic, musical or artistic work)
- Main exception is where work is made during course of employment, in which case the owner is the employer
- E.g., Films – joint owners are the principal director and film producer
- Sound recordings, broadcasts and published editions – record producer, broadcaster or publisher
- Work undertaken by a third party on behalf, then owner is the third party unless assigned in writing

How long does Copyright exist?

In the UK copyright exists for:

- Literary, dramatic, musical or artistic 70yrs / after death
- Sound recordings 50 yrs / after release
- Films 70 yrs / after death

Copyright in summary

Overview	Automatic	Usually 70 years	Protects the written word
Requirements	No “mere” copy	Intellectual input	
Problems	Infringement = “copying”	Ownership	Not protect idea

What is a Patent?

- A patent for an invention is granted by government to the inventor, giving the inventor the right for a limited period (normally 20 years) to stop others from making, using or selling the invention without the permission of the inventor
- Patents are generally intended to cover **products or processes** that possess or contain new functional or technical aspects; patents are therefore concerned with, for example, how things work, what they do, how they do it, what they are made of or how they are made
- The vast majority of patents are **for incremental improvements** in known technology; it has been said that innovation is evolution rather than revolution.

What is Patentable?

- **Be new:** The invention must never have been made public in any way, anywhere in the world, before the date on which an application for a patent is filed.
- **Involve an inventive step:** An invention involves an inventive step if, when compared with what is already known, it would not be obvious to someone with a good knowledge and experience of the subject.
- **Be capable of industrial application:** An invention must be capable of being made or used in some kind of industry. This means that the invention must take the practical form of an apparatus or device, a product such as some new material or substance or an industrial process or method of operation.

Patents in summary

Overview	Monopoly right	Usually lasts for 20 years	Expensive
Requirements	Novelty	Inventive step	Industrial Application
Problems	Prior disclosure	Ownership	Territorial

What is a Trade Mark?

A trade mark is a sign which can distinguish your goods and services from those of other traders. A sign includes, for example, words, logos, pictures or a combination of these

You can use your trade mark as a marketing tool so that customers can recognise your products or services.

What do the Symbols TM and [®] mean?

A TM represents an unregistered trade mark. It is informal notification by the person affixing the sign that he/she claims trade mark rights

The [®] symbol shows the public that the mark is registered. NB: Use of the [®] symbol with any unregistered trade mark is illegal

Trademark in summary

Overview	Monopoly right in territory / class	10 yrs renewable	Prevents re-use or extraction
Requirements	None descriptive	Need to use	
Problems	Class driven	Enforcement	Territorial

What is a Design Right?

A registered design is a monopoly right for protecting the appearance of the whole or a part of a product

Under the current law it is the design itself which is protected, not the article bearing the design (pre-2002 law a separate registration would have to be made for each article bearing the design)

What must Designs have?

Must be new which means that it must not be the same as any design which has already been made available to the public, AND

Have individual character, the test of which is through the eyes of an “informed user” rather than a design expert; so for example does the design induce a reaction of “deja-vu”?

Registered Designs in summary

Overview	Monopoly right in territory	25 yrs	
Requirements	Not protecting functionality	“novelty”	
Problems	Cost	Prior Disclosure	Territorial

Confidentiality

- Confidential information is information which **MUST** not be divulged without permission
- Covers a wide range of material and often have great value for example, a trade secret, such as the Coca Cola recipe
- Inventions - not to disqualify a patent application, no details must be divulged before filing. Therefore need to use a Non-Disclosure Agreement to protect interests

Confidentiality in summary

Overview	Implied? Express?	No set duration unless NDA	Prevents disclosure
Requirements	Is it confidential?	Employment contracts	
Problems	Evidence	Implied Terms	

How do you commercialise IP?

- Permission to use
- What is the IP? - define
- Sell - IP Assign
- Exploit direct - Spin-out company, Joint Venture
- Licence – exclusive, non-exclusive
- Not use

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Thank you

Questions?