

Who owns the rights to my work?

You own IP if you: 1) created it (and it meets the requirements for copyright, patent or design), or 2) bought IPR from the creator or previous owner, or 3) have a brand that could be a trademark. This is, however, not always the case. For instance, when you make an invention while conducting research for the University, the University may own that invention if you (1) were employed by the University or (2) used University research funds, resources or facilities. Your University should have its own Intellectual Property Policy (IPP) which outlines the ownership of IP for staff and students.

■ Staff

Most IP created in the course of, or incidental to, an employment where the worker is paid, automatically belongs to, and is owned by, the employer. With contract work, the opposite is usually true. However, ownership may in part be determined by the TC of any external funding. It is possible, yet unusual, for the University to: a) reverse this if the parties agree to it by contract, b) have a shared equity scheme or c) compensate its employees in other ways.

■ Students

When students enroll on a course they enter into a contract with their university, which includes an agreement on the ownership of their work. As a student, you may experience different agreements, such as studentship, fellowship, financial aid or research contracts. Some of them may include certain IP obligations you should check to make sure you own the IP you created.

WHAT IS INTELLECTUAL PROPERTY?

Intellectual property (IP) concerns **intangible creations of the mind that you physically create**. IP is any form of knowledge, expression or scientific or artistic endeavour that you physically create and therefore can be protected under law.

An idea alone is not intellectual property. For example, an idea for a book does not count for IP, but written words do.

INTELLECTUAL PROPERTY RIGHTS AND LAWS

Intellectual property rights (IPR) give ideas their value, and grant creators or owners of a work certain control over its use. IP laws offer protection that can be used to prevent others from the unauthorized production, copying, use or sale of the IP. An owner of IP can control and receive payment for its use.

IP can:

- 1) have more than one owner,
- 2) belong to people or businesses,
- 3) be bought, licensed, sold, leased or shared.



Co-funded by the
Erasmus+ Programme
of the European Union

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INTELLECTUAL PROPERTY

Learn how to protect your work!

Patents

Inventions are 1) new developments and discoveries that 2) have utility and can be made or used and are 3) novel and non-obvious when the patent application was filed. For an invention to be patentable it cannot have been disclosed publicly, such as in a discussion or publication. Once granted, patents are published publicly, so everyone can see how the inventions work; However, the patent grants its owner the exclusive right to make, use or sell the invention (or its IPR) for a limited period of time, and when the patent expires, all are free to use these ideas.

Patents are territorial, only covering the territory of the authority which provides the patent rights. There are significant legal costs associated with a patent application and renewal fees must be paid every year to keep it in force.

Copyright

Copyright specifies the conditions and terms under which the creation may be legally copied or used. They ensure that copyright holders have control over the use of their creations, and can charge a fee for people to purchase or use their work. Copyright is territorial, and takes effect automatically and free of charge when the work is created, as long as it is original and has been recorded in some way.

PATENTS

Moral Rights (MR) Protect the honour or reputation of a creator. They serve to ensure that no one modifies or uses the work in a way that is prejudicial to the creator. MR apply to any original work that has copyright, but MR always belong to the creator or his/her heirs, even if the copyright does not belong to them, and can not be transferred nor sold.

Trademarks

There are unregistered and registered trademarks: you are not legally obligated to register your trademark, however, unregistered trademarks have limited protection. The legal requirements include graphical representation (in paper form) and capability to distinguish the goods or services: a trademark must be distinctive and in use, and cannot be just a description of the products or services. A trademark could be used in connection with a patent, copyright or know-how. It gives the owner an exclusive and perpetual right to stop others using the mark or something confusingly similar. Trademark registrations can be sold or licensed, i.e. franchises..

Trade Secrets

There are two kinds of trade secrets: those which fulfil the patentability criteria and those which do not. In the first case, you will face a choice: to patent the invention or to keep it as a trade secret. Trade secrets are protected without registration nor formal requirements. There are some conditions for a trade secret to be considered as such: 1) The information must be secret 2) It must have commercial value because it is a secret, and 3) It must have been subject to reasonable steps by the rightful holder of the information to keep it secret. Trade secrets can be regionally protected for an unlimited period of time, but they are not exclusive, and cannot be enforced against anyone who independently discov-

Industrial Designs

Unregistered designs are protected automatically and are free. Registered designs are examined and registered by an IPO and must: 1) Be new and 2) Have an aesthetic aspect.

Any element of a design which looks the way it does to perform a particular technical function is not covered by registered designs.

Registered designs are territorial. In some countries, a registered design is called a design patent.

What can be protected

Automatic Protection

Copyright & Moral Rights

Creative works. It protects the expression of ideas, any work which requires some effort to create, not the ideas themselves. Writing and literary works (most research materials such as publications, spreadsheets, manuscripts, theses, conference papers, presentations are literary works); musical, dramatic and artistic works; films; sound recordings, broadcasts; databases; web content..

Trade Secrets

Secrets that add value to a business.

Design Rights

Internal and external shapes of objects.

Protection you have to apply for

Patents

Inventions and products, e.g. machines and machine parts, tools, medicines.

Trademarks

Source identification such as product names, logos, jingles, words, sentences or a combination of them. A well known trademark develops into a 'brand' and helps customers to identify its products..

Registered Designs

Appearance of a product including, shape, packaging, patterns, colours, decoration. Limited to three dimensional objects.