

# Intellectual Property Rights (IPR) Explained

One of the main aims of InnovationShowcase.co.uk is to provide information on product commercialisation, which will inevitably raise questions relating to Intellectual Property Rights (IPR); whether the innovator concerned has taken any specific acts to protect their IPR or not.



If you haven't, then all might not be lost although you may be less well protected than you would prefer.

Many business people believe that being the first to market and getting ahead of the competition is enough; that you cannot stop the importation of mass-produced fakes whatever you do; and IPR is just too expensive to consider.

For some products this may be the correct decision but for others it is a crucial oversight. The correct use of IPR can give credibility to a new product. If a design has been protected it is not without good reason, this can set a product apart from competitors in the market place. Potential investors can often be discouraged if the product is not adequately protected.

There are several intellectual property rights which can be of benefit to a typical business; some arise automatically and, best of all, are free; some need to be registered. Intellectual property rights (IPR) comprise Copyright (Unregistered), Trade Marks (Registered & Unregistered), Patents (Registered), Designs (Registered & Unregistered), confidential information, secrets and know-how.

The ability to prevent other parties from copying your intellectual property is just one issue: It is extremely good business practice to know how to copy lawfully and to remain competitive without infringing the intellectual property rights of others.

The area of intellectual property law is complicated; full of legal issues and the use of jargon and potentially large invoices. So we have instructed European Patent Attorney Edward Humphrey-Evans to assist in advising how readers may know how to approach the subject of IPR and when to take advice which is so fundamental to many businesses – even though many businesses do not realise that they have any IPR. In this article we will start with the basics, by defining the main characteristics of the various forms of IPR; in subsequent issues we'll explore the various form in greater detail and we'll get deeper into some of the into the complexities.

## Copyright

Copyright is FREE – it arises automatically upon creation and protects artistic works, literary works, songs and the like. Copyright lasts for a period of time dependent upon the copyright work, for example, the duration of copyright in a literary work expires 70 years after the death of the author – but beware, the rule in respect of sound recordings the period is 50 years from the end of year of creation, which is of concern to Cliff Richard!

If you are concerned with others copying your work then use the copyright symbol ©, together with date and identity of author this can be a simple measure to raise product credibility, instantly. A simple measure many have heard about is that of posting a manuscript work or similar in a self-addressed envelope. Great idea ...just remember to do this in duplicate so that you can open one and know for yourself what is exactly in the envelope!

## Trade Marks

This is sometimes the most forgotten intellectual property right that a business may have; for example, your business receives referrals by means of its trade marks. A trade mark need not be registered....but if you want to protect your IPR, follow the leaders. All major businesses protect their business names, products and services by registration of the relevant marks. Do you remember the expensive mistake that VW made when it bought Rolls-Royce Motor Cars for £430 million (\$712.7 million) in April 1998 from Vickers PLC, without the rights to the Rolls Royce trade marks? “I would have preferred to keep both brands,” said Ferdinand Piech, the then ambitious Volkswagen chairman who had sought to extend Volkswagen’s dominance from small cars like the Golf to the top of the luxury ladder. He acknowledged at the time that if he had sorted out the trademark and patents issues earlier, “the price would have been much lower than Volkswagen finally paid”.

## Patents

These protect inventions and are obtained after examination of a patent application before a patent office. Patents are national rights and last for a period of 20 years from the date of submission at a patent office, subject to payment of renewal fees. Patents are negative rights: they provide rights to stop anyone else from making, using or selling an invention. Therefore anyone who is thinking of manufacturing a product or putting a process into operation should first check whether they would be stopped from so doing by an existing patent that is still legally enforceable. Failure to conduct such a check may prove to be very expensive. It is important to note that in the case of the filing of patent applications, the invention must not have been made public before a patent application has been filed at a government patent office. This will be discussed in greater detail in an issue later in the series.

## Designs

Designs – the shape or appearance of a manufactured article, but not the function nor the composition, can be protected by design registration for up to 25 years. Designs can also be protected by design right which is akin to copyright and arises automatically. Difficulties can arise in enforcement of design right and it lasts, as a rule of thumb, for ten years from the end of year of first commercialisation, but cannot last longer than 15 years from the date of creation. Confused? - Please wait for details in a later issue!

**Confidential Information, Secrets and Know-how**  
Some ideas/ information/ knowledge are so good that it is best not to talk about them! But you still need to take care and take precautions and know what to do. We’ll discuss some steps in a later issue!

It is essential to obtain professional advice to ensure you are using IPR correctly.

If you would like to discuss your IPR requirements then you can contact:

**Humphrey-Evans Intellectual Property Services Limited**  
HEIPS assists individuals and companies in the filing of applications to register intellectual property rights - patent applications, registered design applications and trade mark applications in the United Kingdom, Europe and elsewhere. HEIPS also advises on copyright issues and assists in the maintenance and policing of Intellectual Property.

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