

## Intellectual Property Rights

The phrase “intellectual property” covers a wide range of property rights, which are very different from each other. However, one thing that these rights all have in common is that they are intangible. Unlike land, buildings or other forms of property, which can be seen and touched, intellectual property rights (“IPR”) do not exist in the material world; they are forms of property entirely created by law.

### COPYRIGHT

When people talk about copyright, they are often using it to refer to all forms of IPR. However, copyright is only one form of IPR.

Copyright arises automatically on the creation of material, it does not have to be registered. The types of material that are protected by copyright are:

- original “literary” works. This includes not only novels, poetry and plays, but also computer programmes, instruction manuals and newspaper articles.
- original dramatic, musical and artistic works. “Artistic works” include technical drawings and diagrams.
- published editions i.e. typographical arrangements
- sound recordings, films and broadcasts
- some databases.

Copyright does not protect an idea itself, but it does protect the expression of that idea.

The duration of copyright depends on the type of material that it is protecting. Literary, dramatic, musical and artistic works are protected by copyright from the date of their creation until seventy years from the date of the death of the author. Sound recordings and broadcasts are protected for fifty years from the date of the recording or broadcast. Films are protected from the date of their creation until seventy years after the date of death of the writer of the screenplay, the director or the composer of the soundtrack (whoever is the last to die). Published editions are protected for twenty five years from publication. Computer generated materials are protected for fifty years from their creation.

Copyright generally belongs to the creator or author of the material. In the case of an employee, the employer owns the copyright to any materials created by his employees. As with all intellectual property, it is possible to sell and licence the copyright in the materials.

In order to ensure that your work is fully protected by copyright all over the world (essential if you are putting it on the internet or otherwise distributing it outside the UK) you should put the international copyright symbol © followed by the name of the copyright owner, the date and the words “All Rights Reserved”.

### DATABASE RIGHTS

Some databases are protected by copyright, if they are original in their selection or arrangement of the contents. However, databases can also attract “database right”.

Database right arises automatically, without the need for registration. It protects databases that are the result of “substantial investment”. It lasts for fifteen years from the creation or publication of the database.

## TRADE MARKS

A trade mark is a sign that distinguishes the goods or services of one supplier from those of another supplier. It can be unregistered (and use the <sup>TM</sup> mark) or registered (and use the ® mark). It can be a word or phrase, a word or phrase written in particular way or a device or logo.

In order to be registered with the Patent Office, a trade mark must be distinctive. It must not be identical or similar to any earlier mark registered on the Trade Mark Register for identical or similar goods or services. It must also not be purely descriptive of the goods that it covers.

Trade marks are registered in one or more of the forty five classes, which cover all manner of goods and services. They need to be renewed every ten years. Registered trade marks only cover the jurisdiction in which they are registered. Therefore, if you apply for a UK trade mark, then it will only protect you against people trading under an identical or similar trade mark in the UK. However, there are two ways of avoiding having to apply for registration for your trade mark in every country in which you trade. The first is to have a Community Trade Mark, which covers all the countries of the EU. The second is to have a worldwide trade mark, which covers a large number of countries besides the EU countries, including the USA, Russia, China and Japan. However, both of these options are considerably more expensive and more difficult to obtain than a UK trade mark.

Once you have registered a trade mark, you can sell or licence its use to others.

## PATENTS

Patents protect products and processes. Obtaining a patent allows you to stop others from making, using or selling your invention without permission. Patents are registered at the Patent Office.

In order to be registered, a product or process has to be new and has to involve an “inventive step” (i.e. a step that is not obvious). The product or process also has to be capable of industrial application.

A patent cannot be any of the following:

- a discovery
- a scientific theory or mathematical method
- an aesthetic creation
- a scheme or method for performing a mental act, playing a game or doing business
- the presentation of information or a computer programme

## REGISTERED DESIGNS

A registered design protects the appearance of a product or its ornamentation. The most famous registered design is the unique curved shape of the bottle of a very well-known soft drink.

In order to be registered with Patent Office, a design must be new and the overall impression given by that design must be that the design has individual character, that it is different from other designs. Once registered in one of the thirty two classes for registered designs, a design is protected for up to twenty five years. A registered design can be sold or its use licensed to someone else.

## DESIGN RIGHTS

Designs do not have to be registered to gain protection. If the design is original and is not “commonplace” in that design field at the time it was created, then the design will automatically be protected by design rights. Design rights give you the right to reproduce the design for commercial purposes for fifteen years from the date of its creation. This right can be sold or licensed to others.

### MEDIA & TECHNOLOGY UNIT



Mark O'Halloran

office: 01293 643430

mobile: 07810 504556

email: [mark.ohalloran@stevensdrake.com](mailto:mark.ohalloran@stevensdrake.com)

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