Intellectual Property Rights

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The Wheel? Ha! It'll never catch on!
Intellectual Property

Such creations have an intangible nature
Intellectual Property

COPYRIGHT &
Related rights
Literary & Artistic Works
Related rights
Databases ...

TM

INDUSTRIAL
PROPERTY
Trade Marks
Patents
Utility Models
Industrial Designs

IPR

‘SOFT IP’
Confidential Information
(e.g. Trade Secrets or Know-How)
Why is Intellectual Property relevant?

- Intellectual Property is present in most of the products and services that we use in our daily life.
Intellectual Property Rights (IPR)

• **Why?**
  • To *promote innovation* by encouraging invention and creativity, and thereby benefitting society

• **How?**
  • The state grants a *limited monopoly in return* for making details of the new creation *freely accessible*
Intellectual Property Rights (IPR)

• **Who benefits?**
  
  • **The state** benefits by avoiding secrecy, thus stimulating further innovation, and thus enriching society
  
  • **The creator** benefits by preventing unauthorised use by others, unless they come to an agreement
  
  • **Commercial partners** benefit from the limited monopoly and so invest in further development to take-to-market
Copyright

• Protects **literary and artistic creations**
Fifty Shades of Grey, available from: https://s-media-cache-ak0.pinimg.com/originals/90/73/d5/9073d5ffcf1273e402f1573cf5eed256.jpg
Copyright

• Protects literary and artistic creations

• **Does not protect the ideas** themselves but only the concrete form of expression

  (idea x expression dichotomy)
Copyright

• **Do I need to apply?**
  • No formal registration process is required
  • Copyright *protection arises automatically upon creation* of the work, provided that it is original.
Copyright

• Rights granted:

**Economic rights**
Copyright owners can prohibit or authorise that their works be:
• copied or reproduced
• distributed to the public
• performed in public
• translated into other languages
• adapted, such as novel into screenplay...

**Moral Rights**
Right of Attribution: right to be mentioned as the author
Right of Integrity: right to object to derogatory actions in relation to the work
Patents

S. WHEELER,
WRAPPING OR TOILET PAPER ROLL.

No. 459,516. Patented Sept. 15, 1891.
Patents

• **What is a patent?**
  • A patent is an *exclusive right* granted for an *invention*. Its owner has the exclusive right to prevent or stop others from commercially exploiting the patented invention.

• **What is an invention?**
  • An *original solution* to an existent technical problem.
Patents

• **Conditions of patentability**

  • **Novelty**
  • **Inventive step (non-obviousness)**
  • **Industrial applicability (utility)**
  • **Not contrary to public order or morality.**
Patents

Duration of protection: 20y without renewal
Trade Mark

• **What is a trade mark (TM)?**
  • It is a **SIGN** used in trade **to distinguish the goods or services** of one trader from those of another.

• **What kind of protection does it offer?**
  • A trade mark owner is **granted exclusive rights:**
    • (i) to use the mark in relation to the goods or services with respect to which it is registered.
    • (ii) prevent others from using a substantially identical or deceptively similar mark in relation to identical or similar goods or services as those registered under the mark.
Trade Marks

- To be eligible for trade mark protection, the sign must:
  - Be able to be represented graphically
  - Be distinctive
  - Not be descriptive
  - Not be deceptive
  - Be in conformity with public order and morality.
Duration of protection:

10y renewable indefinitely
Coca-cola logo is trademark of Coca-cola Company.
Industrial Design

• Protects a look (lines, contours, colours) of a product

• Conditions:
  • New
  • Individual nature
Industrial Design

- International
- EU
- National

Duration of protection:

5y
Max 25y
iMac available from https://www.fastcompany.com/1669924/steve-jobs-almost-named-the-imac-the-macman-until-this-guy-stopped-him
Porsche 911 available from https://911evolution.com/porsche/911-22
## Protection of IP

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<td>Technical, Commercial knowledge</td>
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IPR in H2020
IPR in H2020

a) Background
b) Results

Providing Access Rights

- Licenses among partners
  - For implementation of the project
  - For exploitation of own results
Background
Background

Art. 24.1 MGA

‘Background’ means any data, know-how or information — whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights — that:

a) is held by the beneficiaries before they acceded to the Agreement, and

b) is needed to implement the action or exploit the results.
Background Agreement

Art. 24 MGA

• ‘The beneficiaries must identify and agree (in writing) on the background for the action
  • Positive list
  • Negative list

• Typically an annex of CA
Results
‘Results’ means any (tangible or intangible) output of the action such as data, knowledge or information — whatever its form or nature, whether it can be protected or not — that is generated in the action, as well as any rights attached to it, including intellectual property rights.
Protection of Results
Protection of Results
Art. 27 MGA

• Each beneficiary must examine the possibility of protecting its results:
  ▪ Expected to be commercially or industrially exploited
  ▪ Protection is possible, reasonable and justified
    ➔ BEST EFFORT

• Information on funding:

  ‘The project leading to this application has received funding from the [European Union’s Horizon 2020 research and innovation programme][Euratom research and training programme 2014-2018] under grant agreement No [number]’.
Exploitation of Results
Exploitation of results
Art. 28 MGA

• Take measures aiming to ensure ‘exploitation’ of its results **up to four years** after the end of the action:
  ▪ further research
  ▪ developing, creating or marketing a **product, process or service**
  ▪ standardisation

→ BEST EFFORT
Exploitation of results

Art. 28 MGA

- **Direct** – exploited by beneficiary
- **Indirect** – exploited by third party
  - **Transfer** of ownership
  - **License**
Dissemination & Communication of Results
Dissemination of results

Art. 29 MGA

- Disclosing results to the public by appropriate means → to professionals
- i.e. publications, conferences, web sites, ...

Procedure

- Advance notice (45 days) → time for objections (30 days)

- Information on EU funding – Obligation to use the EU emblem, text
- Disclaimer excluding EC/Agency responsibility

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Communication of results

Art. 38.1 MGA

- Communication of the action **to the general public**

- i.e. web sites, special events, posters, radio, TV etc.

- *Information on EU funding – Obligation to use the EU emblem, text*

- EC can use information about your project for its communication campaign (Art. 38.2.1 MGA)
Dissemination vs. Protection

• **Must protect** results – Art. 27.1 MGA
• **Must disseminate** results – Art. 29.1 MGA

• **Patent, utility model, industrial design, ...** → required **novelty**
Dissemination vs. Protection

Open Access
Open Access

• Publications – two possible ways:
  • GREEN OA (autoarchiving)
  • GOLD OA

• Research Data:
  „As open as possible, as closed as necessary.“
I INVENTED THE PARKING TICKET.
Thank You

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