



Uniwersytet
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Intellectual Property Protection – introduction
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Bachelor of Business And Administration

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Learning Outcomes

- The purpose of these materials is to help your students to learn to identify and understand IP issues, and to include IP thinking in their future lives.
- The slides emphasise the basics of each type of IP and each type of IP right which protects it, and then go on to apply this to commercial considerations your students will face in their future careers.
- The case studies apply this knowledge, and illustrate how IP applies in a work environment, and it can add value to the subjects' own company or a company they work for.



What is Intellectual Property (IP)?

- Intellectual property (IP) is a term which refers to creations of the mind, which are intangible but still valuable. This includes things like inventions, brand names, creative works and product designs.
- In order to foster an environment in which the creation of new IP is encouraged and can flourish, the law allows for certain IP to become the exclusive property of its creators, so they alone can benefit from its value and prevent others from copying them.
- IP rights are monopoly rights. They provide the owner with negative rights. This means that they provide the owner with the legal right to stop someone else from commercialising the IP without the owner's permission, not that they necessarily give the right to commercialise the work themselves. For example to manufacture and sell a car containing your patented engine part, you may still need permission from the owners of patents relating to the wheels, paint, and other parts of the car.
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- This makes it worth investing in innovation and creation. Without an IP system there would be no commercial benefit to investing in creativity or in research and design, and many of the greatest inventions and artistic creations would never have been made.



Does the IP protection system work?

Positives:

- *Stimulates innovation*
- *Prevents confusion*
- *Leads to the sharing of ideas*
- *Prevents the keeping of secrets*
- *Allows owners to still maintain control if they want to share*



Negatives:

- *It can be expensive*
- *It can be abused*
- *It is complicated*
- *Restricts access*



The benefits of engaging with IP protection systems:

- Mitigate risk
- Competitive advantage
- Diligence
- Financial benefit
- Access to finance
- Tax incentives
- Exit strategy



Types of Intellectual Property Right (IPR)





Intellectual property in everyday life: smartphones



- Trade marks
- Designs
- Inventions
- Creative works

...may also choose to use trade secrets and know-how, which are not protected by IP rights



**There are multiple pieces of intellectual property in a phone, some of which can be protected by law.
For example:**

- 1) **Trade marks**– The name or logo on the front and/or back of the phone is a valuable asset of the company selling the product. Whether this is 'Apple ®', 'Samsung ®' or 'HTC ®' for example, the brand is a hugely important aspect of the product. On a basic level the trade mark just confirms the origin of the product and helps consumers to differentiate between products, but more importantly the brand name has a hard won reputation which attracts customers. There could be multiple trade marks at work, for example the name of the phone model as well, for example, 'pixel' or '3310'. In addition, the brand names of any apps that you use on the phone will also be of great value. Trade marks can be protected with trade mark registrations.
- 2) **Designs**– The shape and appearance of the phone itself is a design, and with something like a mobile phone the appearance can be a very important aspect in its sales success. Some 2-D user interfaces can also be designs which are important. Designs can be protected with registered designs, but may also be protected automatically by so-called unregistered design right.
- 3) **Inventions** – A 4G smartphone will contain hundreds of inventions because it is so technically advanced, including anything from how the finger print scanner measures your fingerprints, to the way that the GPS works, to the mechanisms which facilitate 4G communications. Inventions can be protected with patents.
- 4) **Creative works** – This includes literary, musical, dramatic or visually artistic works. In a mobile phone such works could include the ring tones and user manuals. It also includes the specific computer code operating inside the phone. It also includes works appearing on the phone too, such as films and videos you watch, music you listen to and photos you take and see. Creative works are protected by Copyright.
- 5) **Trade Secrets** – This covers things like technical know-how which is kept in house, source code and technical subject matter that is kept secret (i.e. aspects of manufacturing processes that cannot be reverse engineered).(Ed: the preceding is not a logical statement. Keeping something secret does not make it valuable). Trade secrets are protected by keeping them secret,. so they do not need any legal mechanism to keep them so, however some laws do provide remedies for deliberate breaches of trade secrets (more follows below).



The importance of IP to you:

- IP intensive industries generate over $\frac{1}{4}$ of all Poland jobs and over 20% GDP (2018)
- Every business will own or use IP
- From your first week at work you will be required to sign disclosure, development and ownership agreements.
- Employability



How IP rights generates revenue for a business

- IP Rights give their owners monopolies, which allows them to be more successful than they otherwise would be by eliminating direct competition or copying.
- IP rights can also be licensed to others to generate revenue.
- IP rights can be sold to generate revenue. Individual IP rights can be sold, or a whole business can be purchased for its IP rights.
- IP rights can also be used to leverage other kinds of business deals.



How is IP generated in a business?

- IP is generated whenever a business creates anything new, which is usually very often.
- New companies are always based on new IP. This includes the brand name, which all companies have, but it may also include new inventions or product designs.
- Existing companies will create IP as products are developed, in order to grow and compete.
- Media businesses generate IP constantly.



How do you identify IP in a business?

- Develop and maintain an IP strategy – to identify and protect when necessary
- Ensure IP is reported on
- Consider IP when dealing with others
- Get advice; ensure you have contact with professional advisors.



The Surrounding IP Landscape

- Without knowing about the IP rights of others a business can quickly get into trouble.
- When launching new products patent and/or registered design searches are needed. This can help avoid the rights of others, but it can also lead to new innovations driven by the need to avoid such rights.
- When launching a new brand, a trade mark search is needed. This avoids the use of brand names which belong to others, and ensures that the new name is also free to be registered.
- When using creative works the copyright owners need to be identified and appropriate steps taken.

- A successful business will use the IP system to its advantage, and maximize all opportunities to succeed.
- Any business with IP will also have to make strategic decisions on what, where, when and how to protect its IP. It is often a cost vs reward decision, and it may be case specific, and it is a decision taken at a senior management level.
- Important decisions on IP enforcement action will also need to be taken, to ensure business continuity.



Strategic Overview:

To maximise the opportunities presented by the IP protection systems, businesses often follow these steps:

1. Create

4. Maintain

2. Identify

5. Maximise

3. Protect

6. Repeat

IP Form	Means of Protection	Duration	Competitive Advantages
Inventions	Patents	Up to 20 years (must be renewed every year)	<ul style="list-style-type: none"> i) The right to prevent others using a particular invention, so the patent owner can use it exclusively to dominate the market place. ii) The ability to licence others to use the protected invention, in return for royalty payments and/or a useful patent licence from another. iii) The ability to sell the rights to the invention for profit. iv) Significant tax breaks in some jurisdictions, such as IP Box in Poland. v) The added commercial value, which can be leveraged to attract investment etc.
Signs (i.e. for branding purposes & company names)	Registered trade mark	Indefinitely (must be renewed every 10 years)	<ul style="list-style-type: none"> i) The right to prevent others from copying a brand name, or using anything similar, so the rights owner can use it exclusively to build up a valuable reputation and goodwill in the marketplace. ii) The ability to licence others to use the brand name, in return for royalty payments (such as in a franchise operation). iii) The ability to sell the rights to the trade mark to another for profit. iv) The added commercial value, which can be leveraged to attract investment etc.



IP Form	Means of Protection	Duration	Competitive Advantages
Designs	Design registration Or Unregistered design right	Registered: Up to 25 years (must be renewed every five years) Unregistered: Up to 3 years after it was first sold or after it was created (whichever is shortest)	<ul style="list-style-type: none">i) The right to prevent others from copying a product design, so the rights owner can use it exclusively to dominate the marketplace.ii) The ability to licence others to use the product design, in return for royalty payments.iii) The ability to sell the rights to the product design to another for profit.iv) The added commercial value, which can be leveraged to attract investment etc.
Creative Works (including computer code)	Copyright	Lifetime of creator plus 70 years (some exceptions)	<ul style="list-style-type: none">i) The right to prevent others making copies of artistic works, so the rights owner can do so exclusively in order to distribute copies to paying customers.ii) The ability to licence others to use the works, in return for royalty payments.iii) The ability to sell the rights to the works to another for profit.iv) The added commercial value, which can be leveraged to attract investment etc.