

# Intellectual property (an overview)

The term intellectual property (IP) covers a wide variety of rights including copyright, trade marks, design rights, and patents. IP can be one of the most important assets a business will have. Each of these rights should be considered separately as they arise or are created in different ways and the protection they give to the owner of the right varies.

Copyright – ©	Design rights	Patents	Trade marks – TM / ®	Confidential information
<p>Copyright is an unregistered right and protects the form of expression of ideas (not the ideas themselves) – examples include literary, musical, dramatic and artistic works.</p> <p>In summary it prevents others from copying your work – it does not prevent someone from creating the same work independently.</p> <p>For copyright to subsist, the work must be:</p> <ul style="list-style-type: none"> <li>i) original i.e. the work must not have been copied</li> <li>ii) created using sufficient skill and labour</li> <li>iii) represent the authors own intellectual creation</li> </ul> <p>Duration of copyright varies depending on the work but generally speaking lasts for the life of the author plus 70 years from the end of the calendar year in which the author dies.</p>	<p>Design rights are all about protecting the appearance of a product (whether aesthetically pleasing or not) predominantly aimed at a mass market.</p> <p>In the UK, there are two main types of design rights, namely:</p> <p><b>UK registered design rights</b></p> <ul style="list-style-type: none"> <li>i) protects the appearance of all or part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its ornamentation.</li> <li>ii) must be new and have individual character</li> <li>iii) lasts for up to 25 years, provided the relevant renewal fees are paid every 5 years</li> </ul> <p><b>UK unregistered design rights</b></p> <ul style="list-style-type: none"> <li>i) protects the shape or configuration (whether internal or external) of the whole or part of an article</li> <li>ii) must be original and not commonplace</li> <li>iii) can last 10 or 15 years depending on whether the design was made available for hire/sale</li> </ul>	<p>Patents concern the protection of inventions.</p> <p>A patent gives the owner a 20 year monopoly (subject to paying renewal fees) on the invention in exchange for disclosure of the invention to the public.</p> <p>For an invention to be patentable in the UK, the invention must be:</p> <ul style="list-style-type: none"> <li>i) new</li> <li>ii) inventive</li> <li>iii) capable of industrial application</li> <li>iv) not fall within one of the excluded categories</li> </ul>	<p>A trade mark is the mark or logo under which a company does business – this can be registered (if so use of the ® symbol may be used) or unregistered (use of the ™ symbol may be used).</p> <p>Generally speaking a trade mark acts as a “badge of origin” identifying the source of the goods or services to consumers</p> <p>For a trade mark to be registrable certain criteria must be met including:</p> <ul style="list-style-type: none"> <li>i) it must be distinctive;</li> <li>ii) it should not be purely descriptive (it cannot describe what the business does)</li> </ul> <p>It is important to note that when registering a trade mark you must stipulate which classes of goods and/or services you will be using it in relation to (or may do in the future).</p>	<p>Not strictly an IP right, but generally considered alongside the usual IP rights – aimed at protecting technical and/or commercial information (including know-how and trade secrets).</p> <p>For the law of confidence to provide protection:</p> <ul style="list-style-type: none"> <li>i) the information must be confidential in nature</li> <li>ii) the information must have been imparted in circumstances in which an obligation of confidence arises</li> <li>iii) the unauthorised use of the confidential information must be detrimental to the person imparting it</li> </ul> <p>An alternative means to protecting confidential information is to enter into a confidentiality agreement – please see our infographic “Confidentiality agreements”.</p>