

GUIDANCE NOTES ON INTELLECTUAL PROPERTY

These notes will give you a basic understanding of how Intellectual Property can protect your idea and help you to find out if your idea is original.

For more detailed information on any aspect of Intellectual Property, visit <http://www.ipo.gov.uk>

WHAT IS INTELLECTUAL PROPERTY (IP)?

Intellectual Property refers to the rights available to protect original designs, technologies and other creative works. These notes focus on the IP Rights (IPRs) that will be most relevant to your submission for this competition, i.e:

- Copyright
- Design Rights
- Trade Mark
- Patents

COPYRIGHT

As long as your artwork is original it will automatically have copyright protection without you having to do anything. To help protect your copyright work, you should mark it with the © symbol, your name and the year in which the work was created.

DESIGN RIGHTS

Design Rights protect the look of something. They protect the shape or configuration of the whole, or a specific part of the product, but they don't protect the technology ie how it works. Unregistered Design Rights are automatic and protection lasts for 15 years. A registered Design Right will last for 25 years. To have either a registered, or an unregistered, Design Right, your work must be original, not copied from an existing design.

TRADE MARKS

A Trade Mark is a sign that protects your brand. It can be a word (or words), a logo, or a combination of both. If your product is going to be commercialized or licensed, you might consider registering your Trade Mark but until then, if you want to protect a brand name, you can mark it with ™ See the UKIPO website for guidance on what would be accepted as a Trade Mark.

PATENTS

Patents protect how something works ie the technology. Products embodying the same patented technology might look completely different. Whilst you can apply for the other IPRs listed above, by yourself, you should use a professional patent agent to draft your patent. CIPA* can give you a list of registered agents.

In order to qualify for a patent, your idea must be original, novel and have been kept secret prior to application. Once you have applied for a patent, you can mark your work as 'patent pending' which is helpful when approaching potential licensees or investors. Before your patent application is published by the UKIPO (usually within 12 months of the first filing) you can choose to extend your patent application to

additional countries.

Patenting is an expensive process. Only embark upon it if you are confident that your product will be commercially successful, i.e. if it will make money for you. If you do decide to make an application but find yourself unable to proceed, you have the option of withdrawing the application as time progresses. If this is done before publication (usually about 12 months after filing the application), your invention will remain undisclosed, enabling you to start a fresh application at a later date.

Before you apply for a patent, check that you actually own your IP. Some universities require you to assign your future IPRs to the institution as a condition of enrolment. If this is the case, discuss patent application with them.

NOTE If you intend to register your design and also apply for a patent, you should apply for the patent first, so that the Design registration does not publically disclose any features of what you want to include in your patent application. Postponing the Design registration is also sensible, as the final design of your product is likely to change as your invention progresses towards production.

* www.cipa.org.uk

HOW DO YOU FIND OUT IF YOUR IDEA IS ORIGINAL?

A thorough internet background search is always a good start to any product design. It helps to see what the market looks like and to see if your idea has already been done. However, if you can't find it in the market, it doesn't necessarily mean that your idea is original. Many brilliant ideas have never been commercialized. It is therefore also important to search the patent database. You can search over 80 million patents on [espacenet*](http://espacenet.com) using keywords and categories.

* www.espacenet.com

PROTECTING YOUR IDEA PRIOR TO PUBLIC DISCLOSURE

Prior to applying for a patent you must not show anyone your idea until they have signed a NDA (Non-Disclosure Agreement, sometimes called a 'Confidentiality', or 'Secrecy' Agreement). Public disclosure without an NDA will disqualify you from applying for a patent.

Even after you have applied for a patent, or registered your design, an NDA can be helpful. It acts as 'belt and braces' to keep your idea safe when approaching potential licensees. Another very helpful tool that can protect your creative work prior to acquiring IPRs, is a Creative Barcode www.creativebarcode.com Some companies refuse to sign NDAs but are willing to acknowledge a Creative Barcode.

NOTE Please be aware that different IP regimes operate in different countries. This guide relates purely to commercial strategies in the UK and is not intended as a substitute for legal advice.

This information is kindly supplied by Innovate Product Design and Mandy Haberman of Haberman Products Ltd

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