NHS
Innovation Service

Creation stage

Intellectual property guide

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Through every stage of your innovation's development, you will need to consider protecting your idea with intellectual property (IP).

Intellectual property (IP) is a legal framework that protects ideas, concepts and the products of creative and mental effort. IP rights aim to promote innovation by rewarding the owner of the IP with a monopoly right over the idea, preventing others from exploiting it without their consent.

Should you need to discuss your idea or innovation with someone, you should have a non-disclosure agreement (NDA), also known as a confidentiality agreement (CDA), in place beforehand.

Intellectual property includes creations of the mind and non-physical assets, including:

- the names of your products or brands
- your inventions
- the design or look of your products
- things you write, make or produce

There are seven types of IP:

- copyright
- trademarks
- patents
- registered designs
- unregistered designs
- know-how
- database rights

These seven types of IP can be separated into two distinct groups:

1. IP rights requiring registration at the Intellectual Property Office including trademarks, patents, and registered designs.

2. IP rights that do not require registration at the Intellectual Property Office are copyright, unregistered designs, know-how, and database rights.

As well as protecting your own IP, it is worth checking to see if you are using anyone else's protected IP as part of your innovation.

Copyright

Copyright is a form of IP protection that protects the expression of an idea rather than the idea itself. It protects software, original literary, dramatic, musical or artistic works (for example, written information including charts and drawings), and the arrangement of published editions (such as booklets, brochures and learning packages).

Copyright protection prevents anyone from copying the work, and issuing copies of the work to the public, without consent from the owner.

Copyright is achieved automatically when the work is created, and it does not normally require registration. However, it is advisable to include a statement to discourage infringement, such as the following:

© [Owner of the Copyright] [The Year of Creation] Not to be reproduced in whole or in part without the permission of the copyright owner.

Trademarks

Trademarks can be used to protect words, logos, slogans, sounds, colours, shapes and smells, which are used as an indicator of origin.

The main function of a trademark is to demonstrate where goods and services labelled with the trademark originate from.

You have to apply for this type of IP and you should keep it secret until registered. This takes around 4 months.

Should you need to discuss the idea with someone, you should have a NDA in place beforehand. You can find out more about registering a trademark from the UK Intellectual Property Office. You can also check to see if a similar trademark already exists in the UK.

Patents

A patent is a monopoly right that is used to protect the functionality of an invention. If the invention is a product, then third parties are prevented from making or selling the product, without the permission of the owner.

In order to be patentable, an invention must be completely new and inventive (that is, not obvious to a person skilled in the art), and capable of industrial application (it cannot be purely speculative). Exclusions from this include methods of treatment by surgery or therapy, or methods of diagnosis.

Patents protect inventions and products including machines, tools and medicines. You have to apply for this type of IP and you should keep it secret until registered, this takes around 5 years.

Should you need to discuss the idea with someone, you should have a NDA in place beforehand. Patents are costly and difficult to obtain. You can find more about what you can patent and how to apply from the UK Intellectual Property Office. Before you apply for IP, it is worth checking to see if there is already registered IP in place for an existing invention that is similar to your innovation. You can search for patents registered in the UK or worldwide.

Registered designs

A design registration protects the design of a product (how it looks aesthetically).

Protection is limited to designs that are new, have individual character, are not offensive, and do not relate to a functional aspect of a product, such as how it works.

You do not need to apply for this type of IP but you can register your design with the UK Intellectual Property Office. Registered designs rights protect the products packaging, patterns, colours and decoration. You can check to see if your design is unique to those already registered in the UK, EU or worldwide.

Unregistered designs

Designs can also acquire protection without being registered, using the unregistered design process.

Know-how

Know-how is information which may be commercially or technically valuable and is regarded as secret. In all cases, the know-how will only retain its value if it is managed effectively.

Know-how includes technical information, procedures, processes, methodology, experimental techniques, chemical structures and source code. These should remain secret and undisclosed. You should protect your know-how with a NDA if you need to discuss the idea with someone.

Database rights

Databases can be protected by a specific form of copyright, if substantial skill and judgement is involved in the compilation of the database. To be protected using database rights, the database must be compiled in a methodical way.

Intellectual property guidance for the NHS in England

The Department of Health and Social Care and NHS England, with support from NIHR, have published Intellectual Property Guidance for the NHS in England, which outlines practical steps and good practice principles that organisations providing or commissioning NHS services should follow in the management, ownership, development, and commercialisation of IP that arises within organisations and through collaborations. This guidance may be useful for innovators in understanding how to navigate IP when working with the NHS.

Additional information

- UK Intellectual Property Office
- IP health check
- licensing IP
- basic IP guidance
- use the IP Equip service to find out which type of intellectual property you have
- speak to a professional, such as a patent attorney or trademark attorney
- go to a local IP clinic or the British Library Business and IP Centre in London
- if you are in Wales you can use IP Wales