

Copyright, Trademarks and Design Rights

What is IP and why does it matter?

Duncan Clark:

Welcome to the Academy by PatSnap course on copyright, trademarks and design rights. For this course, we're delighted to welcome Hayleigh Boshier. Hayleigh is an international published legal academic and speaker. She is a lecturer in intellectual property law at Brunel University, London, book review editor for the specialist IP blog, IP Cat, director of the Intellectual Property Awareness Network, deputy editor of the European Trademark Reports, and founder of the World IP Women Network.

In this first video, "What is IP and why should we care?" we look at the overall IP landscape, and how it related to organizations and their strategies. This video will cover:

- *The different types of IP and the protection they offer*
- *The types of IP found in products*
- *How to gain IP protection*
- *Intellectual property's role in innovation*
- *Sources of information on the product*

Hayleigh Boshier:

What different types of intellectual property protection are there and when are they used?

So, there are actually loads of different types of intellectual property, like a list of probably 15 different types if we could think of them all. But the key types of intellectual property that most people would have heard of are things like copyright, designs, patents, trademarks, maybe trade secrets, and they all in theory apply to different aspects of innovation or creativity.

So, for example, copyright might protect things like books, films, music, literary works, artistic works, photographs, those kinds of things. A trade mark protects a logo, or the brand name. A patent protects an invention. Design rights protect the aesthetics or the way that a product might look. A trade secret is valuable information that is protected by keeping that information confidential.

Can you use multiple forms of intellectual property for one product?

Yes definitely. A company will build an intellectual property portfolio that involves all the different types of IP. Especially modern-day technologies, companies now are using lots of digital technology within their company, and that alone would use many different types of IP.

Even if you think about something such as a film, which has most of the different types of IP involved because you might have copyright on the script, for example, they might trademark the name of the film, the actors within the film might have performing rights, the equipment that is used to make the film will be protect probably by patents, you might have some design protection on the set. So, it's quite usual that a product will have different types of IP.

One of the most common used examples will be the Coca-Cola bottles. The bottle itself might be protected as a design right, obviously the Coca-Cola logo is a trademark, the recipe for Coca-Cola is a protected trade secret. So, it's important to understand the different types of IP, and how they apply to a product.

Is protection automatic or do you have to register?

All the IP rights are different and they each have their own criteria for eligibility and when that type of IP arises. Some of them you do need to register such as a registered design, a trademark or a patent. Others you don't need to register and they arise automatically, such as copyright, but they still have criteria that you have to reach in order that copyright would subsist in that particular thing you are trying to protect.

How does intellectual property drive innovation?

The philosophy behind intellectual property is that it's a social contract, and what that means is we grant rights to creators in a way that gives them a monopoly and stops other people being able to use that IP, and for a time they're able to, we say remuneration, they get money or, it's not always money but usually, in exchange for the kind of energy, effort and skill they put into their creative output.

In exchange, we as a society receive culture, so that's why it's a social contract. In that sense, IP is said to encourage creativity and innovation. So, for example if you think about medicine, giving a company patent rights over the medicine at the end enables them to make the money back that they've invested in developing the medicine, and that obviously benefits the society as a whole. So, for a period of time after the invention is created, nobody else can copy that and they can make money through licensees etcetera.

Where can organizations go to start getting information?

I think that really depends on the size of the company and maybe if it's an individual creator or a huge company. I think with IP, people are starting to realize more and more the importance of IP for their company. It's a really valuable part of their company, and the intangible assets, especially in the digital age, it's always been important, but people are starting to realize their importance.

So, I think, depending on the recourses available to that company, that will depend on where they to get help with their intellectual property. For example, if you're a small company or an

individual you might look more to a legal consultant, there's pro bono services. You might look to educational materials to help you learn the basics yourself, in that you can support yourself.

I would say to clients: it's better to understand IP before you start, and then you can make informed decisions as you go on. That really helps them to avoid conflict later on, rather than getting stuck in and later realize "*oh actually this might be copyright infringement*", that kind of thing.

Obviously, if they're a bigger company and they have the recourses, there are specialist IP lawyers that are helpful. There are also different companies, organizations, it's just about doing research particularly related to the field that company might be in. For example, if it's a film company they'll have different resources, film societies, rather than if it's a software company they'll have different resources available to them.

There are actually lots of things out there that can help. You don't necessarily have to go straight to a lawyer, but they are there, even now entire law firms that just focus on intellectual property.

Do organizations have a broad enough view of intellectual property?

My experience is that, whilst the importance and recognition of IP is growing, there is such a lack of understanding of what it is. When I work with clients on a consultancy basis, I actually just think a lot of the time it's really unfortunate that they didn't have that education, and because often they could have really easily avoided a problem, or they could have really gained a lot more from something that they created if that had protected it in the right way.

So, I think in terms of what's out there and resources, more is coming and there is more of a need for it, people are recognizing it more. It's also being recognized more by the government. They're starting to introduce educational materials for schools, so it's moving in that direction. But I still think there's a lot of work to be done, and my current experience is that people aren't actually aware of the value of IP and the different types of IP that they could be utilizing in their company.

Duncan Clark:

Thanks to Hayleigh there for the introduction. Join us in video when we look at the question: "How does Copyright work?". Thanks for watching and see you next time.