



European IP Helpdesk

Stay ahead of the innovation game.

Introduction to Intellectual Property and
Intellectual Property Rights

18 01 2022





European IP Helpdesk

- Service initiative of the European Commission
- Addressing **current and potential beneficiaries of EU-funded projects, researchers and EU SMEs**
- Free-of-charge first-line support on intellectual property (IP)
- Hands-on IP and innovation management support
- International pool of IP experts from various thematic fields
- Unique cooperation scheme with the Enterprise Europe Network: 48 ambassadors from 28 EU countries





The EC IP Helpdesks

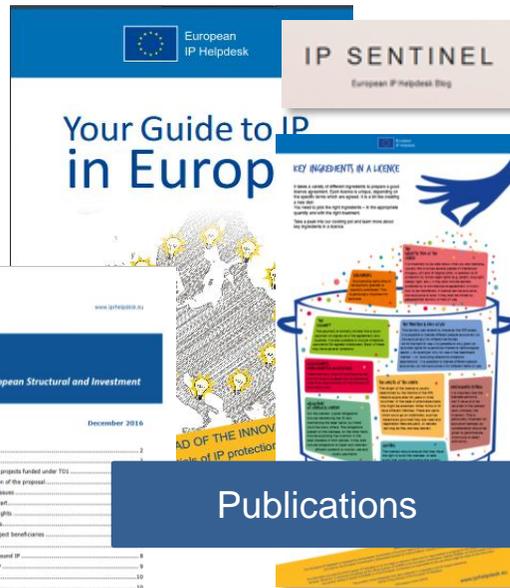




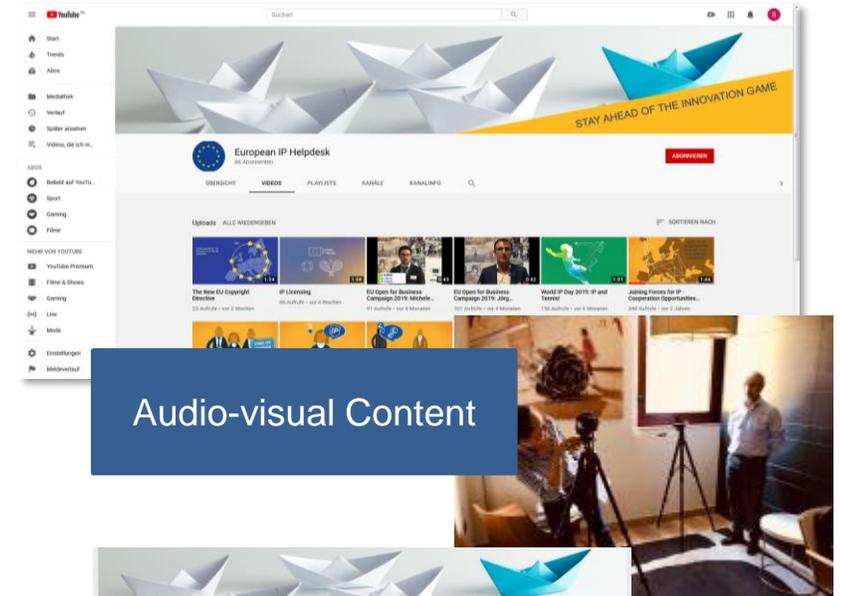
Communication Formats & Outreach Tools



Website



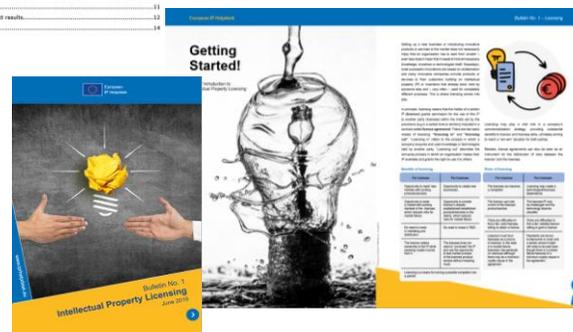
Publications



Audio-visual Content



Training



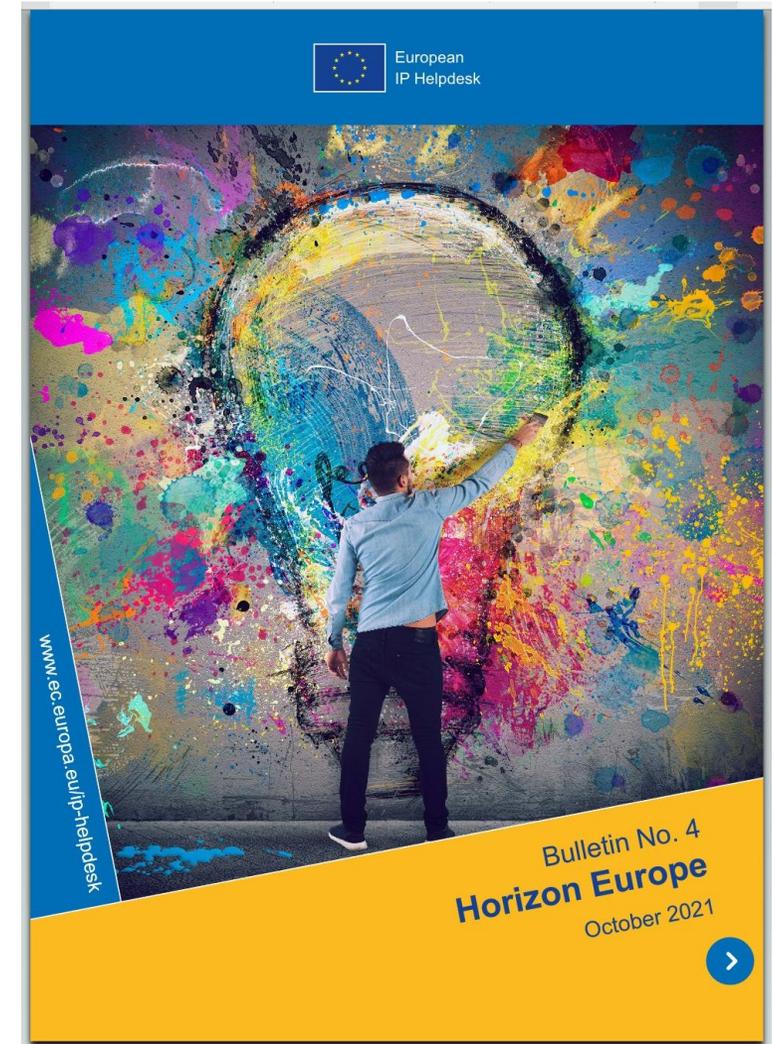
Social Media



New Bulletin! Horizon Europe

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Roadmap

- Intellectual Property & Intellectual Property Rights
- Unlocking the IP asset value
- IP protection tools
- Soft IP
- Costs of IPR
- IP monitoring & searches





Intellectual Property & Intellectual Property Rights





Intellectual Property



Results of creative efforts
from the human intellect

Such creations have an
intangible nature

Intellectual Property



Intellectual Property vs. Intellectual Property Rights

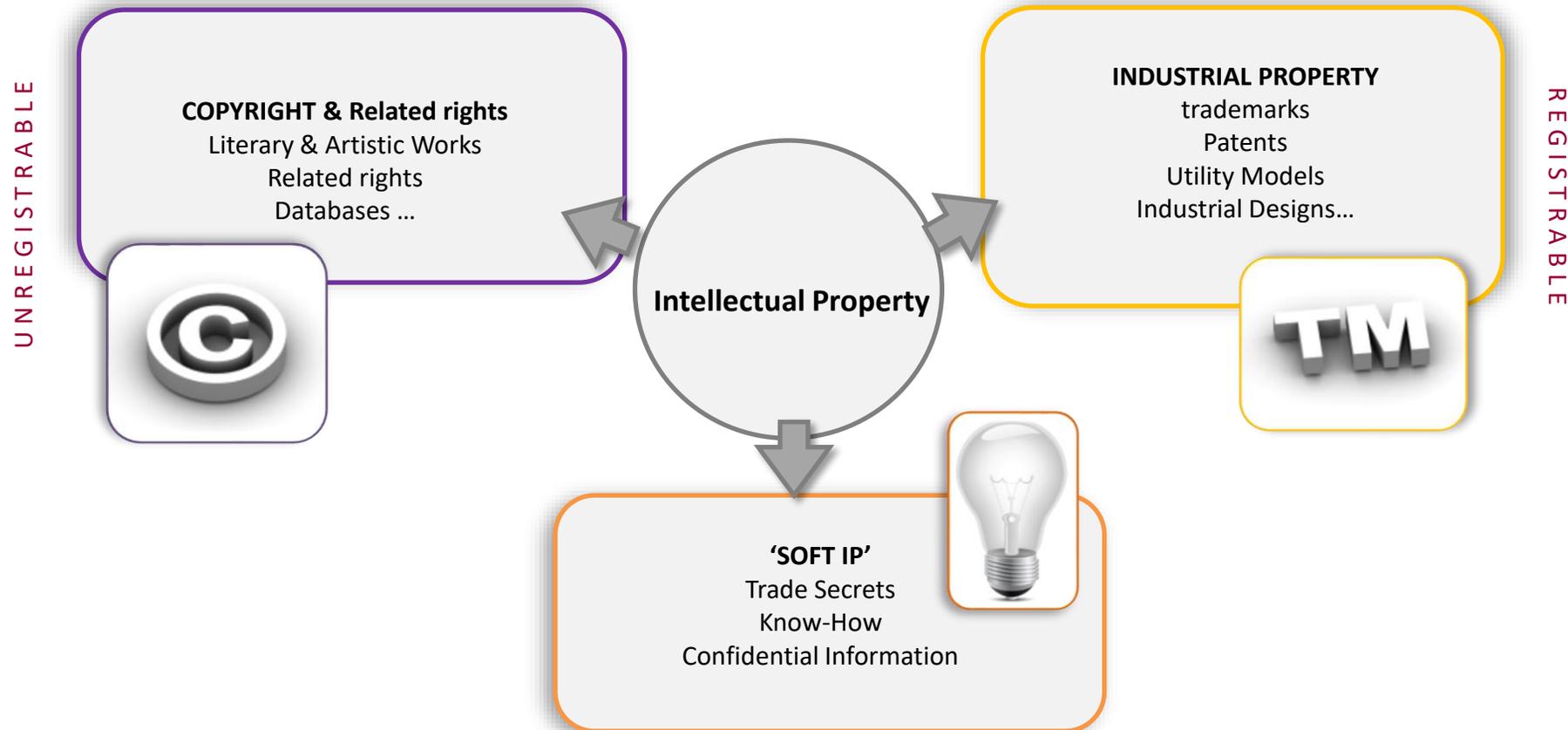


vs.





Intellectual Property Rights





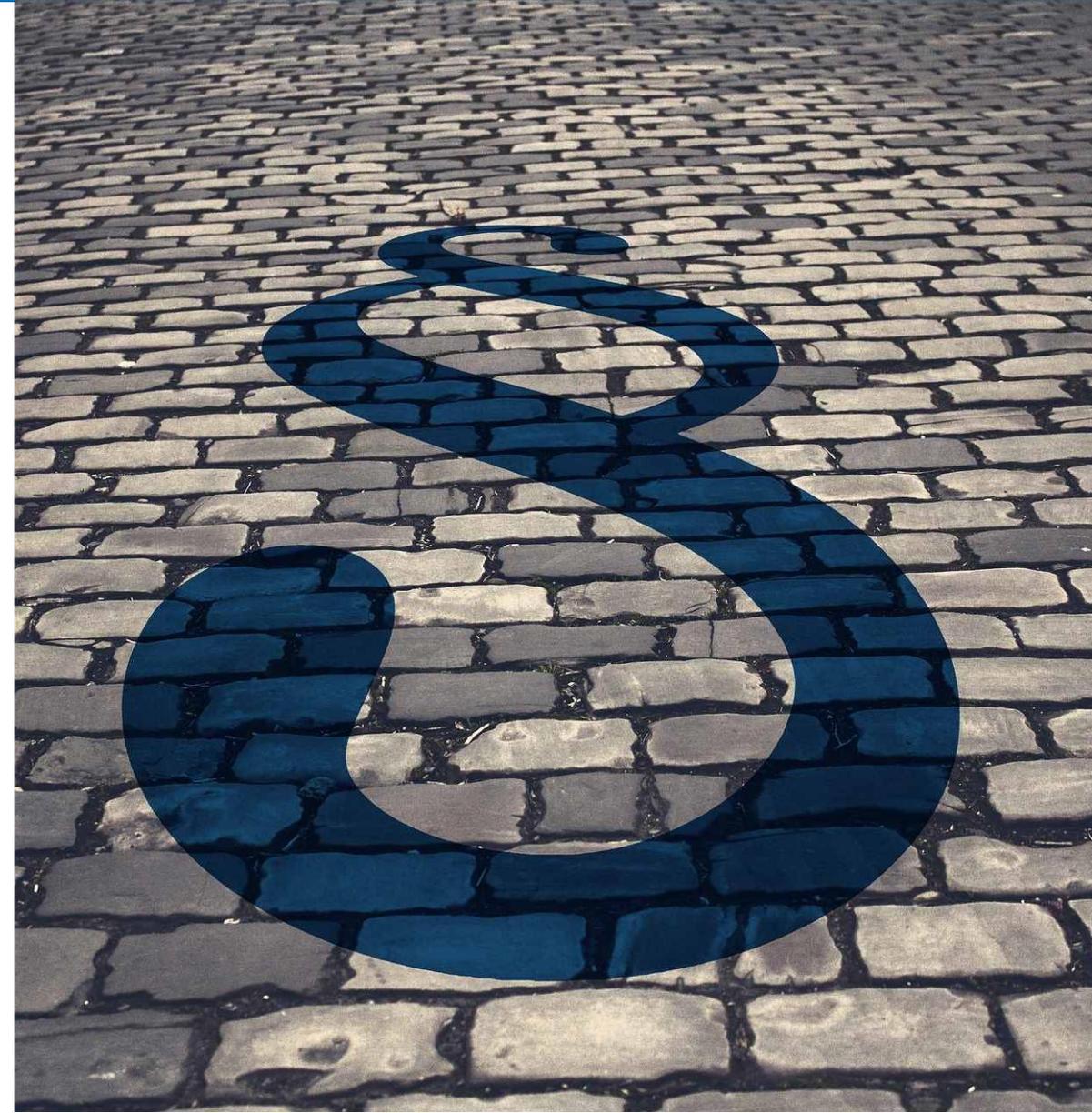
Why should I care about IP?

Intellectual Property Rights, as **exclusive rights**, allow your organisation to prevent competitors from using your intangible assets.

BUT Intellectual Property Rights require **action**:
ownership \neq protection!

Therefore it is vital for your **Intellectual Property asset** to be:

- ✓ *Protected*
- ✓ *Managed*
- ✓ *Enforced*





IP Protection Tools





Industrial Property

- Patents and utility models: inventions
- Industrial designs: innovative designs
- trademarks: brands
- And other rights (such as Geographical Indications, Plant Variety Protection), but not covered on this module



General Principles





Principle of Territoriality

IP rights are territorial rights. In general, the exclusive rights are only applicable in the country or region in which a patent has been filed and granted, in accordance with the law of that country or region.





Rights Conferred

An IP right grants to its owner a temporary monopoly over its creation. Nobody without his authorisation may use, commercialise etc. the protected item.





Duration of the Protection

- Intellectual Property rights grant a monopoly on the intellect creation for a limited amount of time depending on the type of right that is protected.
 - Copyrights 70 years after the death of the author
 - Patents 20 years after the application
 - Industrial designs 25 five years after the registration
 - Trademarks indefinitely as long as renewal fees are payed





Individual Rights





Patents

- **What is a patent?**

- It is a title providing the *inventor* and/or the *applicant* with the exclusive right to prevent others from possessing, using, selling, manufacturing and importing the patented invention or offering to do any of these things within a territory.

- **What can be patented?**

- Patents over inventions, product or process, that provide a news way of doing something or a technical solution to a problem. To qualify for patent protection the invention must fulfil the so-called conditions of patentability:
 - Patentable subject matter
 - Novelty
 - Inventive step (non-obviousness)
 - Industrial Applicability (utility)

Duration of protection:
20 years



Patentable Subject Matter – exclusions

Inventions are patentable, with the following exclusions (Art. 52 + 53 EPC):

- contrary to "order public" or morality, e.g. dangerous to life or health or seriously prejudicial to the environment;
- plant or animal varieties or essentially biological processes for the production of plants or animals.
- methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body
- Discoveries, scientific theories and mathematical methods;
- Aesthetic creations;
- Schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
- Presentations of information.



Novelty

Art. 54: European Patent Convention:

- An invention shall be considered to be new if it does not form part of the **state of the art**.
- “State of the art” - everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application (worldwide).

→ **Evaluate any potential disclosure or dissemination activity carefully!**



Inventive step

Art. 56: European Patent Convention:

- An invention shall be considered as involving an inventive step if, having regard to the **state of the art**, it is **not obvious** to a **person skilled in the art**.
- “person skilled in the art” – skilled practitioner in the relevant field, possessing average knowledge and ability.



Industrial Applicability

Art. 57 European Patent Convention:

- An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.





Patents



“FastSkin” by Speedo, manages to increase the glide in water by reducing resistance, enabling swimmers to win valuable seconds in competitions.



Human Sensor, clothing that changes color to reflect pollution levels



Patent Registration

NATIONAL PATENT

In general, an application filed before your National Patent Office (NPO) must be accompanied by:

- a specification containing a detailed description of the invention,
- one or more claims,
- any drawings referred to in the description or claims and an abstract
- the required filing fee.

EUROPEAN PATENT

One single application, in one official language may be filed:

- through your NPO, or
- before the EPO

The EPO grants patents having the effect of a **national patent in designated countries (currently max. 38)**. You may decide to maintain it in force in some or all of them.

INTERNATIONAL REGISTRATION

By filing an international application, patent protection can be obtained in each designated states amongst 148 worldwide. PCT applications may be submitted:

- through your NPO,
- through the EPO, or
- before WIPO.



Utility Models

- **What is a utility model?**

- In the EU, only 17 countries (e.g. France, Germany, Spain, Italy, Finland, Slovakia...) provide a registration process for utility models.
- Utility models protect “minor inventions” or minor improvements of existing products. UM protects inventions that consists of changing the configuration, structure or constitution of an object so as to offer an advantage in its use or manufacturing.
- Protection is granted through a system similar to the patent system, although significantly simpler and faster (6 months) than the patent application process. Finally, utility models are also much cheaper to obtain and to maintain.

**Duration of protection:
between 6 to 15 years**

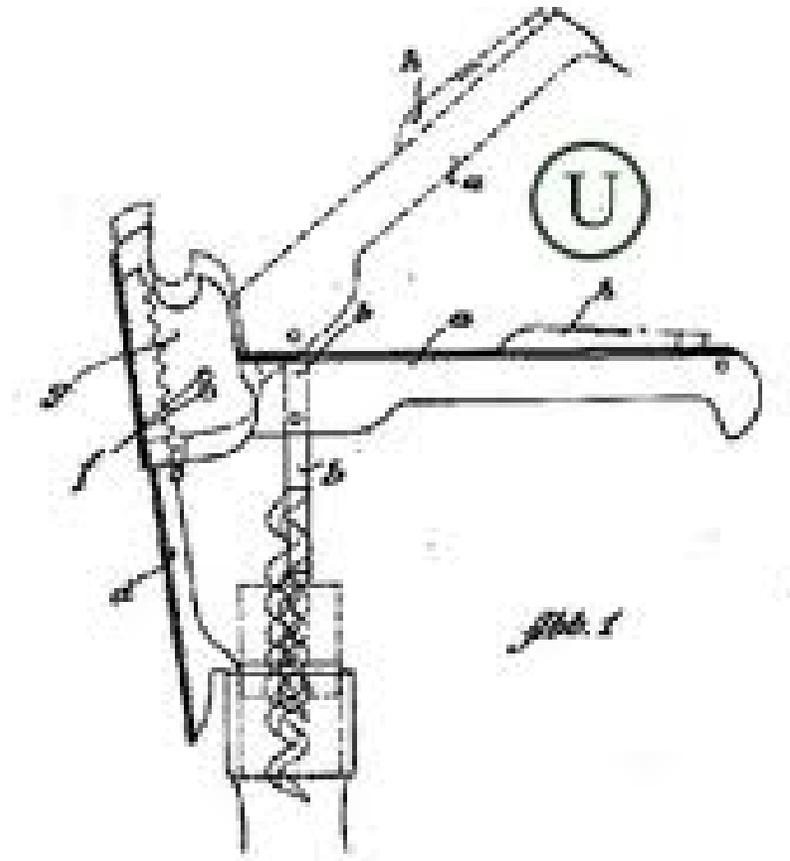


Patents vs Utility Models

PATENTS	UTILITY MODELS
Worldwide novelty	National novelty
Inventive step	Lower inventive threshold
Application process up to 36 months	Application process up to 6 months
20 year protection	Between 6 to 15 years of protection
Expensive registration process	Cheaper registration process
Industrial applicability	



Utility Models





Industrial Design

- **What is an industrial design?**

- Grants protection to the ornamental or aesthetics features of a product. The right concerns merely the appearance (the 'design') of a product, not the product itself.

- **What can be protected?**

- An industrial design may be granted in relation to the aesthetic features of a product (i.e. shape, ornamentation, pattern, configuration, etc.). Designs that are dictated solely by the article's function are excluded from protection.
- To qualify for protection the design must show:
 - Novelty (not disclosed)
 - Individual character (different from what is already protected)

**Duration of protection:
renewable in 5 year periods
up to 25 years**



Design Registration

NATIONAL DESIGN

An application must be filed before your National Intellectual Property Office (NIPO), accompanied by any representation of the design suitable for reproduction.

COMMUNITY DESIGN

One single application, in one official language may be filed at the EUIPO in Alicante – Spain.

INTERNATIONAL REGISTRATION

By filing a single international application before WIPO, you may be able to obtain design protection in several states that are members of the [Hague system](#).



Industrial Design





Trademarks

**Duration of protection:
10 years, renewal indefinitely.**

- **What is a trademark (TM)?**
 - It is a sign, or a combination of signs, used in trade to identify and distinguish the goods or services of one company from those of another. A trademark owner is granted exclusive rights to:
 - use the mark in relation to the goods or services with respect to which it is registered;
 - prevent others from using a substantially identical or deceptively similar mark in relation to identical or similar goods or services.
- **What can be protected as trademark?**
 - Words, letters, numerals, pictures, shapes and colours, as well as any combination of the above. The registration of less traditional forms of trademarks is now allowed, such as three-dimensional signs (like the Coca-Cola bottle), audible signs (sounds, roaring lion Metro Goldwyn Meyer), multimedia marks (Netflix intro animation).



Examples of trademarks



No. 156932

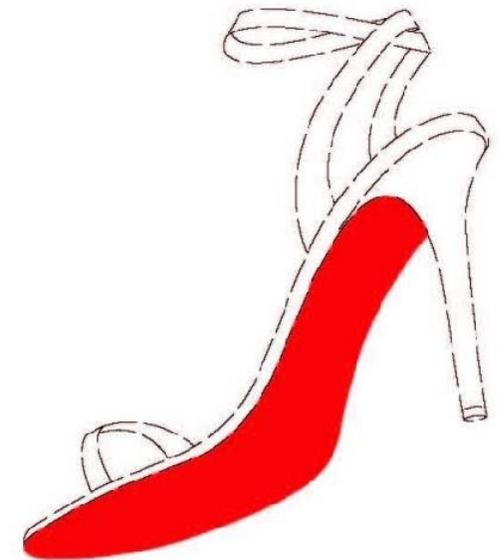
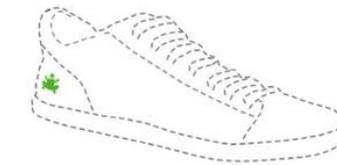


No. 176176



No. 141143

<https://www.youtube.com/watch?v=GV3HUDMQ-F8>





Trademark requirements

- In order for a sign to be eligible for trademark protection, it must:
 - Be distinctive, for example a white rectangular tetra brick
 - Not be deceptive, LACTOFREE for regular milk.
 - Not be descriptive, for example 'restore' for medical instruments or apparatus
 - Not belong to the exclusions provided by the law, you cannot register a country's flag
 - Be in conformity with public order and morality, 'Bin Laden' cannot be registered



Trademark Registration

NATIONAL TM

Applications must be filed before your National TM Office accompanied by:

- a clear reproduction of the mark; and
- list of goods or services to which the mark would apply ([Nice Classification](#))

Registrations can be cancelled in case of non-use (5 years).

COMMUNITY TM

One single application (that will grant you a single trademark valid in all Member States), in one official language may be filed before the EUIPO in Alicante – Spain.

INTERNATIONAL

By filing an international application, TM protection can be obtained in each states member of the [Madrid System](#), designated by the applicant.

Applications may be submitted:

- through your National trademark Office
- through the EUIPO
- before WIPO.



Copyright

- Does not protect the ideas themselves but only the concrete form of expression of ideas
- The work will be protected as long as it is original.
- No formal registration process is required.
- Copyright protection arises automatically upon creation of the work, provided that it is original

→ Generally, protection lasts the life of the author + 70 years after his/her death.





Copyright

- **What are copyright and related rights?**
 - **Copyright** protects literary and artistic works, such as novels, music and paintings, cinematographic works, architectural works... Copyright also protects Software and databases.
 - **Related rights** are related to the protection of works of authorship under copyright. Their purpose is to protect the legal interests of certain persons and legal entities who contribute to making works available to the public such as performing artists, producers of phonograms, broadcasters, etc.



Copyright

- **What are the rights granted?**
 - Copyright owners are the only ones who can decide how and who can:
 - copy or reproduce (e.g. printed publications or sound recordings);
 - distribute to the public;
 - perform in public;
 - translate into other languages;
 - adapt, such as novel into screenplay...



Copyright

- **No registration but proof of ownership through:**
 - i-DEPOT - <https://www.boip.int/en/entrepreneurs/registration-maintenance/registration/idea>
 - Enveloppe Soleau - <https://www.inpi.fr/fr/enveloppe-soleau>
 - WIPO Proof - <https://www.wipo.int/wipoproof/en/index.html>

These tools do not amount to an IPR title, but it helps prove the date of creation of your work in case of future infringements.



Soft IP





Confidential Business Information

- **There is no specific definition**
 - The term “Soft IP” can be used to describe the intellectual assets which are protected through IPRs, but have an important business value. Usually, this refers to know-how or trade secrets.
- **Protection of “Soft IP”**
 - Is not achieved by registration – no registration fees;
 - Falls under the category of intangible rights – associated with other IPR;
 - No registration process, BUT requires appropriate internal management (which might end up being expensive).



Costs of IPR





Costs of IPR

- **Patent:**
 - National: estimated examination and delivery between 20 € (Estonia) and 900 € (Finland)
 - European: estimated examination and delivery 5.600 €
(7 countries or more) (Cost reduction foreseen with unitary patent protection)
- **Trademark:**
 - National: estimated examination and delivery between 11 € (Estonia) and 440 € (Italy)
 - European: estimated examination and delivery 900 €



Costs of IPR

- **Industrial design:**
 - National: estimated examination and delivery between 6.50 € (Estonia) and 430 € (Finland)
 - European: estimated examination and delivery 350 €



IP Monitoring & Searches





IP Monitoring & Searches

- Regularly searching IP databases and other resources is important in order to:
 - check novelty
 - check availability of a trademark or design
 - check priority of competing products and services
 - have a look at your competitors' products and services
 - check expiration date of other IPRs
 - carry on a market study
 - make sure you do not infringe third parties' rights
 - detect third parties' alleged infringements



Useful IP resources

- Trademarks – the face of your business: <http://www.iprhelphelpdesk.eu/news/trademarks-face-your-business>
- Copyright essentials: <http://www.iprhelphelpdesk.eu/Fact-Sheet-Copyright-Essentials>
- Trade secrets: <http://www.iprhelphelpdesk.eu/Fact-Sheet-Trade-Secrets-Efficient-Tool-Competitiveness>
- Inventorship, authorship and ownership: <http://www.iprhelphelpdesk.eu/news/inventorship-authorship-and-ownership>
- IPR Charts on patents, trademarks and designs: <http://www.iprhelphelpdesk.eu/library/IP-Charts>



Ambassador Scheme

- **Cooperation scheme** with the Enterprise Europe Network (EEN): 48 ambassadors – 28 countries
- **Building IP capacities** among European SMEs
- **Overcoming language barriers**
- Making the topic **more accessible**
- Exchange and feedback from ambassadors on **needs of SMEs**
- **Local awareness and training events**





Contact:

- Website: ec.europa.eu/ip-helpdesk
- helpline@iprhelpdesk.eu
- Twitter [@iprhelpdesk](https://twitter.com/iprhelpdesk)
- LinkedIn [/european-ipr-helpdesk](https://www.linkedin.com/company/european-ipr-helpdesk)





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