

THINK kit™



PROTECTION

A resource about the power of trademarks,
copyright, registered designs and patents



Introduction to intellectual property

Intellectual property (IP) is original creative work, such as a piece of music, an invention, a piece of software or a brand, that has been developed to such a stage, and captured in some permanent way, for example, on paper, that it can be owned in the same way as physical property. The owner of IP has control over it and would expect to be rewarded for its development and use. Anyone who has a new creative or innovative idea then has the right to benefit from it. That right can be bought, sold, hired or licensed like any other property.

It is important to be aware of what these IP rights are, how they can be protected and, in due course, how to benefit from them. For example, J M Barrie's gift of all the rights to Peter Pan has provided a vital source of income to Great Ormond Street Hospital ever since they were given to the hospital in 1929. This means that whenever a performance of Peter Pan is staged, a film made or a book published, Great Ormond Street Hospital Children's Charity can charge payment which is known as a royalty fee.

If creators don't look after their property and it becomes copied or well known, they can lose out. Here is an example:

Keep your ideas secret

Budding inventor, Big Brother's Jon Tickle, blows his chance, says Patent Office.

Big Brother star, Jon Tickle, has told the Housemates that he wants to invent a toaster with a delayed release for the second slice of toast. "The first rule of inventing is to keep your idea secret until you have filed for a patent," explains Jeremy Philpott, Marketing Executive at the Patent Office. "Anyone who talks about their invention in public cannot file a valid application afterwards." His invention of a toaster which keeps the second slice warm, whilst you butter the first slice, could quite probably have been patentable if he hadn't told his Housemates all about it!"
Patent Office, June 2003

Protecting intellectual property

Intellectual property rights are protected by law and illegal use of these rights can be contested in the courts. The technical term for this misuse is infringement. IP owners who have been victims of infringement can be rewarded with substantial amounts of compensation. For example, in June 2004, Britney Spears was taken to court by the fashion house Lite Breeze, which sells sports clothes under the brand name 'In The Zone'. The company was seeking £5.5 million in damages, claiming that the star had infringed their intellectual property rights by using the same name for her album.

The UK Intellectual Property Office is the government agency responsible for the administration of the IP system in the UK. Owners of creative work can register and protect their designs, inventions or trade marks by registering them with the UK Intellectual Property Office.

The protection is needed because it can easily be 'stolen'. For example, people today have the technology to copy a music CD, and the very lucrative market in designer products increases the temptation to produce and purchase fakes. These practices are illegal and offenders are likely to be taken to court. There are four main types of intellectual property.

Patents

Patents are for inventions. An invention is a product that is new or improved, or a process that can be used in industry. Patents generally cover innovations, products or processes that include new functional or technical aspects.

For example, in 1888 Dunlop patented the first pneumatic inflatable tyre. Many of the patents issued in 2004 cover technological advances linked to computers and the Internet. Once a patent has been granted, the owner can stop other people from making, using or selling the product or process without permission for up to 20 years.

James Dyson, inventor of the bagless vacuum cleaner, had the protection of having exclusive use of his invention, but when the patent expired in the late 1990s, other manufacturers were legally able to produce similar products. A patent can be applied for if a product or process is new and has never been made public in anyway, anywhere in the world. This makes it essential for inventors to keep their developments secret until their patent has been granted.

Designs

Registration of a design protects the appearance of a product, in particular the lines, contours, colours, shape, texture and patterns of the product.

The design for the shape of the Coca-Cola® bottle was first registered in 1937. A registered design can last for up to 25 years and gives the designer the right to stop others from making, using or selling any product to which the design has been applied. Someone who designed a new range of sportswear and registered the designs could stop others from using the designs and patterns.

Registered designs can be bought or sold like any other sort of property. Many owners of designs license them to a manufacturer. This gives the manufacturer the rights to make and market the product but the owner of the original design gets a share of the profits.

Trade marks

Trade marks are used for brand recognition. They can apply to services or goods and allow distinctions to be made between different companies. A trade mark can be used as a marketing tool so that customers can recognise the product of a particular company. Which company do we immediately think of when we see a black tick on a t-shirt? What type of products do we think of when we hear the words Lego® or Birds Eye®?

Businesses invest large sums of money in devising trade marks to suit a particular product or service. Trade marks are also used as a tool to aid product and brand differentiation. Registering a trade mark allows the owner to stop others from using it on their goods or services, which might mislead buyers into thinking they were made by the trade mark-owning company. Companies are extremely careful to ensure that their trade marks are not used illegally, to avoid losing the trust of their consumers. Unauthorised use of a trade mark is known as infringement.

Copyright

Copyright is an unregistered right and comes into effect immediately, as soon as something is created and fixed in some way. There is no official registration process or fee. If a student writes a poem, or composes a piece of music, no one else may reproduce that work without their permission. They automatically have that protection without having to go anywhere to register it.

Copyright is usually the result of creative skill, expertise or labour and without the protection of copyright it would be easy for others to benefit from using that material without paying the creator.

Copyright-protected material includes original literary works, music, art, works of architecture, dance, drama, film, television, videos and broadcasts, cable programmes and Internet files. Most uses of copyright material require permission from the copyright owner. However, it has to be proved that the other person actually copied that work. If their work is the same just by coincidence they cannot be accused of copying.

In 2004, author Frank le Clavez took Disney and Pixar Films to court saying he wrote a book featuring fish characters long before the film Finding Nemo came out. Nancy Stouer, who wrote a 1984 book called The Legend of Rah and the Muggles, took J K Rowling, author of the Harry Potter series of books, to court. Stouer claims Rowling copied the term 'muggles' from her and says that other elements of their books are 'suspiciously similar'. The case was dismissed as there did not seem to be sufficient similarity between the two books. In the same way that any work that a student might produce during the course of his or her studies is protected by copyright, so the resources that schools and institutions make use of will be the intellectual property of the people who wrote and published them, particularly material such as books that someone else has written or essays on the Internet.

Aims and objectives

Aims

THINK kit™, now in its fifth year, is a successful resource for teaching Business Studies/Management and Design & Technology Studies at GCSE/National Qualifications from the UK Intellectual Property Office – the government body responsible for intellectual property rights (IPR). Originally developed for 14–16-year olds, THINK kit™ is also highly relevant for any students taking Business Studies/Management and Design & Technology Studies in further and higher educational establishments.

The latest edition of THINK kit™ explores IPR in real-life scenarios by relating real stories about innovators and their journeys to success. The resource positions IPR as a cornerstone of enterprise activity and highlights the importance of having an awareness of IP along the 'road to innovation'. Five main case studies feature with smaller case studies covering the areas of Sport, Technology, Design, Food and Music. The stories will highlight the four areas of IP: designs, trade marks, patents and copyright.

The purpose of THINK kit™: The Road to Innovation is to introduce students studying Business Studies/Management and Design & Technology to the field of intellectual property rights. Whilst most students will understand that ownership of a patent, trade mark, copyright or a design is a business asset, few have a good understanding of the issues involved. Resources for teaching the topics are scarce and the subject is dealt with in scant detail in most subject textbooks. Intellectual property rights are crucial to the economic and social well-being of our society, are a keystone to entrepreneurship and maintain the UK's position as a world leader in design and innovation.

The benefits of intellectual property

Intellectual property rights

Businesses with a defined IP strategy:

- maintain their competitive edge
- are able to raise funds for development because investors have confidence that the ideas won't be stolen
- are able to protect their innovative ideas, which use new technologies and design or unique selling points, from exploitation by unscrupulous traders.

Consumers:

- have confidence that products with trade marks are brand names made to a certain standard and quality
- have innovative products to choose from.

Creative individuals and entrepreneurs:

- have time to develop their innovative ideas
- reap financial rewards from their ideas
- are given opportunities to reach personal fulfilment.

Society and the economy benefit from:

- growth in enterprise and creativity
- innovation and vibrancy
- increased and varied employment opportunities
- reputation for innovation.

THINK kit™: The Road to Innovation

THINK kit™: The Road to Innovation provides teachers with resource materials that help explain what intellectual property rights are, and how trade marks, patents, design registration and copyright protect these rights. This resource from the UK Intellectual Property Office has been developed with input from practising teachers and the companies featured.

The pack consists of five major case studies, which focus on the areas of technology, sport, music, food and design. All the cases are genuine and recent examples of IP in the real world. The resource also includes an accessible explanation of intellectual property for students, an exciting competition, glossary, and a series of activities and lessons plans specifically linked to the case studies.

Using THINK kit™: The Road to Innovation The case studies, activities and lesson plans are all discrete, and successful completion of each of the case studies and associated activities is not dependent upon completion of any preceding material. The activities and lesson plans may be treated as individual exercises during one lesson or delivered as a block over several sessions. However, to enable students to gain full understanding of the issues raised, students should be encouraged to complete at least all the tasks within each case study either within class or as homework or project work.

The case studies have been carefully selected to appeal to students aged 14–16 studying GCSE level and National Qualifications. The products and brands cited as examples have all been taken from fields of economic activity that will be familiar to most students, and this will encourage engagement with the learning activities.

This resource is aimed particularly at students of GCSE/National Qualifications Business Studies/Management and Design & Technology but teachers of other subjects at Key Stage 4/S3–S4 may find some of the materials useful as a contribution to their schemes of work. For example:

Citizenship/PSE/PSD

- legal rights and responsibilities
- rights and responsibilities of consumers
- contribution to group and exploratory class discussions
- use of imagination to consider other people's experiences

English

- speaking and presentations
- group discussions and interactions
- understanding different language styles appropriate for audience

The topics contained in this project – sport, technology, design, food and music – could be used as case study material for further study developed within each of those subject areas. Activities throughout this resource give students opportunities to meet some of the criteria in Key (Core) Skills. For example:

Key (Core) Skills: Communication

- taking part in a group discussion
- making a formal presentation
- writing two types of document giving different information about complex subjects

Key (Core) Skills: ICT

- several of the activities offer opportunities to use ICT

Glossary

Brand – a name, usually a trade mark, of a manufacturer or product.

Brand image – image, lifestyle or concept that a company wishes to project through its products or services.

Consumer tests – market research method whereby members of the public or consumer panels trial or taste products and report back on their experiences.

Copyright – the legal right of creative artists or publishers to control the use and reproduction of their original works.

Design right – an automatic right that applies to original non common place designs or configuration of articles. This is not a monopoly right but a right to prevent deliberate copying. Unlike design registration you do not have to apply to register a design right.

Digital piracy – illegally downloading material, for example, music from the Internet.

Entrepreneur – a person who sets up and finances new commercial enterprises to make a profit.

Infringement – failure to obey a law or regulation.

Innovation – the act or process of inventing or introducing something new.

Intellectual property – original creative work that has been developed to such a stage that it can be legally protected.

Investment funding – money put into a business for new projects or development in the hope that it will gain some return.

Logo – a design or image used by an organisation which represents the brand or product, for example, the Nike® tick.

Market research – research which gathers information about consumers, competitors, distributors within a firm's target market. It enables firms to identify customers and their buying habits.

Mass production – manufacturing of products on a large scale.

Music piracy – the illegal copying, distribution and sale of copyrighted music.

Non-disclosure Agreements – a legal document which binds anyone signing it to keep their work secret.

Patent – an exclusive right granted by government giving an inventor the right, for a limited period, to stop others from making, using or selling an invention without permission.

UK Intellectual Property Office – is the government agency responsible for the administration of the intellectual property system in the UK.

Physical piracy – illegally copying music, for example, by burning or manufacturing CDs.

Portfolio – the range of products which a business offers to the market.

Product development – research, testing and development of additions to the range of products or services a company has in its portfolio.

Prototype – sample product manufactured to see if the designs and specifications function as required.

Royalty – a percentage of the income from a book, piece of music, or invention that is paid to the creator by individuals or companies using their work.

SWOT analysis – decision-making tool to assess the appropriateness of an idea or business function in terms of strengths, weaknesses, opportunities and threats.

Target markets – the profile of customers that a business directs its sales towards.

Trade mark – a name or symbol used to show that a product is made by a particular company and legally registered so that no other manufacturer can use it.

Venture capital – is the money and resources made available to start-up firms and small businesses with exceptional growth potential.