

Introduction to Intellectual Property

By Dr Hamish MacDonald, University of Queensland Law School

Intellectual property (IP) is a category of legal rights that covers intangible things created by an individual or organisation. IP rights can be used to prevent others from using these intangibles without your permission. Permission is granted through explicit and implicit licenses that allow the use, rent, or transfer – in whole or in part - of the intangible asset in question.

There are a range of different types of intellectual property that may be relevant to researchers and research organisations. This factsheet aims to provide an overview of the main uses of each form of IP protection.

It is important to emphasise that IP rights are created and administered at the **national** level. While the types of IP rights are largely the same across the world, there are important local differences in their implementation, and they must be registered in each relevant jurisdiction where protection is desired (with the exception of copyright, which is automatic).

Types of Intellectual Property

- **Copyright** protects creative expressions, including writing, images, and computer code. Copyright automatically covers original creative works, until 70 years after the death of the author.
- **Patent** protects inventions which are novel, useful, and which contain an inventive step. They provide strong protection for a period of 20 years, but are expensive and complex.
- **Trade marks** protect signs indicating a brand or commercial origin.
- **Trade secrets** protect confidential information about a business.
- **Design rights** protect the overall visual appearance of a physical product.
- **Plant breeder's rights** protect new varieties of plants.

Trade secrets
protect confidential
information, like a
chocolate recipe

Patents can cover new
production technologies
for making chocolate, or
new types of chocolate

Design rights can
protect the overall
visual appearance of
the product

Trade marks can cover
registered symbols, words,
colours, or other signs used
to show the commercial
origin of the product

Copyright automatically
covers the specific
expression of text and
images

Plant breeder's rights
can protect new varieties
of plants (such as a new
type of cacao tree or
orange)



Summary

Type of IP	What is Protected	Cost	Timeline for Grant	Duration	Strategic Considerations
Copyright	Specific creative expressions	Free	No grant required	70 years after the death of the author	Only protects the specific expression (only prevents direct copying)
Patents	Inventions which are novel, useful, and non-obvious.	\$10,000 - \$20,000	6 months to several years	20 years	Provides strong protection over an invention
Trade marks	Distinctive symbols (including words, sounds, colours, etc.)	Minimum \$250 filing fees (not including	Minimum 7 months	10 years per registration, can be renewed indefinitely	Provides powerful and indefinitely Only protects within categories

	associated with a brand	lawyer fees)			of goods or services for which it is registered
Trade secrets	Confidential information Breach of confidence is a legal action which provides protection when secrets are leaked	Practical costs of secrecy	No grant required	No limit, unless secret becomes public	For legal protection to be available, secrecy measures must be in place
Design rights	The overall visual appearance of a whole physical product	Minimum \$250 filing fee; lawyer fees ~\$1000	Within 6 months	5 years, with the option of renewal for an additional 5 years	Provides quite limited protection over a specific design
Plant Breeder's Rights	New varieties of plants	\$3000+	2 to 3 years	20 years (25 for trees and some vines)	Only covers plant varieties
