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PATENTS IN FUSION

PRACTICAL INFORMATION



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Industrial Property Rights and EURATOM

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Patent

What is a Patent?

An exclusive right granted by the state for an invention that is new, involves an inventive step and is capable of industrial application.

What is an Invention?

A new and inventive solution to a technical problem.

How long is the Patent protected?

Up to 20 years following the filing date.

When is an invention patentable?

- **It is new:** not published previously anywhere in the world and in whatever form
- **It involves an inventive step:** no prior obvious solution for expert or skilled person in the area; there is need for a substantial intellectual effort
- **It is capable of industrial application:** the invention must lead to the manufacturing of a product, offering a service, being a part of a production/manufacturing process (method).

What can be patented?

- A device
- A method
- A use.

What cannot be patented?

- An idea
- A mathematical formula
- Business models.

Why should I patent?

- Stop other people patenting my work
- Provide income to the inventor
- Make public my invention to the world
- Challenge other people's ideas
- Capitalise knowledge and prestige.

Patenting vs Publishing

No choice › 1st PATENT!
then › PUBLISH (~3 months)

Patenting vs Secreting

Dilemma › It depends

- Costs
- Period of protection

Search before Research!

Why should I search?

- The product may be already developed
- It might infringe other people rights
- Help when difficult problems arise
- Background information collection.

Where can I search?

[http://ep.espacenet.com/
advancedSearch?locale=en_V3](http://ep.espacenet.com/advancedSearch?locale=en_V3)

Other types of industrial property

- Trade secrets/know-how
- Trademarks
- Industrial designs
- Layout-design (or topography)
of integrated circuits.

Know how/ trade secrets

When can confidential business information benefit from trade secret protection?

- it is not generally known to others dealing with that type of information;
- it has commercial value because it is secret;
- reasonable steps have been taken by its owner to keep it secret (e.g. restricting access to such information on a 'need-to-know basis' and entering into confidentiality or non-disclosure agreements).

**Secrecy = confidentiality=
non-disclosure**

Trademarks

What could be protected as a trademark?

Every **sign**, or combination of signs, that are **suitable** to distinguish a certain service or product can be registered as a Trademark.

This could include:

- names,
- logos,
- letters or numbers,
- shape of packaging, or
- melodies and tunes.
- combinations of all the above.



FUSION
FOR
ENERGY

- Formalities must be accomplished
- Protection: 10 years renewable (indefinitely).

Industrial designs

What is protected?

The aesthetic look (external aspect) of an item that is **new** and has **individual character**, not the item itself.

Layout-design (or topography) of integrated circuits

What is protected?

The **original** layout design of an integrated circuit used in microchips and semiconductor chips.



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Intellectual Property Rights and EURATOM

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It is the responsibility of researchers to identify Intellectual Property resulting from the publicly funded research.

Researchers can identify...

- Copyrights
- Software
- Database
- Patents & Utility Models
- Trade Secrets
- Industrial Designs
- Circuit Topographies
- Trademarks.

Copyright

What is a Copyright?

An exclusive right that protects the results of intellectual creations insofar as they are original and expressed in a particular form.

What does the law exactly protect?

Only the form of expression of ideas (text, layout, etc), **not** the ideas themselves.



What is covered by Copyright?

Literary, artistic works, music, photographs, motion pictures, press articles, **books, scientific publications, software, databases, web pages**, multimedia works.

What is not protected by copyright?

Ideas or concepts (ex: the rules of a game, the idea of a book on a particular topic), works where copyright is expressly waived by the author, information as itself, mathematical theories, legal texts, parliamentary and judicial proceedings, government reports.

Who is the owner?

In general: the author, or the employer: if author employed for creating the work.

Moral rights: always the author.

What do I have to do to enjoy copyright?

Copyright protection is granted by the sole creation of work.

No formality is required to have protection (**no** registration).

How long is the work protected?

Copyright usually expires 70 years after author's death.

What rights does the author have?

- Moral rights:
can never be transferred
 - Respecting the *integrity* of the work(s)
 - The *paternity right*.
- Economic rights:
may be transferred
 - Right of communication to the public
 - Reproduction right
 - Distribution right (of the work in form of copies etc)
 - Exclusive right to authorise or prohibit the above for free or against a payment.
- Transfer of Copyrights take one of two forms:
 - Assignment - Transfer of right to authorize or prohibit acts covered by copyright

- Licences - The owner of copyright authorizes others to carry out certain acts without giving up ownership.

Related rights

What are the main categories of related rights?

- The rights of performing artists in their performances
- The rights of producers of sound recordings in their recordings
- The rights of broadcasting organisations in their radio and television programmes.

Who are the beneficiaries?

- Performers
- Producers
- Broadcasters.

Particular case: Software/computer programs

In what forms can the computer programs exist?

- Source code form (the form in which it was written by human beings)
- The object code form (the form in which the computer runs it).

How can the computer programs be protected?

- In EU, usually protected by copyright (directive 91/250/CEE, 14/5/1991) and exceptionally by patents
- Copyright protection is automatic
- In the US software may be patented
- Usually the source code is kept secret by the owner.

What rights confers software copyright protection to the right holder?

To prohibit unauthorized loading, displaying, running, transmitting, storage, translation, adaptation arrangement, alteration, reverse engineering of a software.

Exceptions to software copyright:

When any of the above is **necessary** by the **lawful acquirer** in accordance with the intended purpose of the software to create a back up copy or to decompile the software where necessary to create an independent program, for interoperability or for carrying out bug correction.

Particular case: Databases

What is a database?

A collection of independent components, such as pieces of information, data or works, arranged in a systematic or methodical way, which are individually accessible by electronic or other means.

How can a database be protected?

- **Copyright:** The **structure** of the database **and** its **content** are protected by copyright, provided that they are **original** creations.
- **SUI GENERIS database right:** If DB content **is not original**, but required substantial investment to obtain, verify and present database content.