

Overview

Patents

Patents provide legal protection for inventions for a period of up to 20 years. A patent is a monopoly right which allows the owner of the patented invention to prevent unauthorised persons from using or exploiting the invention. In order to obtain a patent, the invention must be novel, it must not be obvious and it must have some practical use. Patent protection can be very expensive to maintain, especially if protection is extended to countries outside the UK.

Copyright

Copyright protects a wide range of material including written work (e.g. guidelines, assessment tools, articles), drawings, software and databases, music and dramatic works. Copyright is an automatic right which does not require registration and subsists as soon as a work is expressed in a permanent form. Copyright gives the owner the right to control the use of their material and, in the case of literary works, lasts for 70 years from the date of the author's death.

Unregistered Design Right

Unregistered design right is used to protect functional designs. Like copyright, the unregistered design right is an automatic right and does not require registration. Unregistered design right protects designs (either 2 - dimensional or 3 - dimensional) by preventing others from making 3 - dimensional articles from the design. Examples of products which can be protected by unregistered design rights are medical devices, electronic circuitry and disability aids. In the UK, designs may be protected for up to 15 years from the design's creation. European Community unregistered design right provides protection for designs for up to 3 years.

Registered Design Right

Registered design right is a monopoly right used to protect the features of a design; it is mainly used to protect aesthetic (appealing) designs e.g. a new shape for an inhaler or a design for a new wheelchair. In order to satisfy the criteria for protection the design must be new and have individual character. Registered design right protection must be applied for and incurs fees. It can last for up to 25 years subject to renewal fees.

Trade Marks

Trade marks are signs or symbols used to distinguish a product or service of a business from products or services of other businesses. Examples include brand names of medicines and the NHS logo. Trade marks help the owner to establish a brand which is distinctive and therefore identifiable amongst similar products or services. They must be registered and can last forever provided that the renewal fees are paid every 10 years.

Know-How

Know-how can also be protected, provided that the information protected is secret and has some commercial value. Examples of know-how include information on the subject matter of a patent (prior to a patent application/ publication), industrial processes or information disclosed to a company under a consultancy (e.g. a new method for carrying out blood tests). Know-how can be protected by the law of confidence and the use of a written confidentiality agreement.

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