

INTELLECTUAL PROPERTY RIGHTS AND RESEARCH PRODUCTS COMMERCIALISATION

NORAIN ISMAIL
FPTT
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IPRs is critical ...

- In early days university has not been seen as a significant role in the development of IPRs
- Identification the rights [subject matter protection; requirements; duration]
- Securing and protecting IPRs
- Myth Busting: It's all about patents [IP is more than just patents]

This is the time...

- Conducting lab testing – lead to new and improved process, product
- Recorded in lab note books, tables, graphs, diagram, photos, charts, research report
- Your own brand or symbol for your research products
- Software, manual from the research, learning tool



Perbadanan Harta Intelek Malaysia
Intellectual Property Corporation of Malaysia



KPDNKK

WHAT IS INTELLECTUAL PROPERTY?

- **Creations of the mind:**
 - i. Inventions
 - ii. Literary and artistic works
 - iii. Symbols, names and images
- **Two types:**
 - (a) Industrial property
 - (b) Copyright

PATENTS

TM ® ©

TRADE SECRETS

IMPORTANCE OF IP FOR ACADEMICS

- Every single technology or improvement to our lives began as an idea
- Every single product, or research begins with IP but quite a number of academics do not understand what IP is and the role it plays

Why Use IP?

- IPRs encourage and reward innovation to the creator/right owner
- IPRs provide competitive advantage for a business or reputation to the institution (KPI)
- IPRs allow creators or inventors to benefit from their own works

Types of IPRS

- Confidential information
- Copyright
- Patent
- Trade marks
- Industrial design
- Geographical indication
- Layout design of integrated circuits

Laws related to IP in Malaysia

- Copyright Act 1987
- Patent Act 1983
- Trade Marks Act 1976
- Layout Designs of Integrated Circuits Act 2000
- Geographical Indication Act 2000



Register or not to register your IP?

- Compulsory or not?
- Why register?

Why certain companies do not protect their IPRs?

- Less likely to be copied
- Complicated and lengthy procedures
- Not suitable for the business
- Lack of knowledge



CONFIDENTIAL INFORMATION/TRADE SECRET

- Secret information
- What makes this protection special?
 - No registration
 - No process or application
 - Covers many types of information [personal; commercial; government]
 - Safeguard to apply for patent later
- includes:
 - Manufacturing process
 - Price list/customer list
 - Business technique
 - Negative information



Requirements

- Secret information – relative or absolute?
- Commercial value
- Reasonable steps to ensure its secrecy
- Remain secret – how widespread?

Issue:

Reverse engineering?

Industrial espionage?



What measures to be taken?

- Non-Disclosure Agreements (NDAs)
- Contractual agreement
- Limited access
- Secret code

Issues in academics

- It is hard to reconcile in the university where knowledge sharing is part of the academic mission – what to share and what not to share?
- Employer-employee relationship? To what extent that you will be able to use your information and company's information? Is there any time limit? What measures that normally use by the company?
- Mobility of employee from one company/university to other companies/universities

Copyright

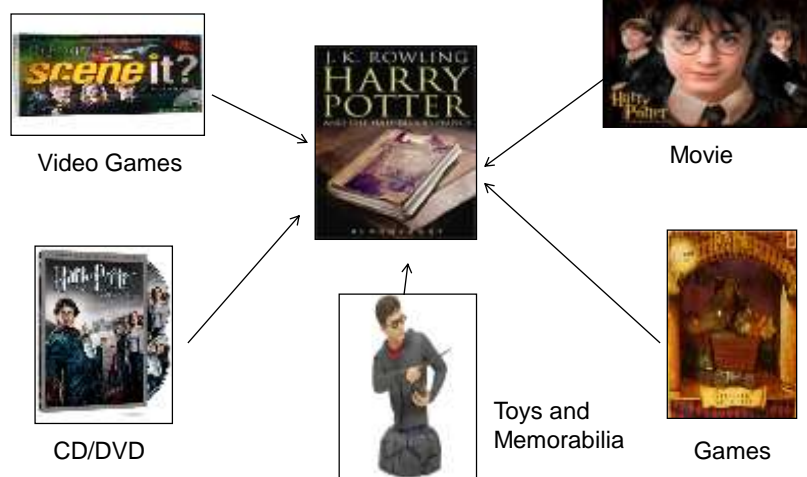
- Exclusive rights given to the owner for a specific period of time.
- Also known as author's right.
- Fragmentary in nature.
- Does not protect **ideas** but **expression of ideas**.
- Arises automatically; voluntary notification of copyright
- Types of works - original and derivative works
- Duration – 50 years after the death of the author; be careful for continuous revision and updating works

WHY COPYRIGHT?

- Encourage progress through advancement of arts & sciences
- Reward creative efforts
- Promote societal knowledge

Fragmentary in nature

Harry Potter Phenomenon



Why register?

- copyright owner, you must register in order to be able to bring suit for infringement.
- Easier to enforce your copyrights in foreign courts.
- Puts others on notice.
- Easier to license work, collect royalties, and enforce your rights outside of court.

- Notice may benefit the owner against a supposed “innocent infringer.”
- Forms of notice: ©, the word “Copyright,” or the abbreviation “Copr.”, year of publication, and name of the copyright owner

Requirements

- Originality; different with novelty
 - Sufficient skills; efforts
- Fixation – reduced into material form (visual or non-visual)
 - Permanent form

Original Works – Literary Works

- Literary works – other than dramatic and musical works
 - Book, articles, tables, speech, lectures, song, computer programs, exam paper, list of football match, trade catalogue
 - Does not include – telegraphic code, title, single invented word



Original Works - Artistic Work

- Includes:
 - graphic work, photograph, sculpture, collage, irrespective of artistic quality;
 - A work of architecture being a building or a model for a building;
 - A work of artistic craftsmanship





Original Works - Graphic work

- Any painting, drawing, diagram, map, chart, or plan;
- And engraving, etching, lithograph, woodcut or similar work



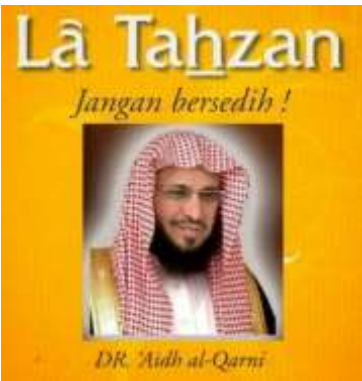
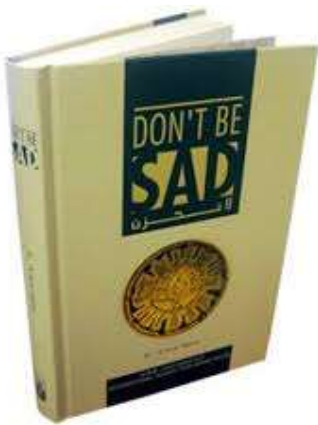
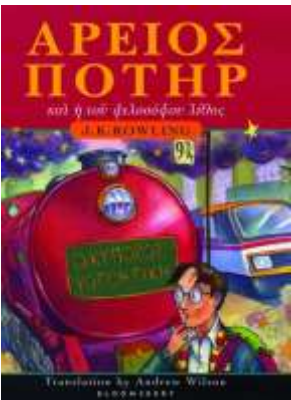
Original Works – Musical Works

- Any musical work, and includes works composed for musical accompaniment



Derivative works

- Collections of works; compilations of mere data which constitute intellectual creation by reason of the selection and arrangement of their contents
- Translation; adaptations; arrangements and other transformations of original works (typographical arrangements)
- Eg Collection of poem, address book; databases



Permitted Exceptions

- Using a limited amount of a copyright-protected work for **news, educational** or informational purposes without consent may be permissible as a “fair use” or “fair dealing”
- For **research** and **private study** – but still subject to restrictions (non-commercial)
- Quote someone else work with clear acknowledgement for **reviewing and criticisms** – accompanied by sufficient acknowledgment; work must have been made available to the public
- Reporting current events – sufficient acknowledgment
- Schools, college, universities have greater freedom to copy for **educational purposes** – still with limitations

Copyright does *not* prohibit use of:

- Titles
- Slogans
- Short phrases
- Names
- Familiar symbols
- Lists of ingredients
- Basic instructions
- Simple blank forms
- Works whose copyright has expired



DNA – Life is a Double Helix



Examples of Copyright (UPM)

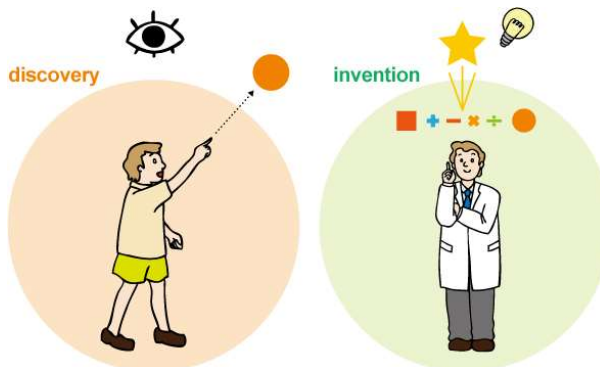
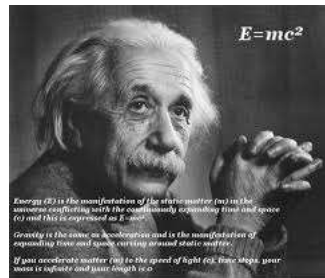
- Statistical Learning Tool
- Computer Assisted Surgery System
- College Facilities and Equipment Management System
- Food Security Locating System
- Face Recognition System
- Curriculum Designer
- Digital Conference System
- Calories Fitness Web Application
- Clothing Fashion Design Competency
- Instrumen Kompetensi Rekaan Fesyen Pakaian
- Inventori Kreativiti dan Inovasi Guru dalam P&P
- Manual Instrumen Amalan Perkembangan Kurikulum Sebenar
- Survey on Teaching Assessment Methods Among Academics

WHAT IS PATENT?

- An exclusive right granted for an invention (product/process) that provides a new way of doing something, or offers a new technical solution to a problem
- Protects product, process or combination
- Recognises inventions or utility innovation (small invention)
- Owner has exclusive and monopoly right to prohibit the using or selling of the invention
- Limited for max 20 years; utility innovation for 10 years and another 5 + 5 year renewable period
- Governs under Patents Act 1983 and its Regulations

CONTINUE

- Patents are territorial rights,
 - so Malaysian patent will only give the owner rights within Malaysia and
- No concept of International Patents
- When a patent is granted,
 - the applicant becomes the owner of the patent.
 - Like any other form of property, a patent can be bought, sold, licensed or mortgaged

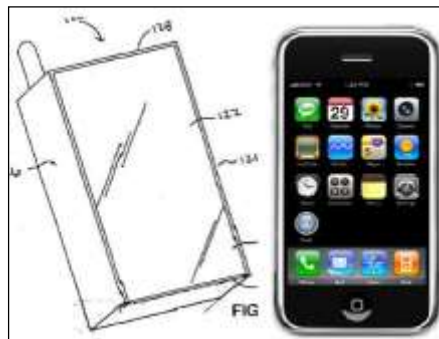


Patent

Patent requirements (under the Patents Act 1983):

- i. new or novel
= an invention is considered new or novel if it is not anticipated by **prior art**. Prior art means everything disclosed to the public in any form. There are disclosures not regarded as prior art under the S.3(a)-(c) Patent Act 1983.
- ii. inventive step
= also known as the test of “non-obviousness”. Not something that is readily obvious to a person skilled in the art.
- iii. industrial application
= can be practically utilised for practical purposes especially in the industry for which the invention is created.

Patent



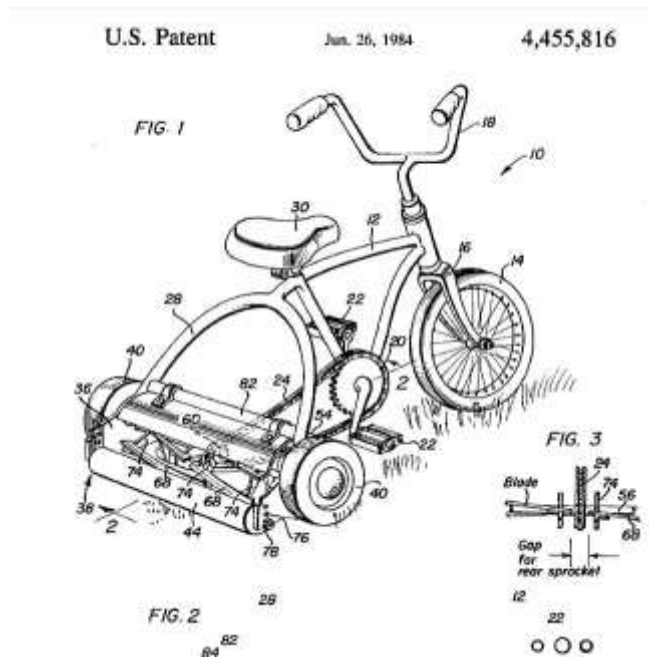
I-Phone Original Patent

Patent: Ring Pull Cans



Inventor licensed it to Coca-cola at 1/10 of a penny per can.

During the period of validity of the patent the inventor received 148,000 UK pounds a day on royalties.



Examples of Patent (UPM)

- A method for adjusting aggregation size based on acknowledgement (ACK) Bitmap
- A Method for Motion Tracking of Ventricular Endocardial Surface
- System and Apparatus for the Treatment of Organic Effluents
- An Improved Continuous Sterilization Process for Palm Oil Milling Process
- A Process for Treating WasteWater
- Halal Cleansing Composition

Employee Inventions

- Inventions created by an employee in the course of his/her employment generally belong to the employer; unless the policy provides otherwise
- Inventor shall be deemed to be entitled to **equitable remunerations** and **profit sharing**

Not an infringement when...

- Experimental use or scientific research; non-commercial use; not for industrial
- Prior use – good faith; serious preparations
- Government use – national emergency; security; health; government may exploit without the permission from the owner

THANK YOU