

Lesson 17 Worksheet: Intellectual Property 101

This Worksheet will help you understand the basics of intellectual property law, and give you some fundamental principles for protecting your own rights and avoiding infringing other people's rights.

As with the lesson, the information in this worksheet is provided for educational purposes, but you should always consult a legal professional for important decisions relating to intellectual property law.

Part I – Intellectual Property Quiz

Complete the quiz and check your answers *before* going on to parts II and III of the worksheet. Answers to questions are on page 4.

1. How can you make sure that your work is eligible for copyright protection?

- A. You don't need to do anything, as copyright protection is automatic.
- B. Register the copyright with your national intellectual property agency.
- C. Post a copy of the work to yourself in a sealed envelope.

2. Can you use the same trademark name as someone else?

- A. No.
- B. Yes, as long as you are not trading in the same industry.
- C. Yes, as long as you have a different logo.

3. What does copyright protect?

- A. Original ideas.
- B. The expression of ideas in specific concrete form.
- C. Ideas and their expression.

4. What are the three qualities of an invention that are traditionally used to evaluate whether a patent can be granted?

5. Which of these are eligible for copyright protection?

- A. A song lyric
- B. A feature film
- C. An idea for a screenplay
- D. A novel
- E. An engine that runs on water
- F. An instruction manual for assembling flat pack furniture
- G. Software code
- H. An idea for a game show

6. Which of these qualifies as fair use under US copyright law?

- A. Quoting a brief excerpt in the context of a positive review.
- B. Quoting a brief excerpt in the context of a highly negative review.
- C. Reproducing an entire work in a non-commercial context (e.g. on a personal blog where the content is freely available).
- D. Reproducing an entire work in an exclusive context (e.g. reproducing an article in a subscribers only e-mail newsletter, or an image on a slide for a training event for paying customers only).

7. You have invented a new digital music player. How can you get a patent for it?

- A. You don't need to do anything – patent protection is automatic.
- B. By writing 'Patent pending' after the name of the invention.
- C. By applying for a patent from your national patent office.

8. What do you need to do to gain legal protection for your trademark?

- A. Register it and use it in business.
- B. Use it in business.
- C. Nothing, protection is automatic as soon as you record it.

**9. Which of these are reliable sources of images you can use legally on your website?
(You can choose more than one.)**

- A. Google image search
- B. Wikipedia
- C. Flickr.com
- D. Creative Commons
- E. iStockphoto.com
- F. Photographers' websites or portfolios

Answers to Quiz Questions

1. How can you make sure that your work is eligible for copyright protection?

- A. Yes, if you live in a country that signed the Berne Convention on copyright.
- B. May apply in some countries, or give you additional protection.
- C. No. All this proves is that the envelope went through the post, not that there was anything inside it.

2. Can you use the same trademark name as someone else?

- B. Yes, as long as you are not trading in the same industry.

3. What does copyright protect?

- B. The expression of ideas in specific concrete form.

4. What are the three qualities of an invention that are traditionally used to evaluate whether a patent can be granted?

- A. New
- B. Non-obvious
- C. Useful

5. Which of these are eligible for copyright protection?

All are eligible for copyright protection except C. (an idea for a screenplay), E. (an engine that runs on water) and H. (An idea for a game show).

6. Which of these qualifies as fair use under US copyright law?

Only A and B. And it's irrelevant whether the review is positive or negative.

7. You have invented a new digital music player. How can you get a patent for it?

C. By applying for a patent from your national patent office.

8. What do you need to do to gain legal protection for your trademark?

A and/or B, depending where you live. In some countries, registration is essential, but in others such as the US, simply using the trademark in business will give you a 'common law trademark' granting you some of the protections of a registered trademark. Even if this is the case, it is typically easier to protect your trademark if you have registered it, so if it is important for your business or career, it makes sense to register it.

9. Which of these are reliable sources of images you can use legally on your website? (You can choose more than one.)

- A. Google Image Search – Not the default search! Some of these images may be out of copyright, but it's very hard to tell which ones. BUT if you go to Tools > Usage rights on the main Google search page, the tool will allow you to search for images that have been licensed for reuse, some of them even for commercial purposes.
- B. Wikipedia - Maybe. Click on any image in Wikipedia, and you will see a copyright page detailing the exact status of the image. If the image is explicitly stated to be in the public domain, you're fine. If it is subject to a license that permits the type of use you intend, that's fine too. But n.b. some images in Wikipedia are still subject to copyright protection Wikipedia's usual stated defence is that they are being used for criticism and review in a noncommercial context. But that may not apply to you!
- C. Flickr.com – Maybe, but only if the photographer has added a licence statement to the effect that you are allowed to use it – and you need to pay close attention to the exact terms of the licence. In the bottom right of every image page, you'll see a copyright notice – if it says 'all rights reserved', then you can't use it without

explicit permission (e.g. by contacting the photographer). If it says 'some rights reserved', then click on these words to read a creative Commons license, which will tell you what types of use are permitted.

- D. Creativecommons.org – Maybe. Creative Commons allows content producers to add licences to their work to specify which type of use (e.g. commercial, non-commercial) is permitted. So pay close attention to the type of licence attached to any material you find via the site.
- E. iStockphoto.com Yes, as long as you pay for a licence, and as long as the license covers the type of use you intend. Read the small print!
- F. Photographers' websites or portfolios – No! Not unless the images are explicitly licensed (e.g. with a creative Commons license) or you contact the photographer and gain their explicit permission.

Part II – Protect Your Rights

1. Copyright

- Keep dated copies of all your work, including sketches, drafts, and other materials that you can use to prove your authorship if necessary.
- Add a copyright notice to your work when you publish it.
- If you're really worried about online copying, use a service such as <http://copyscape.com/>. But unless the publisher is clearly making money by ripping off your work, it's probably not worthwhile pursuing every infringer.
- If others are regularly copying and pasting articles from your website, always include links back to your own site – that way, anyone who copies and pastes your text will at least give you the inadvertent benefit of linking to you!

2. Trademarks

- Register the most important internet domain names for your brand – e.g. yourcompanyname.com, .net, .org, .co etc.
- Use it or lose it – if you are not publicly doing business under the trademark, it's harder to enforce it in a court of law.
- Consider registering it with your national trade mark office – even if you can get some protection by default.

3. Patents

- Be careful who you show your invention or new product to.
- Make sure it has significant commercial potential before applying for a patent
- Read the About.com series on applying for a patent:
http://inventors.about.com/od/firststeps/a/lesson_money.htm

Part III – Avoid Infringing Others’ Rights

1. Copyright

- Don’t copy and republish entire works (e.g. articles, photos, songs) without the permission of the copyright holder, unless you are certain that they will be happy for you to do so. This is especially important in a commercial context, e.g. on your business website or in a product that you sell.
- Use brief excerpts if you are critiquing or reviewing a work, with a link back to the original source (e.g. a blog article) or to somewhere the original can be purchased (e.g. an Amazon sales page or exhibition ticket office)
- Look for sources of licensed work. Websites such as iStockphoto.com allow you to license images for an affordable price. And Creative Commons licenses mean that very often you can use copyrighted work, for free – and perfectly legally. See the resources section for sources of licensed work. (And more on Creative Commons in next week’s lesson.)
- Put yourself in the creator’s shoes. How do you think they would feel about seeing their work used in this way? Is there a clear benefit to them, or are you the only one who benefits? Bear in mind that there is no guarantee they will see things the way you think they ‘should’ see them!

2. Trademarks

Before you start using a trademark name for your company or product, check to see whether anyone else is using same trademark in your industry:

- Search for it on Google
- Perform a trademark search via your national intellectual property agency. E.g. this page on the UK Intellectual Property Office allows you to search for trademark text or images in use in different industries in the UK.
<http://www.ipo.gov.uk/types/tm/t-os/t-find.htm>

3. Patents

Because of the complex searches and specialist knowledge required, to check that you are not infringing someone else's patent, you should consult a patent lawyer or specialist who knows your industry well.