



'A readable guide helping creative people to define, protect, develop, and benefit from their good ideas.' Robin Webb, Director of Innovation, UK Intellectual Property Office

Patents, Registered Designs, Trade Marks & Copyright

FOR DUMMIES®



With a foreword from Trevor Baylis, OBE

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A Reference for the Rest of Us!®



UK Edition

***Patents, Registered Designs,
Trade Marks & Copyright***

FOR
DUMMIES®

**by John Grant, Charlie Ashworth,
and Henri Charmasson**

With forewords by

Robin Webb

Director of Innovation, UK Intellectual Property Office

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For the last five years, while remaining as an IP consultant to Lafarge and others, John has provided IP services to Trevor Baylis Brands plc and has personally advised several hundred inventors concerning their innovations; some good, and some very good. Alas, however, some inventors have re-invented an old idea. In such cases, John's philosophy has been to let them down as gently as possible and to ensure that they're not too deflated but move quickly on to their next project that may prove to be more fruitful with the thought that 'if you don't roll the dice, you can't get a six'!

Charlie Ashworth is an Associate of the Chartered Institute of Patent Attorneys. Having graduated with a Bachelor of Science in Industrial Design and Manufacture in 2002, she went on to work for a leading product design consultancy in their IP team. Charlie completed both a Certificate and Masters in Intellectual Property Law and Management in 2006, and has worked as the Intellectual Property Manager for Trevor Baylis Brands plc, for whom she continues to act.

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Henri Charmasson is an attorney who specialises in intellectual property cases, and a product-branding consultant to major corporations. He's also an entrepreneur and inventor with his name on a dozen patents. In a distant life, he was an electrical engineer who designed aerospace and computer hardware.

Henri has authored several books and articles on patent, copyright, and trade mark topics, including an authoritative treatise about the art of naming companies and branding products.

Dedication

To innovators, young and not so young, whose ingenuity is a credit to each one of them and a bonus to us all.

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JG and CA

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Forewords



The United Kingdom has never been short of creative people. It leads Europe in knowledge-based and high-tech businesses such as Formula 1 technology, computer gaming, and pharmaceuticals.

Industries such as these place great emphasis on the value of intellectual assets. Intellectual Property (IP) underpins businesses and helps stimulate innovation, allowing substantial returns on research and design investments.

IP rights are not influenced by the size of the company or the popularity of an individual but are based on the quality of the invention or, in the case of copyright, the creative work. The result of this is that IP rewards an inventor in his garden shed or the composer in her bedroom as much as a big automotive company or a pop superstar.

Ideas – the creations of the mind – are found across every aspect of our lives: ideas like a bagless vacuum cleaner, a clockwork radio, a vaccine against polio, a distinctive shape of a perfume bottle, an attractive brand name, a catchy tune, or the adventures of a boy wizard.

A similarly wide range of rights exists to protect the results of those ideas. The title of this book gives an indication of how widely those rights extend: patents for the way an invention works or how it is made; design rights in a product's appearance; trade marks for a company's logo or branding; or copyright in artistic, literary, or musical works. Some, like copyright, arise automatically, but others have to be requested.

Not surprisingly, many creative people remain unaware of the benefits of such a potentially complex field. Even the language of the rights can be daunting, with terms not always carrying the meanings used in everyday life. For example, to many people an assignment is a task undertaken for an employer, but to the IP lawyer an assignment is a formal document transferring legal rights from one person to another.

The aim of this book is to provide a readable guide to the rights protecting creative works; to help the people who generate good ideas to safeguard them and avoid the pitfalls of not looking after them. Its authors are experienced professionals in intellectual law who are well versed in meeting and helping creative people to define, protect, and develop their ideas.

And if we can help to ensure that a reasonable share of the benefits from new products and services go to reward the people who created them, we may bring forward even more good ideas and may all enjoy the better lifestyle they offer.

Robin Webb
Director of Innovation
UK Intellectual Property Office

Many of us have an inventive idea within us but lack the information needed to protect it and to gain its deserved rewards. All too often inventors fall prey to cowboys who give them misinformation and turn them over like a proverbial turkey.

Our society depends on creativity and must acknowledge, help and reward the people who provide it. They are amazing people and they have the ability to change all our lives, both commercially and socially. UK plc is good at inventing but appalling when it comes to looking after its inventors and inventions. Frustratingly in this country we spend more money on art than on invention. As they say, art is pleasure, invention is treasure, and this nation has got to recognise that. If it can spend a fortune on dead sheep and formaldehyde, then it can spend a bit more of that money on inventors whose ideas represent our future.

Society must guide you so your invention doesn't get stolen. It must help you record the invention. No one will pay you for just an idea, but they may pay you for that official piece of paper which shows you have an idea with some rights attached to it. That official piece of paper also gives you the chance of a day in court to defend yourself against the sharks. But remember that to be an inventor you need an ego the size of a truck and have to be prepared for a rough ride. Invention is frequently one per cent inspiration and 99 per cent litigation.

I am very pleased to add my name to this book. It is a great step into meeting the need to educate inventors and their facilitators on how to secure that all-important official piece of paper. It aims to guide you in making sure that the inventive idea gets official protection to provide a firm basis for a successful product bringing respect, rewards, and recognition.

Read, enjoy, and learn from this book, and keep it by you to refresh and encourage you through all your innovation efforts.

May all your dreams be patentable.

Trevor Baylis, OBE

Introduction

Have you always thought you might be the next Thomas Edison or perhaps another Danielle Steele? Has your company recently developed a bold new corporate logo or eye-catching trade mark? Perhaps you're thinking of a new concept in software, one that can revolutionise the entire manufacturing process. Or maybe you've just dreamed up the latest in 'latest things' – something to rival the zippy little scooters flying around your neighbourhood.

If so, you've come to the right place because having the great idea, creating the magnificent work of art, or coming up with the next fad is only the first step to cashing in on your creativity and hard work. Next up is protecting your intellectual property.

But, obviously, you know that. You've been enticed to pick up this book (and buy it, we hope) by a bunch of words that make up intellectual property rights: patents, registered designs, trade marks, and copyright. We're guessing you want to find out more about these matters. Well, you're about to find out everything you need to know (but were afraid to even think about). You're entering the exciting world of intellectual property rights (IPRs). Well, maybe the term *exciting* is pushing the envelope a bit, but we try to make it as painless as possible – Welcome to the World of Intellectual Property! We'll try to make your visit as pleasant and enlightening as we can.

About This Book

The book you now hold in your hands explains, in layman's terms, the basic nature, function, and application of intellectual property (IP) rights, including how you can acquire those rights, wield them effectively against your competitors, or exploit them lucratively through licensing agreements and other rewarding schemes.

To make this book effective for anyone interested in intellectual property, each of the main types of IP protection – patents, registered designs, trade marks, and copyright – is covered in its own complete part.

After checking out the information presented in each part, you'll have a solid grasp of the processes involved in acquiring, registering, maintaining, and protecting the intellectual property rights due to you and/or your company. You can then make informed decisions and speak confidently with the IP attorneys and other experts you meet along the way. And you'll have the tools and knowledge to take care of much of the work involved in the various research and registration processes.

However, this book is no substitute for legal advice from a specialised professional. When you deal with intellectual property and IP rights, you face many complex legal issues. Remember that there's only one definite answer to any legal question. 'It depends.' So make sure that you have a competent IP attorney to guide you through what can be a legal monster.

Conventions Used in This Book

We use the following conventions throughout the text to make things consistent and easy to understand.

- ✓ New terms appear in *italic*, closely followed by an easy-to-understand definition.
- ✓ **Bold** highlights the action parts of the numbered steps.
- ✓ Actual trade marks and service marks will appear in all caps when they're used as such, in keeping with legal usage.
- ✓ Sidebars, containing text enclosed in a shaded grey box, include information that's interesting to know but not necessarily critical to your understanding of the chapter or section topic.
- ✓ We regularly use the abbreviation IP to refer to intellectual property.
- ✓ Throughout the book, we provide *estimates* of fees you may run into in your quest to sew up your intellectual property. Fees are paid to the UK Intellectual Property Office once a year. Some charges can be substantial. The fee estimates we give are based on the most recent published fee schedule at the time of writing. Failure to pay the full applicable fee can result in a missed deadline and lapse of your application, patent, registered design, or trade mark registration. Always check the current fee schedule on the UK-IPO website before sending a payment.
- ✓ When we use the term *you*, we're, of course, referring to you the reader. But for those tasks, jobs, and other assorted legal hoops where we advise you to consult an IP attorney – and there are many of them – *you* often refers to both you and your support team, which may include one or more of these handy attorneys.

Foolish Assumptions

In order to channel the sea of IP information into a single book that's helpful to you, we make a few assumptions about you, the reader. See whether one or more of these shoes fit:

- ✓ You've a penchant for entrepreneurial adventure.
- ✓ You're running a business. Even the smallest commercial enterprise, such as an ice cream van, can benefit by making intelligent use of IP – creating an inspiring business name, for example.
- ✓ You're a budding or accomplished sculptor, painter, playwright, choreographer, musician, or songwriter, or you're involved in some other type of artistic activity.
- ✓ You're a writer, publisher, or computer programmer, or you're in another profession that takes advantage of the products of your creative mind.
- ✓ You're a scientist, engineer, or an inventor.
- ✓ You were born on a day ending in the letter y.
- ✓ You're a student who's considering a career in the field of IP law.
- ✓ You're a business lawyer, an executive, or are in middle management and wish to understand certain aspects of IP rights.

If we've hit the mark with any of the previous descriptions, this book is for you.

How This Book Is Organised

Patents, Registered Designs, Trade Marks & Copyright For Dummies is organised so that you can easily access the information that you need. We've organised the material into six parts, each with several chapters related to a common theme. We now give you a preview of coming attractions with a brief statement about each section. Projector, please.

Part I: Covering Your Assets: Intellectual Property Basics

Part I talks about intellectual property and briefly describes how patents, registered designs, trade marks, copyright, trade secrets, and other IP tools protect your IP assets. We also include the basics of dealing with the experts, such as IP attorneys, and UK-IPO examiners.

Part II: Patenting Your Product

Part II deals with perhaps the most complex type of IP protection – the patent. Here, we explore what types of inventions qualify for a patent and whether you should patent your invention based on costs and other considerations.

We show you how to better your odds of getting your patent by doing a search to see whether your invention is really new. We then explain, in detail, how to go about getting that patent – getting professional help, preparing your patent application, following up on your paperwork, and dealing with the patent examiner.

Throughout Part II, we also show you how to protect your invention during that perilous period when your application is active (and somewhat public) but not yet protected by a patent. All that for the price of admission!

Part III: Knowing Your Copyright

Part III talks about the wide variety of creative works, from symphonies to software, that are protected by copyright. And we give you some good news and bad news. The good news is that you may already have exclusive rights to some of your works; you just need to make sure to keep them. The bad news is that if you created something original while employed by someone else, that person may have exclusive rights. But we help you manoeuvre that maze here in Part III. We also look at the world of designs, which can encompass anything from a block of chocolate, or new design for wallpaper patterns, right through to the distinctive shape of an item of furniture, or your latest sculpture. We delve deeper into what can be protected by a registered design and help you to decide whether to file. Would a registered design be a useful addition to your IP portfolio? Hopefully Part III provides the answer, and of course the ins and outs of how to go about doing so.

Part IV: Making Your Mark: Protecting Your Brand Identity

Part IV gives you the lowdown on trade marks and service marks – basically, the process of putting an exclusive brand on your goods and services. We define the various types of marks (such as trade marks and service marks), show what makes a good mark (and what should be avoided), and talk about how a good brand name, logo, or product name can give you a leg up on the competition. We also show you how to search to make sure that your mark is new and how to register and use your trade mark or service mark.

Part V: Exploiting and Enforcing Your IP Rights

Part V gets into what you can do after you've acquired your UK patent, registered design, trade mark, or copyright. We tell you how to protect your IP overseas, how to employ your IP to the greatest possible advantage to make some money, and how (and when) to go after those who infringe your rights – the baddies.

Part VI: The Part of Tens

The icing on your IP cake, the Part of Tens contains valuable information that you absolutely need in convenient top-ten packaging. What kind of valuable info, you ask? Good question. Here's a good answer: Things not to do in a patent application, frequently asked copyright questions, blunders to avoid when selecting a business name, and some great IP resources. The Appendix has a sample Patent application for you to peruse.

Icons Used in This Book



The bull's eye marks tips and tricks that you can put to use to make your life easier while you're protecting and profiting by your IP.



This icon highlights something you need to keep in mind while working on your patent, registered design, trade mark, or copyright.



The Warning icon alerts you to common mistakes that can trip you up and to other factors that may prove hazardous to your market image or your financial or legal health.



This icon tells you that the info is a bit more complex than most of the fine and fascinating points we raise throughout the book. Although technical information is still interesting, you can skip it if you want and not miss out on any need-to-know advice.

Where to Go from Here

One good thing (of the many good things) about a *For Dummies* book is that you don't need to read it from beginning to end to access the information you need. This book is designed to let you get in and get out, only focusing on the information you need. Simply turn to the part, chapter, or section that contains the info you want to know. Only interested in creating a catchy new product name? Turn to Chapter 15. Want the scoop on copyright? Turn to Part III. It's easy – you won't need a compass to get around. Of course, you can read the entire book (and truthfully, we'd be thrilled if you did).

We do suggest that, if you have questions about which IP tool can best meet your needs, you read Chapter 1, which provides an overview of the main IP components. After that, let the index at the back and table of contents at the front of the book be your guide. And then just follow the signs, which in this case consist of headings and those handy little icons.

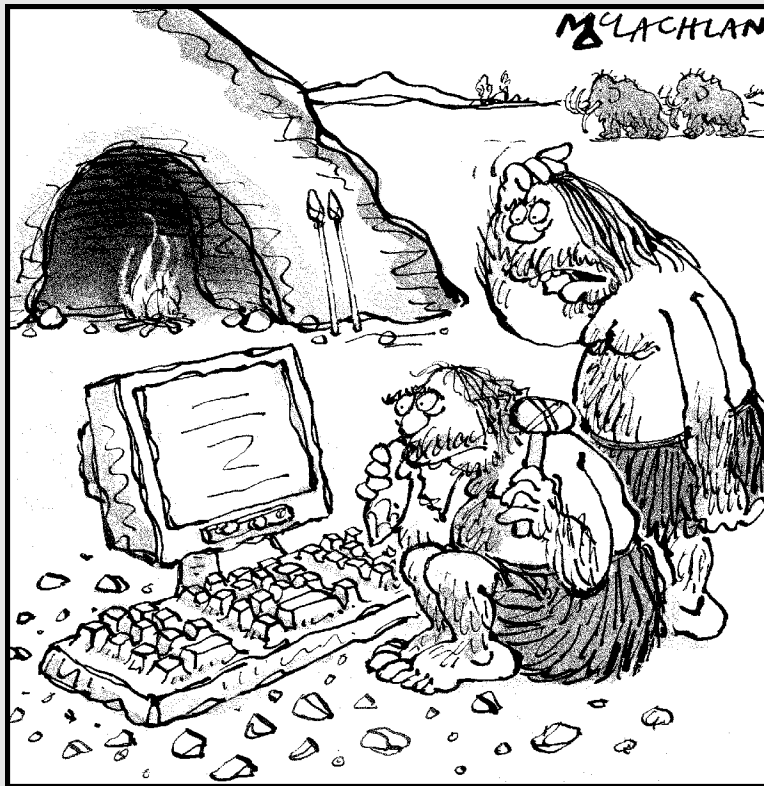
A final thought. HM Treasury requested an independent review of the IP framework in the UK, the results of which launched in late 2006. A chap called Andrew Gowers conducted the review, and here's an inspiring extract from that very report:

'For many citizens, Intellectual Property is an obscure and distant domain – its laws shrouded in jargon and technical mystery, its applications relevant only to a specialist audience. And yet IP is everywhere. Even a simple coffee jar relies on a range of IP rights – from patents to copyright, designs to trade marks.'

'In the modern world, knowledge capital, more than physical capital, drives the UK economy. Against the backdrop of the increasing importance of ideas, IP rights, which protect their value, are more vital than ever.'

Part I

Covering Your Assets: Intellectual Property Basics



'Well, you've certainly got something there,
but I've no idea what it is either.'

In this part . . .

If you're currently reading this page, you probably have an invention, a creative work, a trade mark, or some other piece of intellectual property that you want to guard against all the copycats out there. Well, you've come to the right place. In this part, we give you an overview of intellectual property (IP) in all its glory and tell you why protecting these assets is important. We map out each IP instrument – patents, designs, copyright, and trade marks – showing how they each protect a different type of IP asset. We also talk about ways to treat your IP as a trade secret, by restricting access to information, using confidentiality agreements, and taking advantage of other tools at your disposal. And we top things off with info on hiring an IP attorney (when, why, and how), working effectively with them, and estimating how much the whole process can set you back.