



**НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ
ПОЛТАВСЬКА ПОЛІТЕХНІКА
ІМЕНІ ЮРІЯ КОНДРАТЮКА**

ЗБІРНИК МАТЕРІАЛІВ

**76-ї НАУКОВОЇ КОНФЕРЕНЦІЇ ПРОФЕСОРІВ,
ВИКЛАДАЧІВ, НАУКОВИХ ПРАЦІВНИКІВ,
АСПІРАНТІВ ТА СТУДЕНТІВ УНІВЕРСИТЕТУ**

ТОМ 1

14 травня – 23 травня 2024 р.

PROTECTION OF INTELLECTUAL PROPERTY IN UNITED KINGDOM

The UK legal system provides a high level of intellectual property rights protection and enforcement mechanisms that are comparable to those available in the United States. The UK is a member of the World Intellectual Property Organization (WIPO). It is also a member of the major intellectual property protection agreements: the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Universal Copyright Convention, the Geneva Phonograms Convention, and the Patent Cooperation Treaty.

The UK stopped being a Member State of the European Union on 31 January 2020, and the “transition period” governed by the Withdrawal Agreement expired on 31 December 2020. Upon the expiry of the transition period the UK extracted from each EU-wide right a UK right of the same scope. The extracted rights are now treated as national UK rights. Renewal fees are payable to the relevant UK office, and the rights are enforceable in the courts in the UK as national rights. For national intellectual property rights covering the UK, there was little change to the existing systems of protection and enforcement upon the expiry of the transition period.

In the UK depending on the nature of your intellectual property, it will fall into one of a number of different categories and can be broken down as: patents; copyright; designs – registered and unregistered; trademarks; trade secrets.

Patents are the most commonly sought form of intellectual property protection for commercialising university research. For an invention or idea to be eligible for a patent, the claimed invention should in the opinion of a patent examiner, satisfy three criteria: a) it should be novel; b) it should involve an inventive step; and c) it should have industrial application. If all three are met, then the idea is considered to be an invention and a patent will be granted.

They grant inventors exclusive rights to their inventions for up to 20 years, preventing unauthorized use. To qualify for a patent, an invention must be novel, involve an inventive step, and have industrial application. This monopoly allows inventors time to commercialize their inventions and recoup investments. The novelty test is stringent, requiring uniqueness not previously disclosed to the public. If an invention meets these criteria, a patent is granted, providing legal protection against unauthorized usage.

Copyright protection arises automatically when works are recorded in writing or some other form. Unlike trademarks, designs and patents, copyright in the UK cannot currently be registered (so there is no central register and no fee requirement). Copyright arises automatically in the UK as soon as certain requirements are met,

including the need for the work to be written down or recorded. It is best practice to mark original work with the copyright symbol ©, the name of the author/creator, and the date of creation – not least so (recognising that there is no register) third parties are put on notice that the work is protected by copyright and can trace the copyright owner.

A trademark can be registered if it distinguishes goods or services and can be clearly represented. It must not lack distinctive character or solely describe characteristics of the goods or services, though acquired distinctiveness through use can be demonstrated. Registered trademarks can include words, colors, shapes, and non-traditional marks like sounds, though the latter is challenging to register. Registration can be done with the UK IPO or through international systems like the Madrid system. Trademarks are registered for specific goods and services listed in the Nice classification system. The trademark registration symbol ® should only be used in the UK after a valid UK registration has been obtained. The TM symbol can be used to indicate a trademark before an application is filed or while it is pending. This applies to use on products or packaging, as well as on a website directed at the UK.

Designs can protect the appearance, shape, configuration or decoration of the whole or part of a product. In the UK, designs can be protected through registered or unregistered rights. Registered designs are monopolies enforceable without copying and last 25 years. Unregistered design rights (UDR) protect original shapes and configurations for up to 15 years from recording or making the design available for sale or hire. Supplementary unregistered designs protect new and individual designs for three years from public availability. Before registration, a clearance search is advisable.

Since January 2021, EU registered designs are no longer valid in the UK.

The Trade Secrets Directive, implemented in the UK through the Trade Secrets Regulation, aims to protect undisclosed business information from unlawful acquisition, use, and disclosure. It standardizes laws and remedies across EU member states, complementing existing common law. Previously, confidential information was protected through case law. To claim a breach of confidence, one must prove that the information is confidential, shared under an obligation of confidence, and used or disclosed without authorization to the detriment of the owner. The Regulations redefine trade secrets as information that is secret, has commercial value because it is secret, and has been subject to reasonable steps to maintain secrecy by the lawful controller.

References

1. *A guide to intellectual property*. URL: <https://www.burges-salmon.com/news-and-insight/legal-updates/a-guide-to-intellectual-property-rights-in-the-uk>.
2. *Bae R. Protecting Intellectual Property*. 2003. URL: <https://www.trade.gov/country-commercial-guides/united-kingdom-protecting-intellectual-property>.
3. *Intellectual property and your work*. URL: <https://www.gov.uk/intellectual-property-an-overview>.