



Aalto University

Introduction to Intellectual Property Rights

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Different types of IP

<https://oami.europa.eu/knowledge/course/view.php?id=1738>

**Legal
right**

What for?

How?

Patents

New inventions

Application and
examination

Utility
models

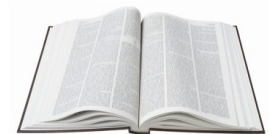
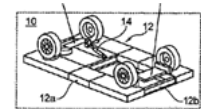
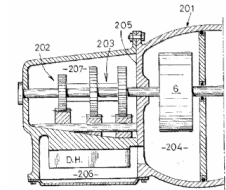
New inventions

Application and
registration

Copyright

Original creative or
artistic forms

Exists
automatically



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Different types of IP

Legal
right

What for?

How?

Trade
marks

identification of
products or

Use and/or
registration

Google™

Registered
designs

External
appearance

Registration



Trade
secrets

Valuable
information not
known to the public

Reasonable
efforts to keep
secret



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Intellectual Property (IP) Legislation and Agreements

Legislation defines the scope of intellectual property rights, when they are born and to whom/to what entity

IP rights give the author the right to deny others from using of his /hers exclusive right

Intellectual property legislation is contractual. Agreements define how IP rights can be used. In research projects Aalto agrees on the IP rights to results and data.

IP can be sold, licensed or inherited.

Intellectual Property that does not have to be registered

Copyright

Related rights (performers, producers, broadcasters rights)

Sui generis database right

Unregistered trademark TM

Unregistered Community Design

Trade secrets

Intellectual Property that has to be registered

Patents

Utility Models

Design Right (national) (also called Design Patent in USA and China)

Registered Community Design

Registered trademark

Company name

Domain name

Protection of new design against copying

Design right protects new design, for example a new animated character can be protected.

Registration of a design right provides an exclusive right, others may not use the design without the consent of the design right owner

Design right requires that design is new and has individual character

Individual character means that the overall impression of the design differs sufficiently from the overall impression of design already made available to the public

Trademark

- Trademark is a distinctive sign used to indicate the source of a product and to distinguish products of one trader from another in the market

Registration gives the exclusive right to use mark as a symbol for goods or services

- Requirement for registration is that the trademark is distinctive

Trademark

Trademark can be word or a figure, slogan, letters, graphic design, or combination of these

Trademark can the form of a package or product for example the Coca-Cola bottle

Trademark can be a tune, for example the Nokia Tune

Trademark

International Classification of Goods and Services Nice Agreement 45 classes, Goods 1-34, Services 35-45

<http://www.wipo.int/classifications/nice/en/>

TMView global trade mark information

<https://www.tmdn.org/tmview/welcome>

Trademark

The Apple mark can be registered as a distinctive mark in class 9 that includes computers, but could not be registered for class 29 that includes preserved , frozen , dried and cooked fruit, in that class it would not be distinctive.

Trademark



You can use the circled R mark indicating a registered trademark only for registered marks.

You can use TM for unregistered marks that are used as a trademark.

An unregistered trademark can also be established by long and successful use, much harder to defend than a registered trademark.

Trademark

Can be registered nationally, for example in Finland

Can be registered with one application to whole EU

**International registration under Madrid Agreement,
requires first EU or national registration.**

www.oami.europa.eu

www.prh.fi

http://www.wipo.int/madrid/en/how_madrid_works.html

Trademark

Protection starts from the date of filing an application and protection last 10 years (if application accepted)

Other IPR have limited term, a trademark is forever, as long as renewal is done and fee is paid every 10 years.

In order to remain distinctive a trademark has to be defended against unauthorised use by competitors, other companies offering products or services

Trademark can be diluted for example "jacuzzi", generic

Trademark protection may be renewed

Forever Trademark is the legal base of of a brand

Coca Cola was first registered as a trademark in 1893 and has valid registrations globally for their trademark portfolio



Copyright

Copyright does not need to be registered. It automatically exists when a work is created. It protects any type of original, creative expression, including literature, art, drama, music, photographs, recordings and broadcasts

In addition to copyright, the Copyright Act protects also related rights of performing artists, producers, broadcasters and photographers.

Producers, broadcasters can be legal entities

Copyright and performer's right are born to a natural person



Art University Copyright Advice
**Learn Copyright
In Two Minutes**



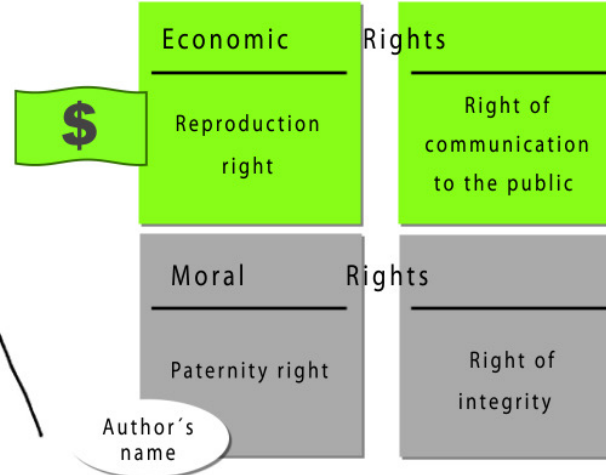
Author
=
Natural person



Economic and Moral Rights



Art University Copyright Advice
**Learn Copyright
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Exception rules

In EU there are exception rules that allow use for example for non-commercial scientific uses, these are defined in the Infosoc Directive and implemented in national Copyright legislation.

Exception rules allow for private use , to depict buildings and artwork permanently placed in public places, art in exhibition catalogues.

Name of the author and the source have to be mentioned and right of integrity respected

Copyright exceptions in Finnish Copyright Act

For thesis or scientific articles it is allowed to publish, also electronically, pictures, if they illustrate the scientific text. There has to be a link to the text, the artwork on photo has to be discussed and analyzed in the text. Citations can be used according to good scientific practise. Always mention the source and all authors according to good scientific practise.

Notice that if there is an agreement between the university library / or researchers and provider of a database that agreement has to be followed and that can prevent certain uses for example electronic use.

13 b (3.3.2023/263) Reproduction of works for text and data mining

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14 a § (3.3.2023/263) Using works to illustrate teaching

If the extended collective license or other license, which covers the use of a work necessary for teaching activities, is not available or easily accessible at all, the published work may be made available to the public in teaching activities and copies may be made of it in teaching activities, provided that, the use of the work takes place in a situation intended for a certain limited circle of people or in a protected electronic environment. What is stipulated in this section regarding making the work available to the public and the production of the copy cannot be deviated from by agreement.

Copyright period of protection

Protection starts from the moment of creation and last the lifetime of the author plus 70 years (USA, EU) from the year the author died

Gives a longer protection period than Registered Design Right, therefore important for design classics

If there are several authors protection from the year the last surviving author died

Berne Convention minimum 50 years from the year author dies

Originality only requirement for copyright protection

Protection is provided by Copyright Act as soon as the work is original enough to rise above the threshold of originality

No registration is needed to achieve protection

The Berne Convention prohibits registration as a requirement for protection

Copyright can be registered in some countries for example USA and China

Copyright protects original form

Protection of original form, not the idea, information or subject matter

Court of Justice of the European Union originality criterion

- 1. the creation is the author's own original creation;**
- 2. the creation reflects author's personality;**
- 3. the author, in conjunction with the creation of their work, has been able to express their creative ability by making free and creative choices and thus stamping their personal touch on the work.**

Kalle Kultala: Noottikriisi 1961 original TN 2013:3



A

This image is not licensed under Creative Commons license. Photo

Kalle Kultala
15.1.2024

Photographs protected

In addition to copyright protection, the Finnish Copyright Act also protects all photographs, also those lacking originality with a related right, photographers right that lasts for 50 years from the year the photo was taken.

The above photograph by photographer Kalle Kultala had originality above the work threshold and is protected as a work, that is for the duration of lifetime of author + 70 years,

Copyright Council statement 2013:3

http://www.minedu.fi/export/sites/default/OPM/Tekijaenoikeus/tekijaenoikeusneuvosto/tekijaenoikeusneuvoston_lausunnot/2013/TN_2013-3.pdf

Supreme Court of Norway 27.6.2012

**Supreme Court of Norway
27.6.2012, Trumf chair
infringes Peter Opsvik
copyright to Tripp Trapp chair
, copyright licensed to AS:
Stokke**



Supreme Court of Finland KKO 1979 II 64



- Kalervo Ojutkangas photo was used as starting point



- Pekka Viherä painting new original work , not infringing

New original work

According to Finnish Copyright Act 4 § 2, if you make a new independent original work, based on a previous work protected by copyright, that use is allowed and not infringing on the previous work.

The Finnish Ministry of Education and Culture has a Copyright Council that gives opinions on the interpretation of Copyright law. Copyright Council opinion TN 2014:17 states that the use of a photograph by Maija Louekari to create a pattern for a Marimekko fabric "Hetkiä", was not infringing (see next slide)

http://www.minedu.fi/export/sites/default/OPM/Tekijaenoikeus/tekijaenoikeusneuvosto/tekijaenoikeusneuvoston_lausunnot/2014/TN_2014-17_anon.pdf

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http://www.minedu.fi/export/sites/default/OPM/Tekijaenoikeus/tekijaenoikeusneuvosto/tekijaenoikeusneuvoston_lausunnot/2014/TN_2014-17_anon.pdf

Läpi piirretty peitepiirros, ote, punainen



Aluskuva ja peitepiirros yhdis



Supreme Court of Finland KKO 1988: 82 Krystyna Rudzinsky original work left, infringing work copying original features of Rudzinskys work right



Original work or infringing?

http://yle.fi/uutiset/expert_clears_marimekko_of_new_plagiarism_suspicions/6759213

Designer

Teresa

Moorhouse:

Marimekko

"Isoisän puutarha" fabric



Copyright and Design Right

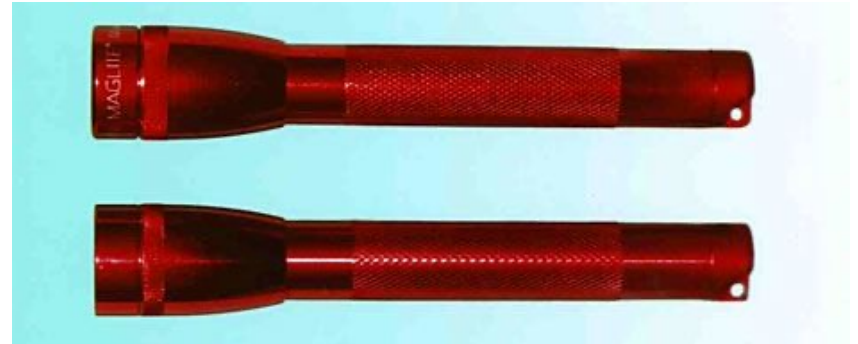
Directive on the Legal Protection of Designs (Article 17) and the Regulation on Community Designs (Article 96) that each individual Member State shall decide to what extent, and on what terms, copyright protection is to be given to objects which also enjoy protection of their design, and what originality is required for this protection.

In Finland originality threshold for design is high.

Originality threshold for design

In Germany traditionally "museum test" if a work is fit for a Design Museum collection, it gets copyright protection

Sweden originality threshold low
Maglite lamp (above) was original, design
above work threshold, IKEA (below)
infringed copyright
Supreme Court 9.4.2009 Sweden



Copyright Council decisions

Ministry of Education Copyright Council decisions

TN 2010:10 1976 The Savoy-vase designed by Alvar Aalto and Aino Marsio in 1936 is protected by copyright Copyright protection for design classics important

TN 2006:9 furniture design classics by for example Eero Aarnio pastilli chair were protected by copyright.

TN 2007:7. Ergonomic berry picking device was not original enough to get copyright protection

Intellectual Property Agreements

Intellectual Property can be transferred with an agreement

Ownership of certain intellectual property can be transferred or rights to use can be granted with license

The rights transferred have to be clearly defined

Also in employment contracts IPR transfer should be clearly defined

Finland does not have a work for hire clause in Copyright Act, but the employer is deemed to have the right to a normal use of employees work

IP Agreement

The right transferred can be an exclusive right – author can no longer use his/her work

or a non-exclusive right – possibility to grant rights to several users

or sole right- author can still use the work but cannot transfer right to a third party

According to Copyright Act the right to alter and the right to further transfer to third parties must be specifically mentioned in the agreement

Choosing an Intellectual Property strategy

All decisions about registering, enforcement or agreements concerning intellectual property protection should be done according to IP strategy. Below questions from Intellectual Property Strategy (The MIT Press Essential Knowledge series) by John Palfrey

1. What the IP reference group for your company ?

2: What is the role of your company in the IP reference group?

3: What registered and unregistered IP does the Company have ?

4: How does your company derive income from IP ?

5: What registered or unregistered IP does your company need ?

6: Specify mismatch between IP needed and IP owned or licensed in

7: IP investment needed to match IP needed into IP already at hand?

8 :What companies or entities are the threats to your company ?

More information

<http://copyright.aalto.fi/en/>

<https://www.prh.fi/en/index.html>

<https://euipo.europa.eu/ohimportal/en>

https://www.iprhelpdesk.eu/SME_Corner

[Fi-domain name search | Traficom](#)

<https://creativecommons.org/>

Questions? maria.rehbinder@aalto.fi