



Chapter 4

Intellectual Property Rights

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What is Intellectual Property

Intellectual Property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, and images, that are protected by various legal rights. Intellectual property rights grant exclusive ownership and control over these intangible assets, allowing creators or owners to benefit from their work and prevent others from unauthorized use or exploitation.



MyIPO in Malaysia

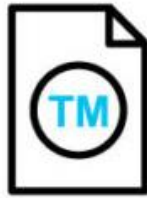


Types of Intellectual Property (IP)

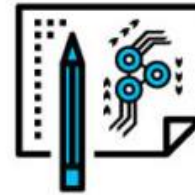
TYPES OF INTELLECTUAL PROPERTY



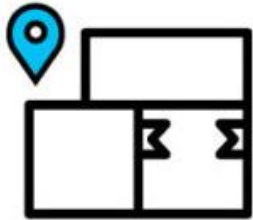
Copyrights



Trademarks



Industrial Designs



Geographic Indications



Patents



Confidential Information

Intellectual Property: Copyright

Copyright is a legal concept that grants exclusive rights to creators or owners of original works of authorship. It provides protection for various forms of creative expression, including literature, art, music, drama, and more. With copyright protection, creators have the exclusive right to reproduce, distribute, display, perform, and modify their works.

This means that others generally require permission to use or reproduce copyrighted material. Copyright is automatically granted upon the creation of an original work, although registration can provide additional benefits.

The duration of copyright varies, typically lasting for the author's lifetime plus a certain number of years. Copyright infringement occurs when unauthorized use or reproduction of copyrighted material takes place, and copyright owners have legal recourse to enforce their rights.



Copyright in Malaysia

In Malaysia, copyright protection is provided under the Copyright Act 1987. The Act recognizes several types of works eligible for copyright protection, including:

Literary Works: This category includes novels, poems, articles, computer programs, databases, and other written or typed works.

Artistic Works: Artistic works cover various visual creations, such as paintings, drawings, sculptures, photographs, maps, charts, and diagrams.

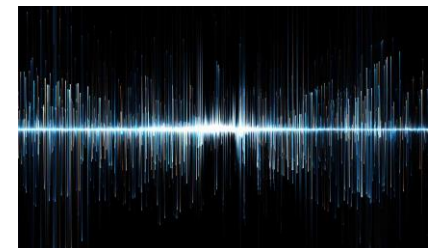
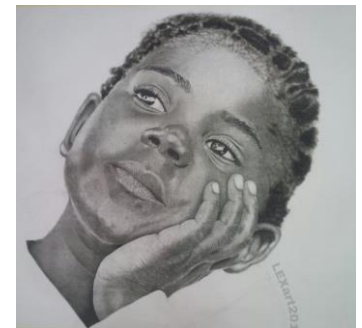
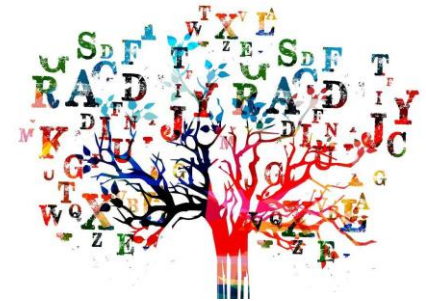
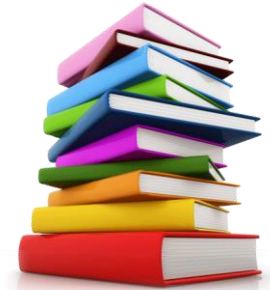
Musical Works: Musical works encompass compositions with or without lyrics, including songs, instrumental pieces, and musical scores.

Films: Films encompass cinematographic works, including motion pictures, videos, documentaries, and animations.

Sound Recordings: Sound recordings include audio recordings, such as songs, music albums, spoken-word recordings, and other audio content.

Broadcasts: Broadcasts cover radio and television broadcasts, including live broadcasts, pre-recorded programs, and satellite transmissions.

Published Editions: Published editions refer to the typographical arrangement of published works, such as books, journals, newspapers, and magazines.



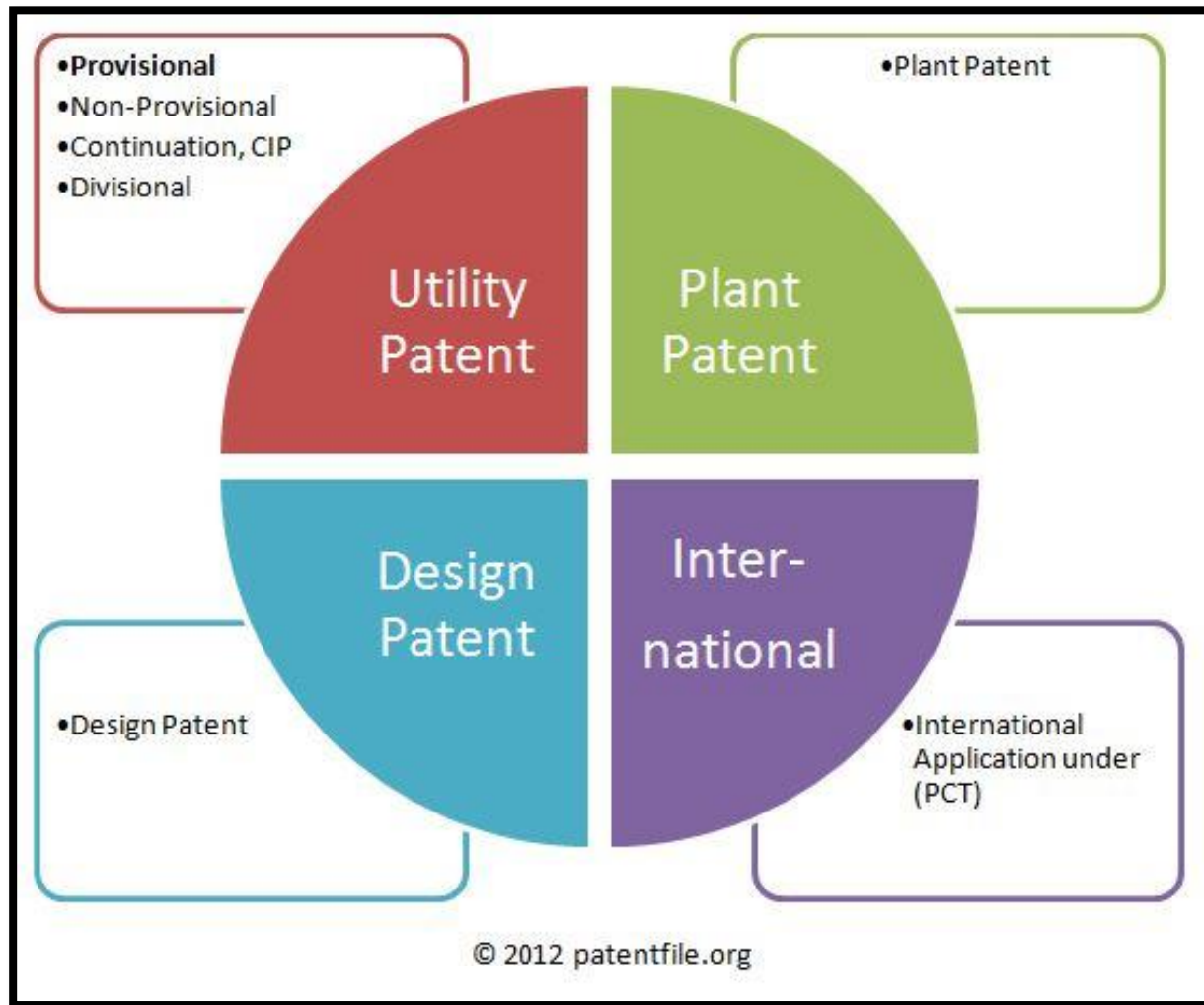
Intellectual Property: Patents

Patents: Protect inventions, including processes, machines products, or compositions of matter.

Patents grant inventors exclusive rights to prevent others from making, using, selling, or importing their invention for a limited period.

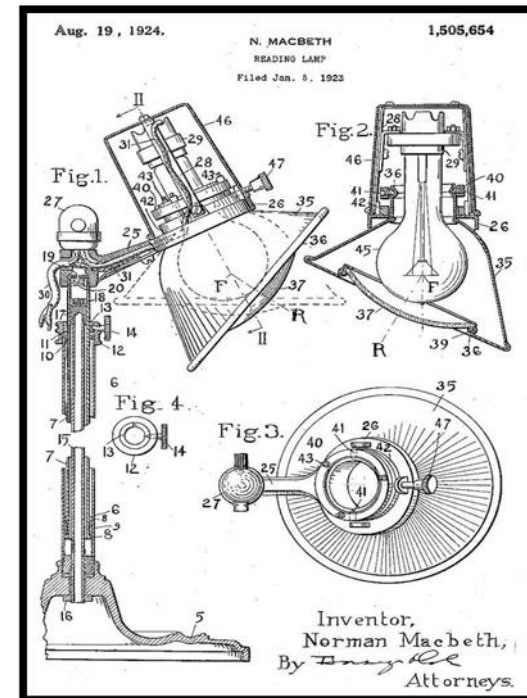
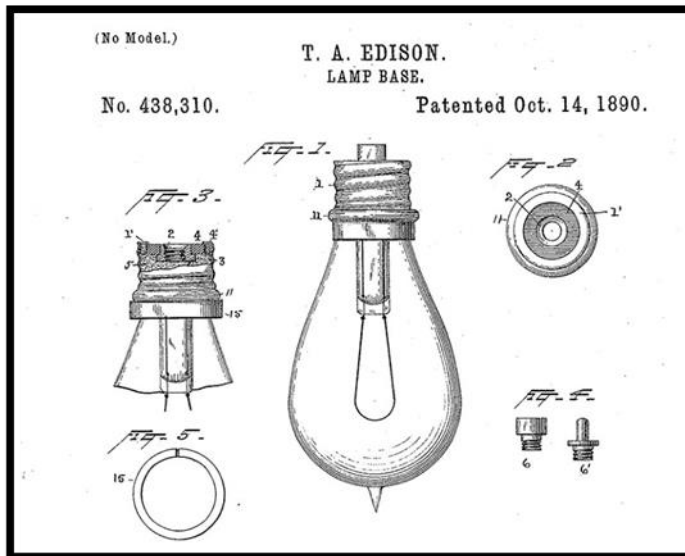
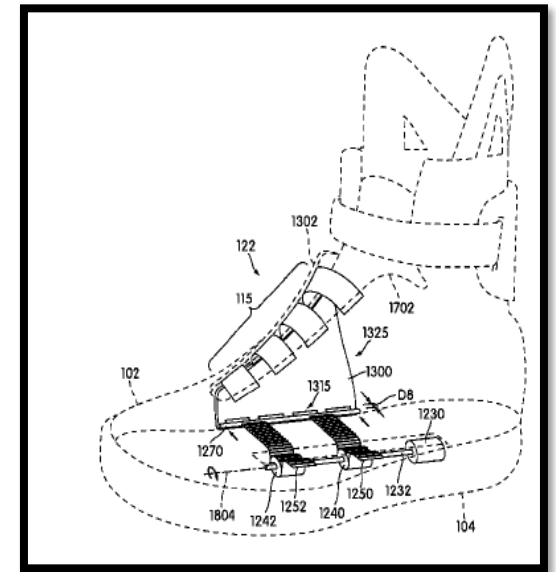


Types Patents



Utility Patents

Utility patents are the most common type of patent and cover new and useful processes, machines, articles of manufacture, or compositions of matter. They protect the functional aspects of an invention and provide exclusive rights to prevent others from making, using, selling, or importing the claimed invention. Utility patents are typically granted for a period of 20 years from the date of filing.



Design Patents

Design patents protect the ornamental or aesthetic appearance of a new, original, and ornamental design for an article of manufacture. They cover the non-functional, purely visual aspects of an invention. Design patents prevent others from creating or using a substantially similar design. Design patents are typically granted for a period of 15 years from the date of grant.

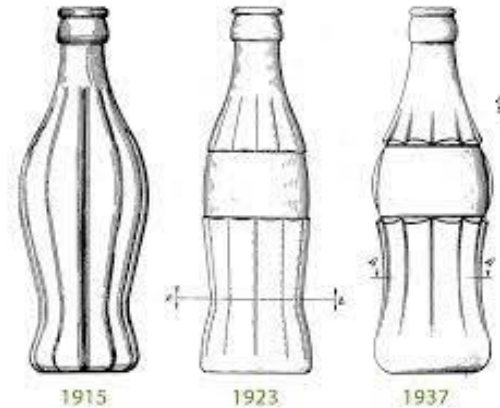
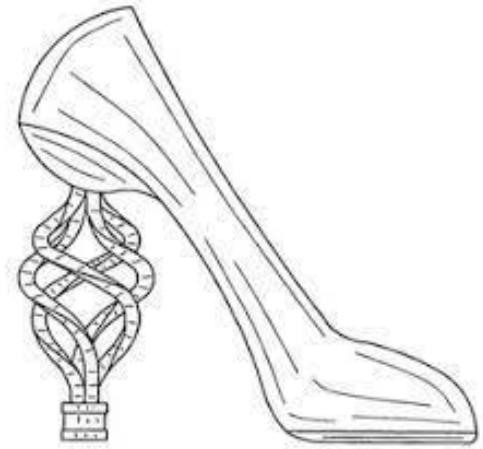
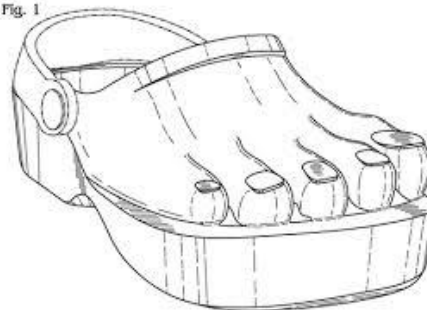


Fig. 1

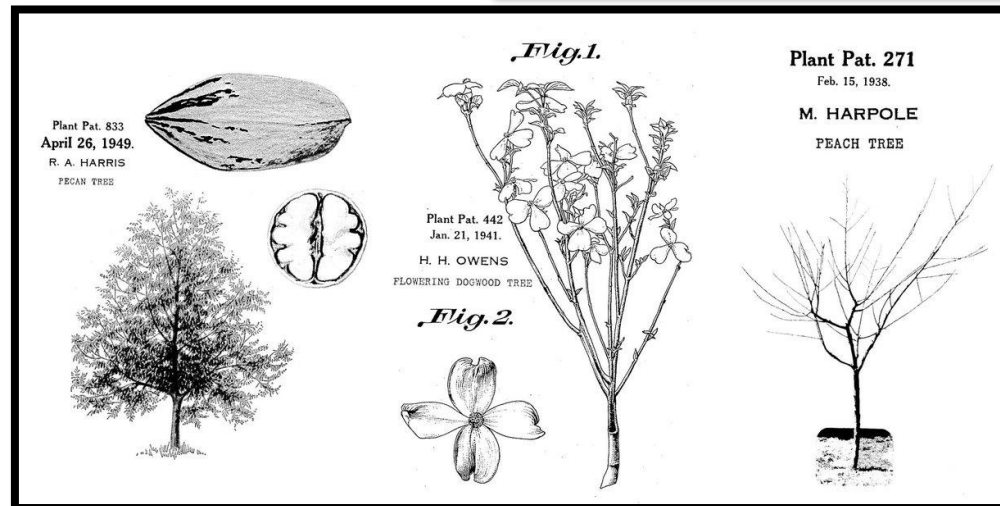
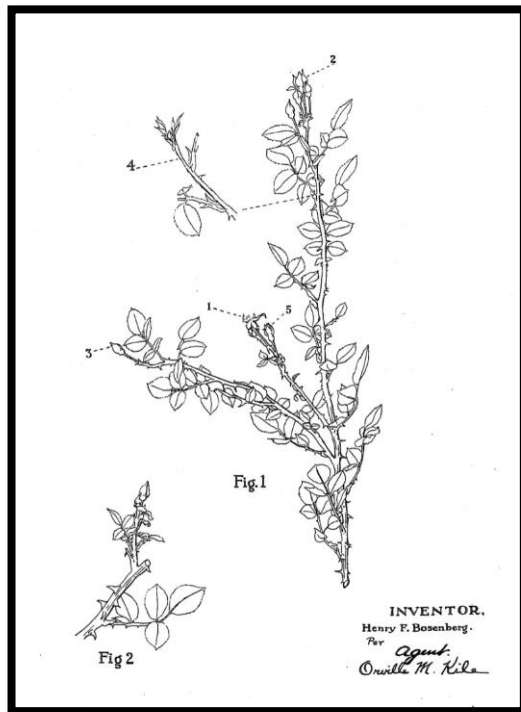
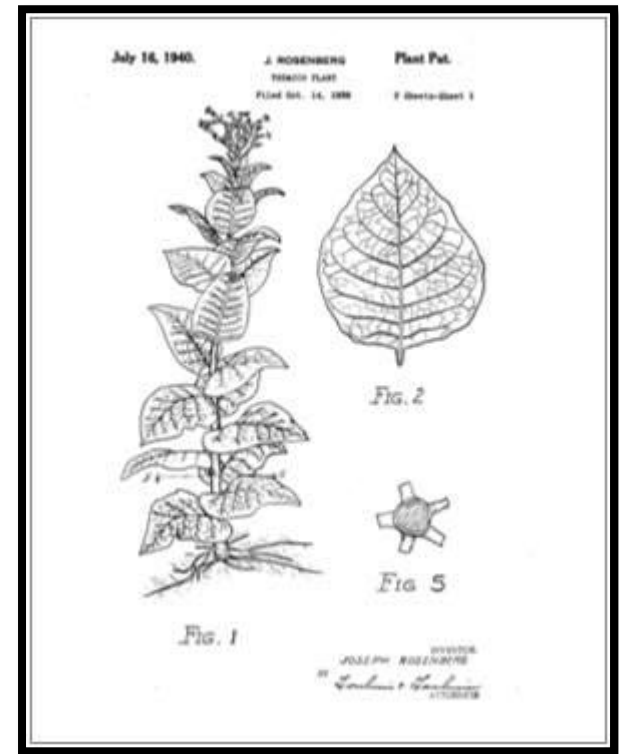


Learn the Differences Between Design and Utility Patents: Case US Patent

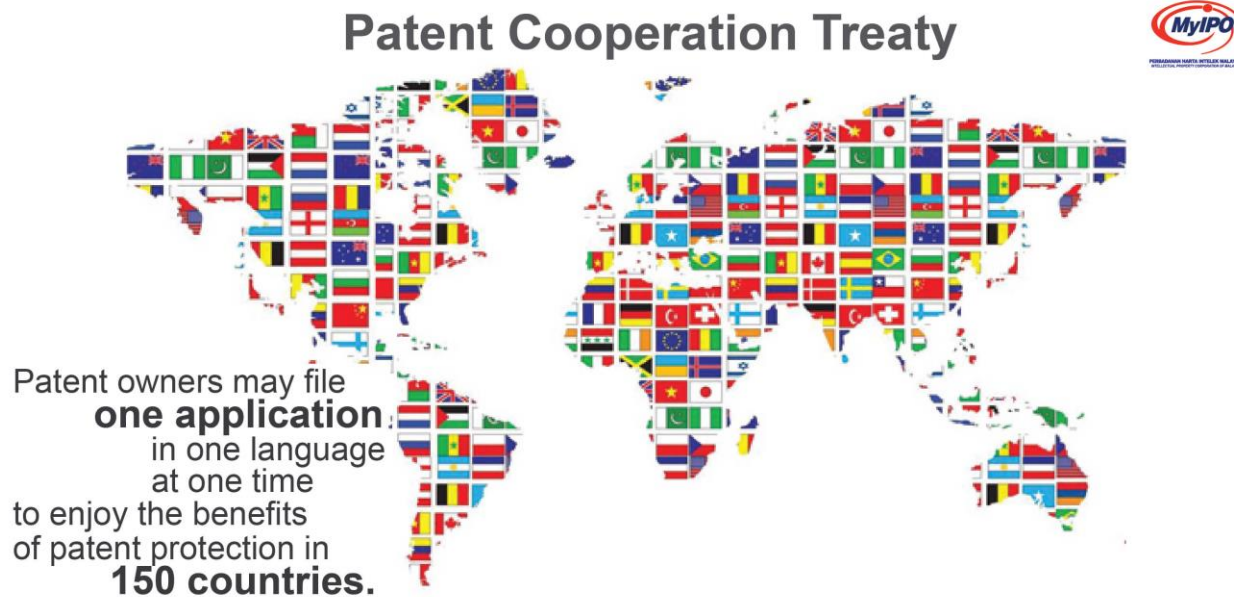


Plant Patents

Plant Patents: Plant patents are granted for new and distinct varieties of asexually reproduced plants. They protect the unique characteristics of the plant, such as its growth habit, flower color, or disease resistance. Plant patents allow the patent owner to exclude others from asexually reproducing, selling, or using the patented plant. Plant patents are typically granted for a period of 20 years from the filing date.



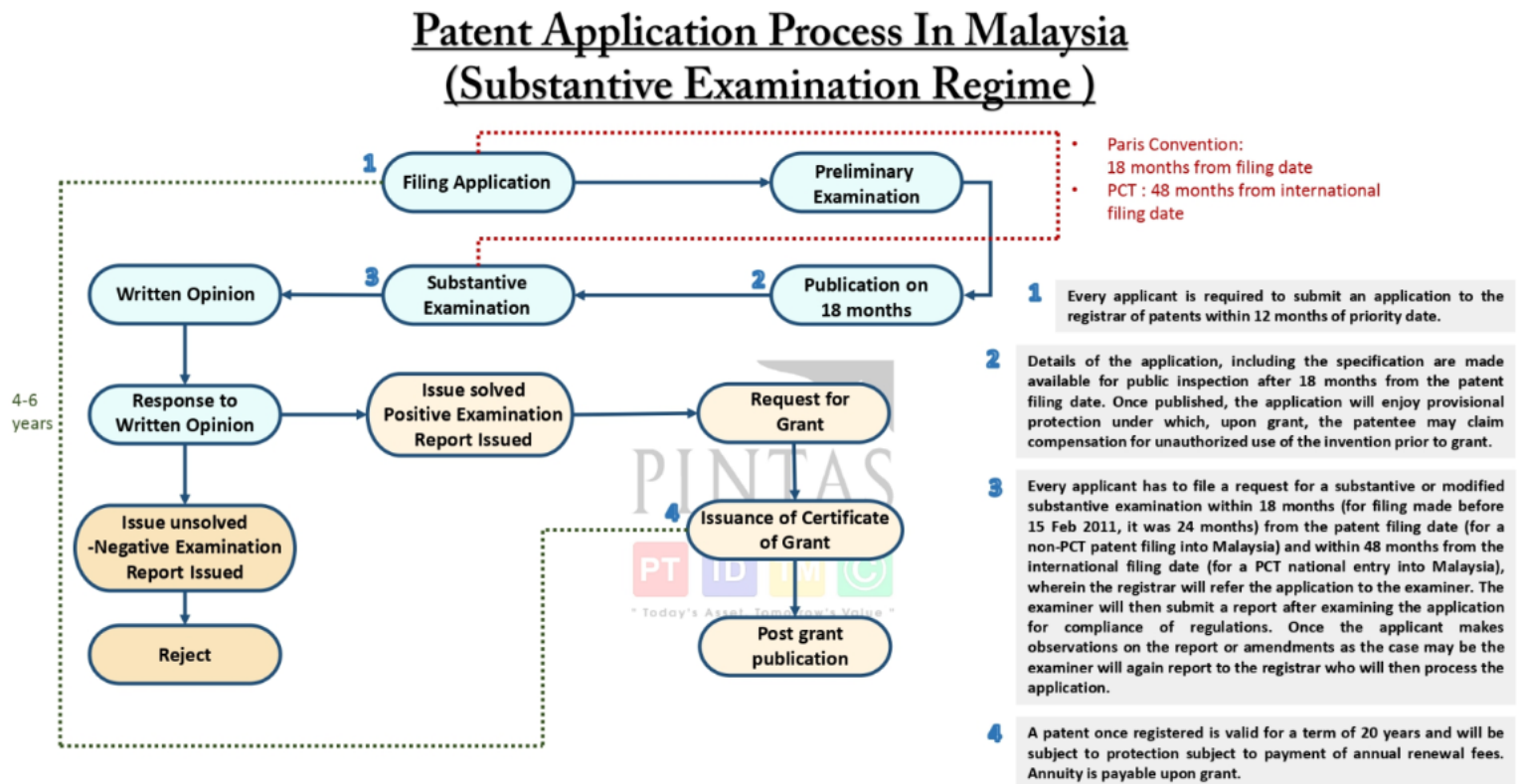
International application under the Patent Cooperation Treaty (PCT)



An international application under the Patent Cooperation Treaty (PCT) is a unified patent application that allows applicants to seek patent protection for an invention in multiple countries by filing a single application. The PCT is an international treaty that facilitates the filing of patent applications and provides a streamlined process for seeking patent protection globally.

Patent In Malaysia

In Malaysia, patents are protected and regulated by the Intellectual Property Corporation of Malaysia (MyIPO), which is responsible for administering and granting patents in the country.



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Intellectual Property: Trademark

A trademark is a distinct sign or symbol that represents and distinguishes the goods or services of one business from those of others. It can take the form of a logo, word, phrase, symbol, design, or combination thereof.

Trademarks serve as identifiers and help consumers recognize and associate specific qualities, reputation, and origin with a particular brand.

By registering a trademark, the owner obtains exclusive rights to use the mark in connection with the goods or services it represents, preventing others from using a similar mark that could cause confusion.

Trademark protection can be sought at the national or international level, and enforcement against unauthorized use or infringement is possible.

Overall, trademarks play a crucial role in building brand recognition, fostering consumer trust, and protecting the commercial identity of businesses.



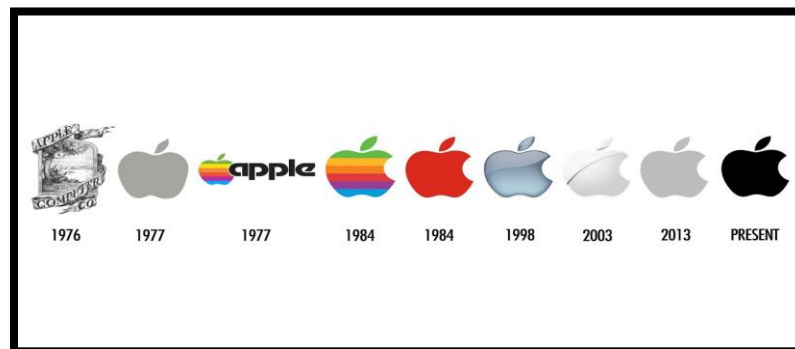
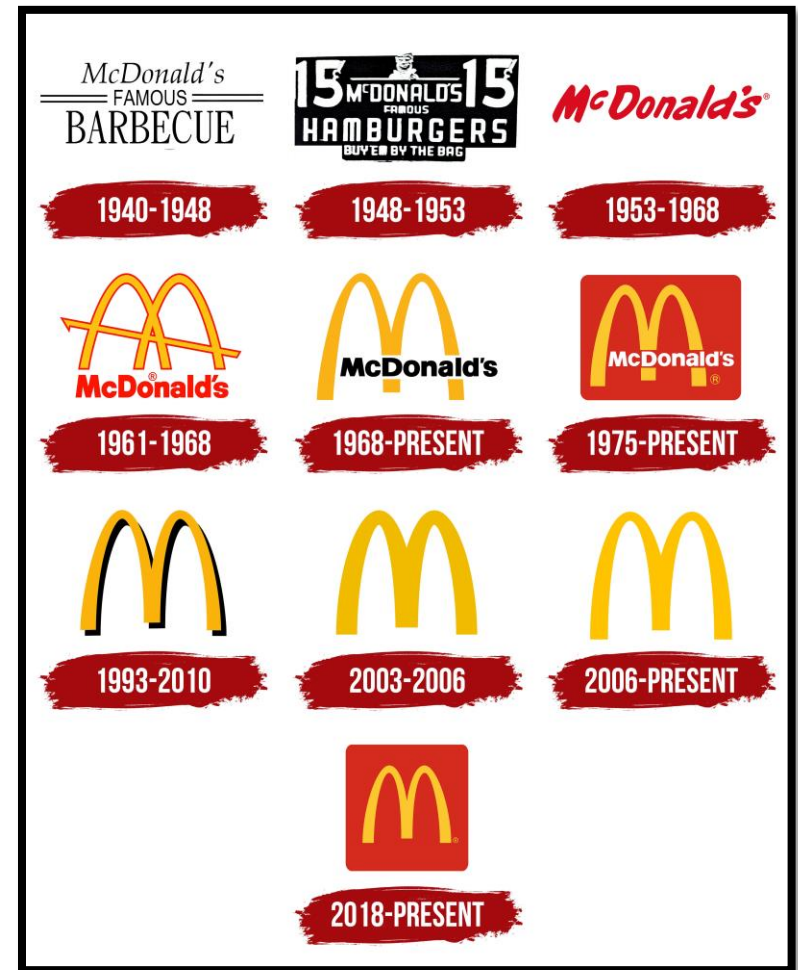
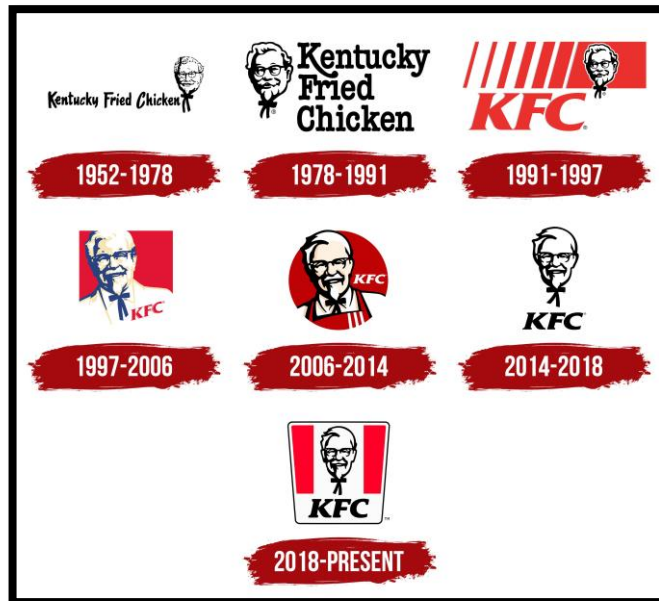
Types of trademarks

Word Mark: A word mark is a trademark that consists of a word or combination of words. Examples include brand names like "Nike" or "Apple."



Types of trademarks

Design Mark: A design mark is a trademark that incorporates a unique design, logo, or graphical element. It can be a stylized representation or an artistic creation that serves as a recognizable symbol of the brand. Examples include the Nike Swoosh or the Apple logo.



Types of trademarks

Slogan or Tagline: Slogans or taglines can also be registered as trademarks if they have distinctive qualities and are used to identify and promote a particular brand or business. Examples include "Just Do It" (Nike) or "Think Different" (Apple).



Types of trademarks

Sound Mark: A sound mark is a trademark that consists of a unique sound or musical jingle. It can be registered if it serves as a distinctive identifier of a particular brand. For example, the NBC chimes or the Intel jingle.



Types of trademarks

Color Mark: A color mark is a trademark that uses a specific color or combination of colors to identify and distinguish goods or services. To be registrable, the color must be used in a distinctive manner that consumers associate with a particular brand.



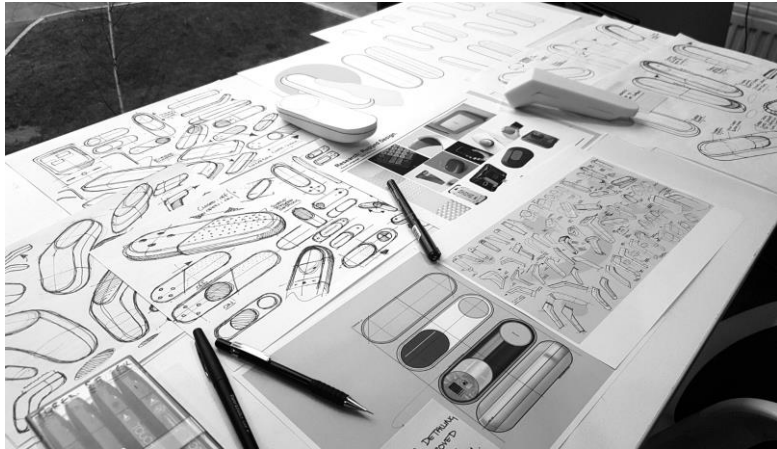
Types of trademarks

Trade Dress: Trade dress refers to the overall appearance and packaging of a product or its distinctive features that signify its source. It can include elements such as the shape, design, color scheme, or even the arrangement of elements on packaging. Trade dress can be registered as a trademark if it is non-functional and has acquired distinctiveness.



Intellectual Property: Industrial Designs

Industrial design refers to the process of creating visually appealing and functional designs for products. It involves the careful consideration of aesthetics, usability, and market appeal to enhance the overall experience of using a product. Industrial designers combine creativity, technical knowledge, and understanding of consumer preferences to develop unique and innovative designs. These designs not only differentiate products in the marketplace but also contribute to brand recognition and consumer loyalty. Industrial design encompasses a wide range of industries and products, from electronics and furniture to automobiles and packaging. It plays a vital role in shaping the visual identity and success of products, making them more desirable, user-friendly, and commercially viable.



Intellectual Property: Geographical Indication

Geographical indication (GI) is a form of intellectual property protection that identifies a product as originating from a specific geographical region.

It signifies that the product possesses certain qualities, characteristics, or reputation that are attributable to its geographical origin.

Types of GIs in ASEAN

Most GIs in ASEAN relates to the following categories:

- Agriculture
- Fisheries
- Craft
- Artisanal works



Sabah tea
(Malaysia)



Kampot pepper
(Cambodia)



Binh Thuan dragon
fruit (Vietnam)



Jepara carving
furniture (Indonesia)



Khao Hom Mali Thung Kula
Rong Hai rice (Thailand)



Chiang Rai Phulae
pineapple (Thailand)

Intellectual Property: Confidential Information

Confidential information refers to sensitive or proprietary data that is intended to be kept private and not disclosed to unauthorized parties. It includes any valuable business, technical, or personal information that, if revealed, could harm the owner's interests or compromise their competitive advantage.

Confidential information can encompass a wide range of data, such as trade secrets, customer lists, financial information, research and development findings, manufacturing processes, marketing strategies, and employee records. Safeguarding confidential information is crucial for businesses, as its unauthorized disclosure can lead to financial losses, loss of reputation, legal disputes, or loss of market position.

Companies typically implement various measures, including confidentiality agreements, restricted access controls, encryption, and internal policies, to protect their confidential information and maintain its secrecy.



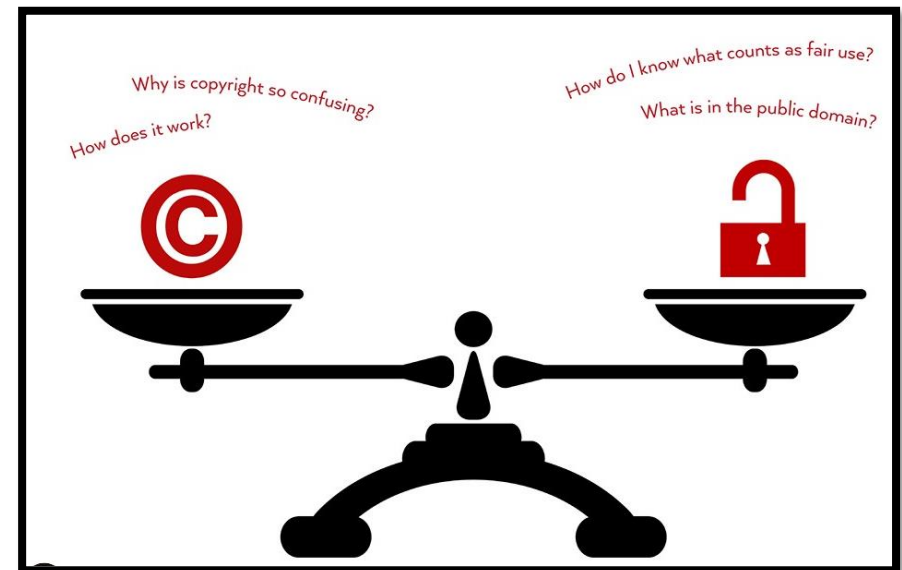
Fair use

Fair use is a legal principle that allows for the limited use of copyrighted material without seeking permission from the copyright holder. It provides flexibility in situations where the use of copyrighted works serves the public interest, such as for purposes of criticism, commentary, news reporting, teaching, scholarship, or research.

Fair use is determined by considering factors such as the purpose and character of the use, the nature of the copyrighted work, the amount used, and the potential impact on the market value of the original work.

It serves as a balance between copyright protection and the freedom of expression and allows for the reasonable and transformative use of copyrighted material under certain circumstances.

However, fair use is not an absolute right, and each case is evaluated on its own merits, often requiring legal interpretation and analysis.



Fair use

Criticism and Commentary: Using copyrighted material to provide critique, analysis, or commentary on the original work. This can include quoting passages from a book in a book review or using clips from a film for critical analysis.

News Reporting: Using copyrighted material in news reporting, such as displaying an image or playing a video clip as part of a news story.





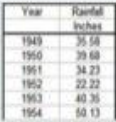
Teaching and Education: Using copyrighted material for educational purposes in classrooms, including displaying or distributing portions of copyrighted works to students for teaching, research, or study.

Parody and Satire: Creating parodies or satirical works that use elements of copyrighted material to comment on or mock the original work or its themes.

Transformative Works: Creating new works that substantially transform the original material, such as creating a collage, remix, or mashup that combines various copyrighted elements into a new and different work.



Fair use

	Type of Media	Permissible Amounts
	Motion media <i>e.g., movies, film clips, excerpts from television shows, etc.</i>	Up to 10% of the total OR three minutes... <i>whichever is less</i>
	Text material	Up to 10% of the total OR 1,000 words... <i>whichever is less</i>
	Music, lyrics, and music video	Up to 10% of the work BUT no more than 30 seconds of the music or lyrics from an individual musical work
	Illustrations or photographs	<ul style="list-style-type: none"> - No more than five images from one artist or photographer - No more than 10% OR 15 images from a collection... <i>whichever is less</i>
	Numerical data sets	Up to 10% OR 2,500 fields or cells from a copyrighted database or data table... <i>whichever is less</i>



Intellectual Property: Protection of software

The protection of software is primarily achieved through copyright law. In many countries, including Malaysia, software is considered a form of intellectual property and is automatically protected by copyright from the moment of its creation.

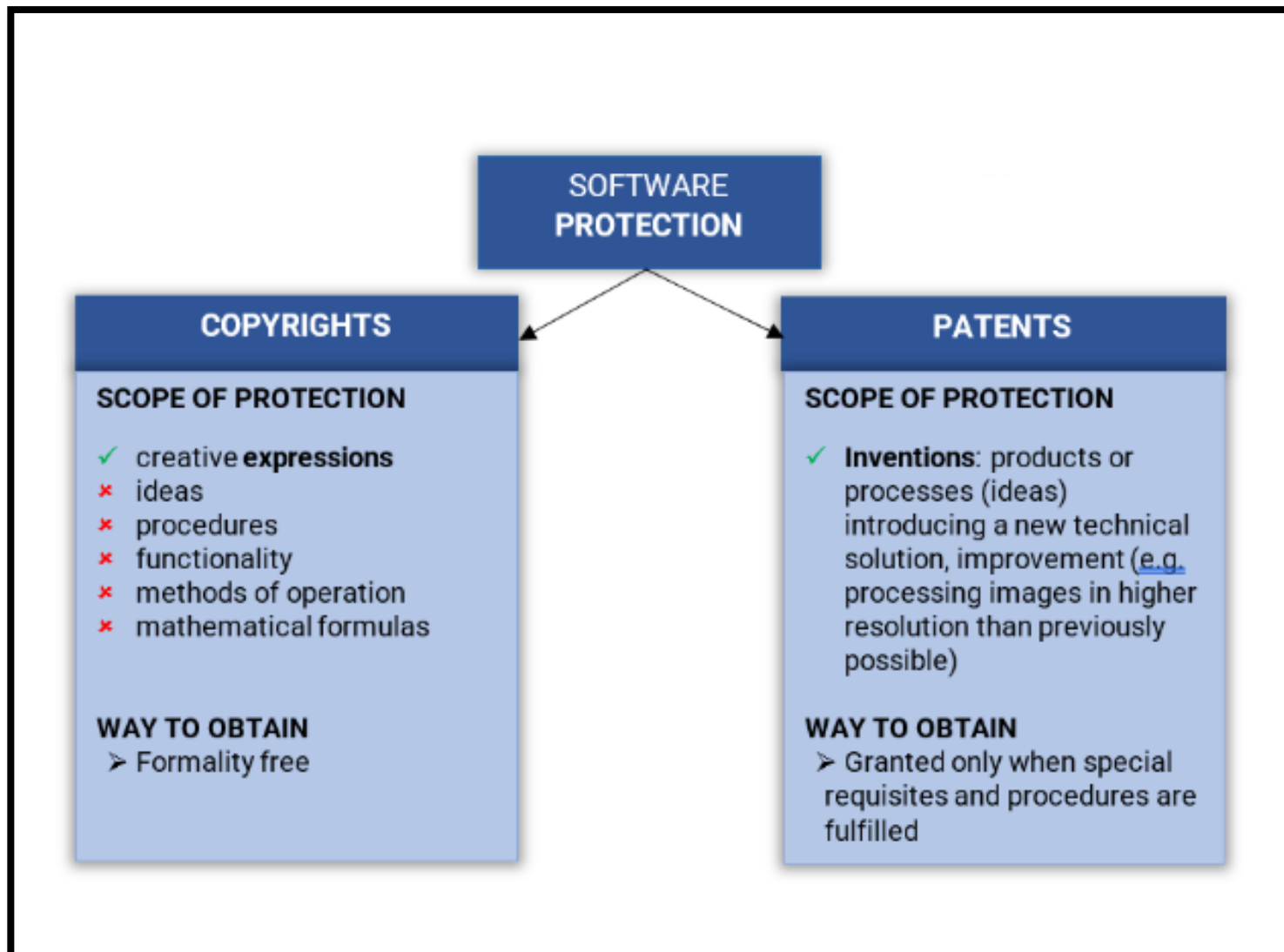
Copyright protection grants the creator of the software exclusive rights to reproduce, distribute, modify, and display the software.

To ensure stronger legal protection, software developers often register their copyright with the relevant intellectual property office.

Registering the copyright provides additional benefits, such as establishing a public record of ownership and facilitating enforcement actions in case of infringement.



Intellectual Property: Protection of software



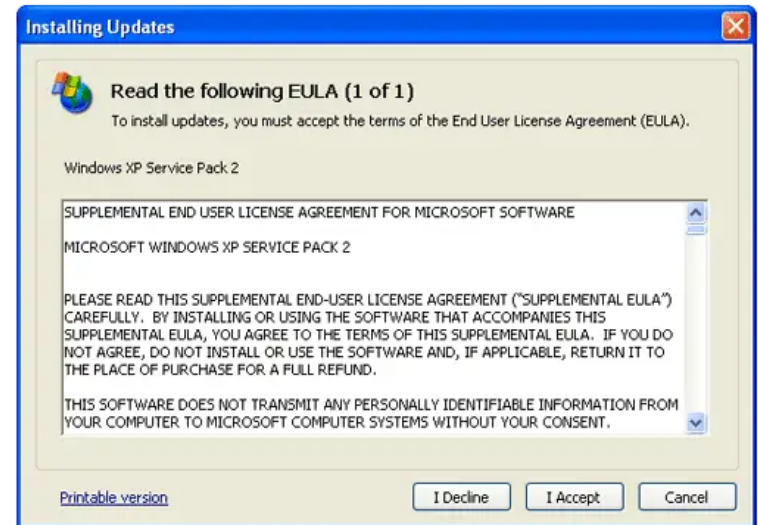
Intellectual Property: Protection of software

Trade Secrets: Keeping the software's underlying code and algorithms confidential as trade secrets can provide protection, as long as reasonable measures are taken to maintain secrecy.

Patents: In certain cases, software inventions that meet specific criteria may be eligible for patent protection. Patents grant exclusive rights to the inventor and can protect the underlying technology or innovative features of the software.

Licensing and End User Agreements: Software developers often use licensing agreements to set the terms and conditions under which users can access and use their software. These agreements can include restrictions on copying, distribution, reverse engineering, and other activities.

Digital Rights Management (DRM): DRM technologies are used to control access to and usage of software. They can include encryption, access controls, and licensing mechanisms that prevent unauthorized copying or use of the software.

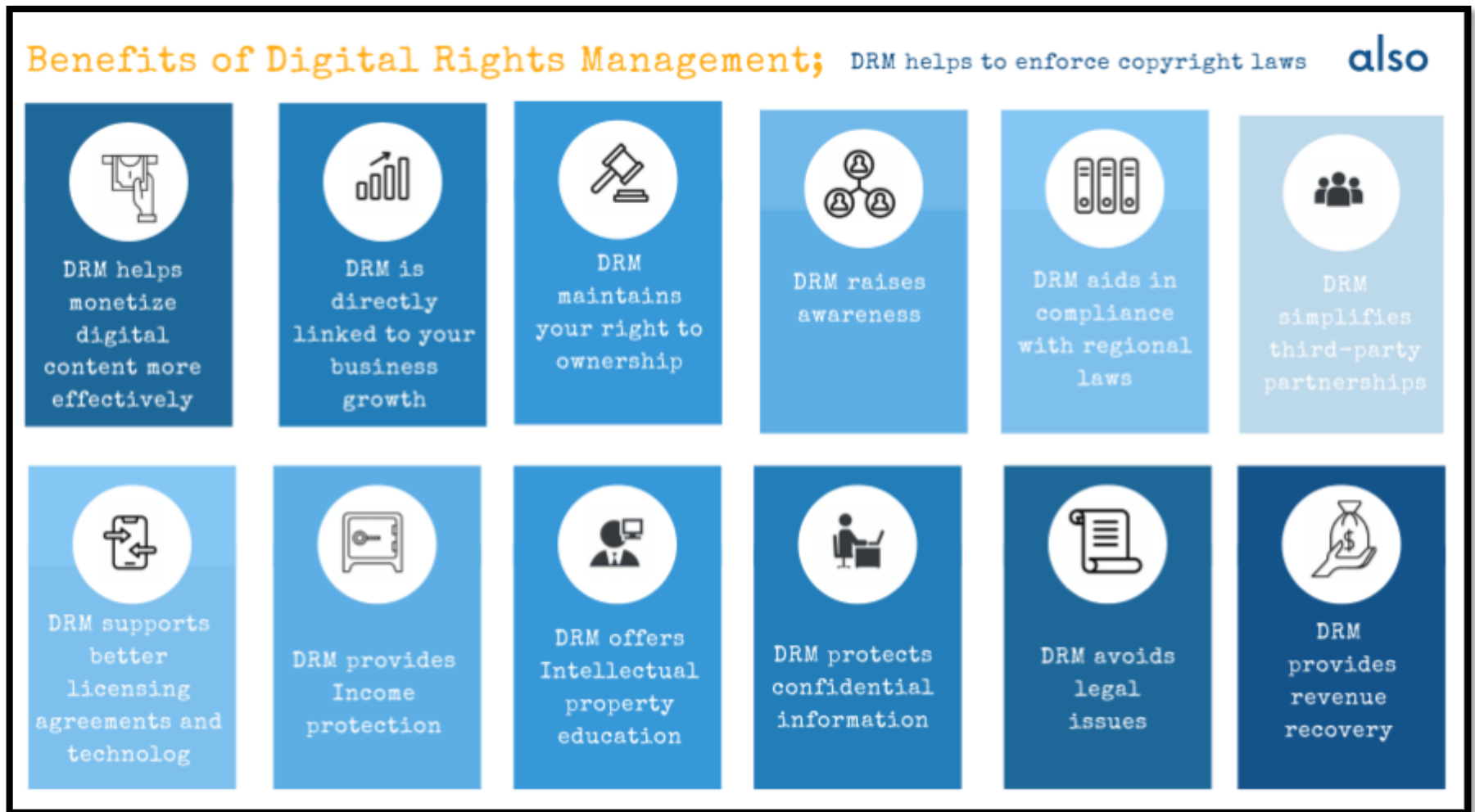


End-User License Agreement (EULA) example

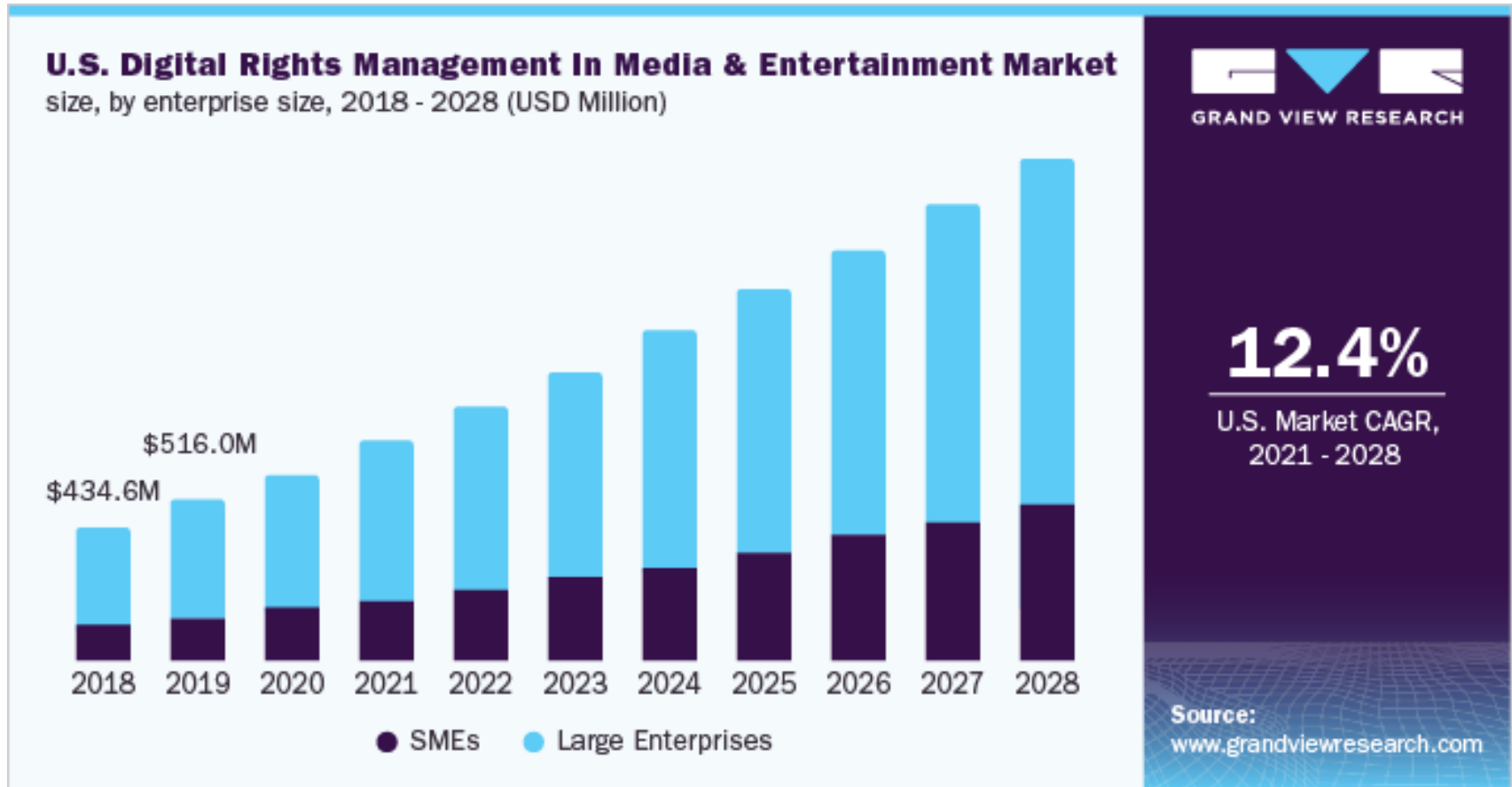


Click on **Microsoft Software License Terms** to open the End-User License Agreement

Intellectual Property: Protection of software



Intellectual Property: Protection of software



Intellectual Property: Open-Source Software

Open-source software refers to computer software that is freely available for use, modification, and distribution by anyone. The defining characteristic of open-source software is its open and transparent nature, which allows users to access and modify the source code underlying the software. Open-source software is typically developed and maintained by a community of contributors who collaborate to improve and enhance the software.

Open-source software licenses, such as the popular GNU General Public License (GPL) or MIT License, govern the terms and conditions of use, ensuring that the software remains open and accessible to all.



End