

Types of IPR

What are the different types of IPR?

Types of IP that protect different intellectual creations vary in requirements, conditions of grant, specific rights and obligations. The IP types are categorized as follows:

- **Patents** (see [Patents](#) [1]). Patents grant exclusive rights on inventions (whether products or processes) that are new, involve an inventive step (are “nonobvious”) and are susceptible to industrial application.
- **Utility models** (see [Utility models](#) [2]). Sometimes called “petty patents”, utility models offer protection on technical inventions with lower requirements than patents—notably a lower inventive step. The registration process is often significantly simpler, cheaper and faster than for patents. The term and scope of protection for utility models are lower than for patents.
- **Trademarks** (see [Trademarks](#) [3]). Trademarks provide exclusive rights to use a visually perceptible sign (e.g. words, letters, numerals, figurative elements or logos) or any combination of signs, that enables people to distinguish the goods or services of one undertaking from those of other undertakings (TRIPS, Article 15). The criterion to register a new trademark is the novelty of the sign.
- **Copyrights** (see [Copyright](#) [4]). Copyrights give exclusive rights to creators for their literary and artistic works. The types of works that can be protected by copyright include books, dramatic and choreographic works, musical compositions, cinematographic works, drawings and photographic works. In many countries software can also receive copyright protection. Copyright protection usually exists independently of any registration or prior examination.
- **Trade secrets** (see [Trade secrets](#) [5]). A trade secret designation protects any piece of knowledge (e.g. formula, pattern, device or compilation of information) which is not known to the public, provides the owner with an opportunity to obtain certain competitive advantages and is subject to reasonable efforts to keep it secret (TRIPS, Article 39(2), WTO, 1994).
- **Industrial designs** (see [Industrial design](#) [6]). Industrial design registration protects the ornamental or aesthetic aspect of an article. An industrial design must be new or original in order to be protected.
- **Combinations of types of IP** (see [Combined uses of intellectual property](#) [7]). Different types of IP rights may be used in a bundle to get legal protection for different elements of a single product .
- **Strategies other than IP** (see [Innovation without IP](#) [8]) . Alternatively, innovators may resort to other strategies such as secrecy, advance on market or discount pricing. However, the importance of innovation without IP is difficult to determine due to a lack of counterfactual experiences where IP systems do not exist.

How do the types of IPR relate to innovation?

- **Patents** (see [Patents](#) [1]). Patents encourage inventive activity by providing a temporary

period of exclusivity (monopoly) over inventions. Patents also contribute to innovation by allowing the diffusion of new knowledge through disclosure of inventions, facilitating the development of technology markets and, if such markets are developed, facilitating access to finance for innovation. Yet patents can also have drawbacks, for instance, if they block follow-on innovations, a critical factor if applied to research tools, or they can lead to opportunistic litigation and harmful costs that divert resources from innovation activities.

- **Utility models** (see [Utility models](#) [2]). These models offer a valuable tool for encouraging the development of not highly inventive innovations. They can be attractive for “catching-up” firms in different sectors and can help support “catching-up” phases of firms in developing and emerging countries. In practice, they offer a guarantee to businesses that their innovative activities will not be restrained subsequently by patents awarded to others. The challenge of utility models is not to grant protection to inventions that are just “state of the art”, which might not only restrain competition but also deter more significant inventions.
- **Trademarks** (see [Trademarks](#) [3]). Trademarks can encourage innovation by providing their owners with a means to differentiate new products and services including, e.g., in the services sector. They play a particularly important role in rewarding higher product quality. It is worth noting, however, that trademarks are not necessarily linked to novel products. Moreover, they may be used as a way to obtain protection while not disclosing information on inventions as would be required e.g. when innovators sought patent, utility model or design protection.
- **Industrial designs** (see [Industrial design](#) [6]). Industrial designs rights aim at incentivizing firms to create innovative designs and encourage creativity in industrial and manufacturing sectors.
- **Copyrights** (see [Copyright](#) [4]). Copyrights promote the creation of new works by giving authors control over the expressions of such works so they can profit from them. Copyright has become more important to innovation since the rise of software, but is also relevant to the new business opportunities for artistic creations that arise from information and communication technologies (ICTs) notably on the Internet.
- **Trade secrets** (see [Trade secrets](#) [5]). Trade secrets are a means for appropriating the returns of research investments, thus may serve as an incentive to invest in innovative activities. However, secrecy reduces access to such knowledge as a stimulant of innovation. Secrecy seems to be used more for process innovations, which can be implemented internally in firms, contrary to product innovation which are accessible to all buyers.

What are the relevant policy dimensions?

The different types of IP differ by the nature of the intangible asset they protect, therefore they are relevant for different sectors of activities (see [Fields of IP use](#) [9]) and different innovators (see [IP users](#) [10]). IP policies aimed at fostering innovation need to consider all types of IP to fully exploit the potential of IP for innovation. This will depend notably on the specific country context but also on particular conditions for innovation.

Summary: IP and Innovation

Table 1: Overview of different types of IP

| Patents | Utility models | Trademarks | Copyright | Geographical indications | Industrial design rights | Plant variety protection | Trade secrets |
|---|--|--|--|--|---|---|---|
| Description | | | | | | | |
| Patents grant their owner a set of rights of exclusivity over an invention (a product or process that is new, involves an inventive step and is susceptible to industrial application), as defined by the "claims" (i.e. a clear and concise definition of what the patent legally protects). | Utility models provide a second-tier patent system, offering a cheap, no-examination protection regime for technical inventions (Suthersanen, 2006). Differently from patents, <i>inventive step</i> is not a requirement for receiving protection, while <i>novelty</i> is a requirement; that is, inventions need to be at a level above the "state of the art". | Trademarks provide exclusive rights of a sign, design or expression. | Copyright gives exclusive rights to authors for their artistic creations. In most countries it provides legal protection for software. | GI is a name or sign used on some products that correspond to a specific geographical location or origin. | Industrial design rights protect the visual design of objects including shape, configuration or composition of pattern or colour, or combination of pattern and colour | Plant variety protection (PVP) grants rights over new plants that are novel and distinct from available varieties, display homogeneity, and have stable traits in that the plant remains true to type after repeated cycles of propagation ¹ | Trade secrets protect knowledge that is not known to the public, which confers economic benefits to its owners and is subject to reasonable efforts to maintain its secrecy. It is a weaker right in that, if it is independently duplicated by others, they can use the information for their own economic benefit. |
| Type of IP | | | | | | | |
| Application required | Application required | Application required | No application required, that is, granted "sui generis" | Application required | Application required and in some cases granted "sui generis" | Application required | No application required, that is, granted "sui generis". |
| Fields/sectors | | | | | | | |
| For technological inventions | For technological inventions | Trademarks cover manufacturing industries and services including, consumer and agricultural products (such as wine and fruits) | Copyright covers creative industries including software sector (although protection is weak) & entertainment. | GIs are mostly applied to food products such as cheese, wine, and champagne; it also applies in some countries to handicrafts. ² | These rights cover sectors where non-technological design innovations are valuable, such as consumer products, architectural and engineering services, computer and telecommunications, fashion and crafts (UK IPO, 2013) | PVP covers plant breeder industries. | Trade secrets broadly cover manufacturing and services sectors. They can also protect innovations that are not well covered by other types of IP (such as different types of specific business models). |
| Relation to innovation and relevance for development | | | | | | | |
| Patents provide IP to inventions with industrial applicability , as opposed to inventions designed solely around theoretical concepts and ideas. <i>They, therefore, cover potential future innovations.</i> However, technically speaking patents are not equivalent to innovation, because patents provide IP for inventions and these may be implemented or not, resulting in innovations. Not all patented inventions reach the | Utility models follow patents in this respect. The only major differences are the lower degree of novelty and boundaries with the "state of the art". The latter has impacts on the extent to which innovation is supported. It can be useful in contexts of development (see Box 1.1). | Trademarks do not directly protect inventions, but can offer contributions to innovation if brand recognition, for example, creates incentives to upgrade the quality of services. Moreover, service firms in emerging countries often represent an important share of economic activities, even though some often have low levels of productivity and | Copyright can play an important role to the extent that it rewards novel creations. In relation to the development of ICTs, in particular, it provides more opportunities for the diffusion of creations and arguably greater business opportunities. It is likely of importance also for development contexts, albeit with potential enforcement challenges constituting a major hindrance. | To the extent that it provides brand recognition, GIs can encourage innovation to strengthen or develop product quality. They can provide larger rewards by strengthening community involvement via IP potentially supporting traditional sectors (see section 1.5). | Industrial design rights provide IP to design that is above "state of the art". They are particularly useful for non-technological innovations in consumer products. They are possibly quite relevant for emerging economies with an advantage in traditional activities (e.g. furniture and clothing). | PVP is relevant for ensuring quality and investments in its specific field. Its relevance is linked to the importance of such sectors in development contexts. | Trade secrets are relevant to the extent that they effectively protect innovative business practices for wider groups of innovators (Lemley, 2008). They are often quicker and cheaper, as no registration is required, and thus can be useful for development contexts, although this is conditional on enforcement. |

Table 2 : Different types of IP and their impacts on innovation

| Patents | Utility models | Trademarks | Copyright | Geographical indications | Industrial design rights | Plant variety protection | Trade secrets |
|---|--|--|--|--|--|---|--|
| Incentives for inventions | | | | | | | |
| Yes, by providing ownership of future returns on successful innovations | Yes, by providing ownership rights for returns on incremental innovations and potentially serving as stepping stone for future patents | Yes, by providing ownership rights over brands associated with new products | Yes, by providing ownership rights of returns on novel creations. | Yes, by providing ownership rights for brands associated with quality improvements of protected products | Yes, by providing ownership rights of such non-technological innovations | Yes, by providing ownership rights over returns on novel plant varieties. | Yes, by providing ownership rights of returns on innovative business ideas and possibly also as incentives for the firm to perfect processes that might be eligible for future patent protection |
| Access to finance | | | | | | | |
| Yes, given ownership status and resolution of information asymmetries | Yes, given ownership status and resolution of information asymmetries, but less than for patents given the lower value | Yes, given ownership status | Yes, given ownership status, notably for software, movies and music | Yes, collective ownership of GI can facilitate access to finance for individual producers | Yes, given ownership status and resolution of information asymmetries | Yes, given ownership status and resolution of information asymmetries | Yes, given ownership status, but weaker protection status might lower opportunities |
| Access to knowledge and inventions | | | | | | | |
| Yes, disclosure requirement of patent applications provides access to knowledge, and licensing and/or selling of IP provides access to inventions | Yes, given disclosure requirement of utility model applications | Not fully, applications are awarded based on uniqueness alone, and trademarks are often used as alternatives to patents or utility models to avoid disclosure of information | Not fully, protection allows more public disclosure, except for software | Not fully, application rewarded for uniqueness | Yes, given disclosure particularly of registered design rights | Yes, given disclosure requirements of application | No, based on secrecy and often used as an alternative to other types of IP, notably patents, to obtain unlimited protection |
| International competitiveness and trade | | | | | | | |
| Yes, particularly for international patents (PCTs) or patents deposited in large markets (e.g. USPTO, EPO and JPO), but also constitutes a major asset abroad | Less relevant internationally, and mostly a tool for national, minor inventions | Yes, to the extent that international brands are a major asset on global markets. | Yes, particularly with regard to global digital and software industries | To a certain extent, given differential global recognition of GI | Yes. | Yes, it is critical for global players in the industry. | To a certain extent, as trade secrets are included in TRIPS and enjoy general legal protection in privacy and non-compete agreements, but enjoy only fragile protection, particularly abroad |
| Address information asymmetries regarding products | | | | | | | |
| Yes, patents can signal the quality of a company or invention and product novelty | To a certain extent, as a signal of quality of company | Yes, trademarks are a strong way of signalling product quality to consumers if competition authorities ensure no abuse | No | Yes, as a signal of product quality | No | Yes, signalling plant variety quality to users | To a certain extent, given the fragile nature of protection |

Reference

- WTO (1994), Agreement on Trade-Related Aspects of Intellectual Property Rights, Articles 15 and 39 (2), World Trade Organization, Geneva.
(http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm [11])

Source URL: <https://www.innovationpolicyplatform.org/content/types-ipr?topic-filters=12056>

Links

- [1] <https://www.innovationpolicyplatform.org/content/patents?topic-filters=8729>
- [2] <https://www.innovationpolicyplatform.org/content/utility-models?topic-filters=8896>
- [3] <https://www.innovationpolicyplatform.org/content/trademarks?topic-filters=8708>
- [4] <https://www.innovationpolicyplatform.org/content/copyright?topic-filters=8681>
- [5] <https://www.innovationpolicyplatform.org/content/trade-secrets?topic-filters=8784>
- [6] <https://www.innovationpolicyplatform.org/content/industrial-design?topic-filters=8615>
- [7] <https://www.innovationpolicyplatform.org/content/combined-uses-ip?topic-filters=8901>
- [8] <https://www.innovationpolicyplatform.org/content/innovation-without-ip?topic-filters=8866>
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