

copyright symbol © followed by the name of the copyright owner and year of publication. This is not essential for Berne Convention countries, but it is an advisable and simple step to take. In the United States there is an official register for copyright works, but copyright is not dependent on registration. However, United States law strongly encourages registration by providing additional benefits to copyright owners who register. It can be useful to be able to prove when you created your copyright material, for example if someone accuses you of copying their later work. Some people send themselves copies by registered post, which they leave unopened to be able to prove a date on which the work existed, or deposit their work with banks or solicitors.

For chocolate manufacturers, copyright is mostly used for protecting the text and graphics on pack, as well as marketing and advertising literature. It can be a valuable tool in tackling counterfeit goods. Chocolate manufacturers need to be aware of other people's copyright and make sure they do not infringe it. For example, adding music to your training or promotional video requires permission from the copyright owner of the music. When buying copyrighted material it is important to be clear exactly what rights you own. For example, you might purchase a painting to hang in your office reception area, but you may not necessarily own the right to reproduce the painting in publicity material. Similarly, when commissioning on-pack art work and photographs it is important to make sure you own or have licensed the rights you need to use the material and that you keep a record of any restrictions on further use. Damages of many millions of dollars have been awarded in some cases when copyright was not respected.

29.6 Contracts and agreements

Contracts are important tools for managing intellectual property. A contract is a “promise” or an “agreement” that is enforced or recognised by the law. Companies generally cannot work in isolation, they need to deal and co-operate with other companies and organisations. A good relationship clearly involves trust, for example between a manufacturer and a supplier, but legal contracts provide security and set out what each party has agreed to do or not to do. The law governing contracts varies from country to country, but contracts may be implied by the relationship between the two parties, they may be agreed orally or they may be agreed in writing. Agreeing a contract in writing is normally the best policy, as it avoids doubt and is easier to enforce than an oral contract.

A common contract is the confidential disclosure agreement (CDA), sometimes referred to as a non-disclosure agreement (NDA). These agreements are valuable when you want to disclose confidential information or trade secrets but need to make sure the information doesn't become public. For example, you may have developed a new chocolate product and would like to discuss with an equipment supplier what machines they would propose for its manufacture.

In order to obtain good advice you need to explain your product in some detail, and the supplier in turn needs to share technical information about their process equipment. A CDA allows you to have open and useful discussions, but gives some legal security that the information won't be passed on to competitors. The wording of a typical NDA is given on the UK Intellectual Property Office website (UK IPO, 2011a) but this is just an example and may not fit your specific circumstances, in particular it is written for English law.

Confidential disclosure agreements should be used with care. Once a secret has been made public you cannot get it back, and suing the other party for breaching the CDA may not provide you with much recompense and can be difficult to do in practice. It is important to find a good balance between sharing information with a business partner in order to work efficiently and keeping your secrets secure.

Written agreements can be used to prove that information has been passed under confidentiality. This can be important for patent applications, as the invention of the patent must not be disclosed to the public before the patent is filed and a competitor might try to invalidate your patent on the basis that you disclosed the invention to someone with no requirement for confidentiality. The safest policy is to file the patent before telling anyone else about it, but in practice you may need other parties to help test the idea or build prototypes before you can finish writing the patent. Consumer research is a particularly dangerous area. It may be possible to agree confidentiality with a small group of consumers, but large-scale quantitative tests, or tests where the consumer takes the product away with them would not normally maintain confidentiality, so the patent should be filed first.

There are a number of other common types of contract. "Trials Agreements" or "Development Agreements" may be used when two parties have the possibility of developing new intellectual property together. The agreement sets out who will own any new intellectual property generated. It is much easier to agree this in advance than to wait until the new discovery has been made and then start discussing who owns it.

Some speciality materials, particularly biological materials, are supplied under a Material Transfer Agreement (MTA). The MTA sets out how the materials may be used, for example by limiting the applications the sample can be put to or by preventing the receiving party from analysing the material. MTAs may also assign intellectual property rights in inventions made using these materials to the supplier.

"Licence agreements" allow others to use your intellectual property, typically for a fee. Licenses can be for registered rights such as patents, but also for confidential intellectual property such as trade secrets. The licence agreement sets out what the licensee is allowed to do and any terms and conditions applying to this use.

"Exclusivity agreements" typically agree that an ingredient or product will only be sold to one customer. These may be agreed as part of commercial