

INTELLECTUAL PROPERTY

'It's really hard to design products by focus groups. A lot of times, people don't know what they want until you show it to them.'

Steve Jobs- American business magnate, and co-founder and chief executive officer of Apple.

KEY NOTES

Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, symbols, names, images, and designs used in commerce. IP is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs.

SPEAKING

Do you know what 'chindogu' is? Some people call these brilliant inventions, for others it is just rubbish.

Chindōgu is the Japanese art of inventing ingenious everyday gadgets that, on the face of it, seem like an ideal solution to a particular problem. However, chindōgu has a distinctive feature: anyone actually attempting to use one of these inventions would find that it causes so many new problems, or such significant social embarrassment, that effectively it has no utility whatsoever. Thus, chindōgu are sometimes described as "unuseless" – that is, they cannot be regarded as 'useless' in an absolute sense, since they do actually solve a problem; however, in practical terms, they cannot positively be called "useful."

Can you guess what the following inventions are for and what they look like. Work in pairs and discuss the following:

- Noodle eaters hair guard
- Fish Face Cover
- Subway Sleeper's Screen
- Wide Awake Eyeopener
- a hands-free umbrella
- toilet paper/ tissue dispenser
- cockroach swatter slippers

check on the Internet and discuss:

1. Which invention(s) could be quite useful?
2. Which invention(s) is/are totally useless?
3. Which invention(s) could be an appropriate present for your parents/husband or wife/ best friend/ mother –in-law/ teacher/ boss or enemy?

Intellectual Property Quiz

How much do you know about the basics of intellectual property? Complete our short quiz to find out!

1. What protects the intellectual property created by artists?

Copyright Geographical indications Patents Registered designs Trademarks

2. What protects the intellectual property created by designers?

Copyright Geographical indications Patents Registered designs Trademarks

3. What protects the intellectual property created by inventors?

Copyright Geographical indications Patents Registered designs Trademarks

4. Which of these is a geographical indication?

BMW Champagne Hogwarts PlayStation World Wide Web

5. What does a trademark protect?

An invention A work of art Logos, names and brands The look, shape and feel of a product A secret formula

6. In most countries, how long does copyright last for?

10 years after the creation of the work 50 years after the creation of the work 10 years after the death of the person who created that work 50 years after the death of the person who created that work

7. How long do patents usually last for?

10 years 20 years 40 years 60 years

8. If you write an original story, what type of intellectual property gives you the right to decide who can make and sell copies of your work?

Copyright Geographical indications Patents Registered designs Trademarks

9. Imagine a sports team sets up a company to sell its own range of clothes. What type of intellectual property can the team use to show that the clothes are made by them?

Copyright Geographical indications Patents Registered designs Trademarks

10. If a company develops a new technology that improves its main product, what type of intellectual property can they use to stop others from copying their invention?

Copyright Geographical indications Patents Registered designs Trademarks

source: <https://www.wipo.int/about-ip/en/quiz/index.html>

READING

Task 1. Read the introduction to the text and find the words which mean:

oznaczenia geograficzne topografie układów scalonych wzorce przemysłowe
 wzory użytkowe wynalazki znaki towarowe

INDUSTRIAL PROPERTY LAW

Our Polish Patent Office has its seat in Warsaw. The main responsibility of the Patent Office is receiving and examining applications filed in order to obtain exclusive rights of protection for inventions, utility models, industrial designs, trademarks, geographical indications and topographies of integrated circuits. In 2008, the Patent Office received a total of 20,734 applications for inventions, utility models, trademarks and industrial designs filed under the national procedure.

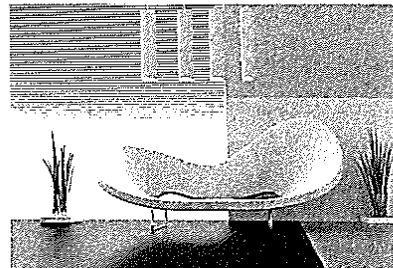
Then label the pictures:

DESIGNS	GEOGRAPHICAL INDICATIONS	PATENT
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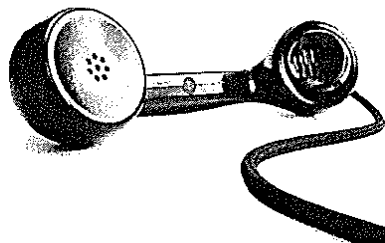
A. ...



B. ...



C. ...



Task 2. Work in three groups. Each group reads a different text. Group 1: Patents, Group 2: Trademarks and Geographical Indications and Group 3: Designs. Make notes on the key points. After reading, answer the questions. Then discuss your answers in your groups.

Group 1

PATENTS

There is no legal definition of a **patent** ['peɪtənt]. A patent is a legal title that grants its **holder**⁽¹⁾ ['həʊldə] the right to prevent third parties from commercially using his/her **invention** [ɪn'veɪʃən] without his/her permission. Polish patents are granted for inventions that:

- are new,
- involve an inventive step
- have **potential**⁽²⁾ [pə'tenʃəl] for industrial application.

An invention can belong to any field of technology. But a patent cannot be registered as an invention for:

- discoveries, scientific theories and mathematical methods;
- **aesthetic creations**⁽³⁾ [i:s'θetɪk kri 'eɪʃnɪz]
- schemes, rules and methods for performing mental acts, doing business or playing games;
- creations that cannot be industrially used;
- computer programs;
- presentation of information.

So if Magda M., who works for the IBM company, created a new program managing a robot's movement and decided to file an application at the Polish Patent Office in Warsaw (PPO), she would not be able to register a patent, as computer software is not considered an invention.

Moreover, a patent would not be granted for:

- inventions that are contrary to public order or decency;
- plant or animal varieties or essentially biological processes for the production of plants or animals;
- methods for the **treatment**⁽⁴⁾ ['tri:təmənt] of human or animal bodies by **surgery**⁽⁵⁾ ['sɜ:dʒəri] or therapy, or for diagnostic methods applied to human or animal bodies.

A patent gives the exclusive right to exploit the invention, for profit or for professional purposes in the territory of the Republic of Poland. The term of a patent is 20 years from the date of filing the patent application at the Polish Patent Office in Warsaw.

In seeking patent protection in Europe, the applicant now has a variety of options. S/he can make a series of parallel national submissions in European countries within 12 months of the first filing for the invention. S/he can make use of the Patent Cooperation Treaty (PCT), which provides for a single international application, and search for countries which are members of the PCT. Moreover, s/he can file for a European patent under the European Patent Convention (EPC).

1. What is a patent?
2. How long is a patent protected?
3. What cannot be protected under patent?

- (1) posiadacz
- (2) tu: możliwość
- (3) wytwory estetyczne

- (4) leczenie, zabieg
- (5) chirurgia

Group 2

TRADEMARKS

Any symbol that can be represented graphically may be considered as a **trademark** ['treɪdmɑ:k]. The symbol should allow the goods belonging to the company to be distinguished from others.

A trademark should comply with the following rules:

- it should have a **distinctive**⁽¹⁾ [dɪs'tɪŋktɪv] character;
- it should not have any listed reason to be refused.

Trademarks do not have a distinctive character if:

- symbols do not allow the distinction, in trade, of the goods to which they have been applied,
- symbols consist of elements that specify the type, origin, quality, quantity, value, **intended purpose**⁽²⁾ [ɪn'tendɪd 'pɜ:pəs], manufacturing process, composition, function or usefulness of the goods,
- symbols are routinely used in contemporary language and are used in fair and established business practices.

The right of protection gives the exclusive right to use the trademark for profit or for professional purposes throughout the territory of the Republic of Poland. The expiry of the right of protection is after 10 years from the date of filing the trademark application at the Patent Office.

GEOGRAPHICAL INDICATIONS

Geographical indications [ˌdʒi:ə'græfɪkəl ɪndɪ'keɪʃnz] can be word indicators to **designate**⁽¹⁾ ['deɪzɪneɪt] the name of a place, locality, region or country (territory) that identifies goods as originating from a particular territory, with a given quality, reputation or other characteristic.

A geographical indicator that is registered cannot be used in the territory of Poland by parties whose products do not satisfy the requirements for the grant of protection.

For example, Company X based in the Polish Mazury, (Mazurian region) which produces sparkling white wine with another company from this region, cannot register the wine with the Polish Patent Office using the geographical indication "MAZURY CHAMPAGNE" because the drink called *champagne* does not originate from the Mazurian region.

1. What is a trademark?
2. How long is a trademark protected?
3. Can any person use a name registered as a geographical indication for his /her products?

- (1) charakterystyczny, wyróżniający
- (2) przeznaczenie

- (i) wyznaczać, oznaczać

Group 3

DESIGNS

A **design** [dɪ'zain] is defined as any new appearance for a product, having an individual character, comprising either the whole or a part of the product. The appearance is related to the **features**⁽¹⁾ ['fi:tʃəz] of the product, in particular, lines, colours, shape, **texture**⁽²⁾ ['tekstʃə] or materials used, and its **decoration**. The design must satisfy three main conditions before protection can be **conferred**⁽³⁾ [kən'fɜ:d]: novelty, individual character and registration. So, a design should:

- be a product;
- be new;
- have an individual character.

A design would be considered as being new if no identical design has been made available to the public before the date of filing of the application for registration or, if **priority**⁽⁴⁾ [praɪ'brɒtɪ] is claimed, the date of priority. Designs are **deemed**⁽⁵⁾ ['di:mɪd] to be identical if their features differ only in immaterial details. A design should have an individual character in so far as it produces an impression of overall **dissimilarity**⁽⁶⁾ [dɪsɪmɪ'lærətɪ] in comparison to previous existing designs. The criterion of individual character is determined by the hypothetical **informed user**⁽⁷⁾ [ɪn'fɔ:mɪd 'ju:zə]

The registration of a design gives the exclusive right to **exploit**⁽⁸⁾ [ɪk'splɔɪt] the industrial design for profit or for professional purposes in the territory of the Republic of Poland. The term of protection for a design is 25 years.

In 2008, the Patent Office in Poland received 1,516 industrial design applications and 1,611 decisions were issued, of which 1,365 were positive. The Patent Office received 16 applications from Polish entities for the registration of Community industrial designs which, after having been examined with regard to their formal requirements, were transmitted to the Office for Harmonization in the Internal Market (OHIM).

1. What is a design?
2. How long is a design protected?
3. Who decides on the individual character of a design?

- (1) cecha charakterystyczna
- (2) materiał, tkanina
- (3) nadawać
- (4) priorytet, pierwszeństwo
- (5) uznaje się
- (6) odmienność, różnica
- (7) świadomy użytkownik
- (8) wykorzystywać

Task 3. Form new groups of three people, each of whom has read a different text. Exchange information and complete the chart below. If there is no information in the text write NI (no information) in the chart.

	Patents	Trademarks	Geographical Indications	Designs
Definition				
Characteristic features				
The term of protection				
What cannot be protected?				

Task 4. Work in groups. Find words or phrases in texts A, B and C which are similar in meaning to the definitions below. The first group to finish is the winner.

Patents

- handing in (n.)
- a person, such as an owner, who has possession or control of something (n.)
- given (v.)
- single; unique; only (adj.)
- the form or document on which a request is made (n.)

Trademarks & Geographical Indications

- characteristic or typical (adj.)
- a gain, benefit, or advantage (n.)
- a high opinion generally held about a person or thing (n.)
- the finish of something; ending (n.)
- the business of buying and selling goods (n.)

Designs

- something given more attention (n.)
- being the same: (adj.)
- to advertise; promote, use (v.)
- the quality of being new and fresh and interesting (n.)
- a general term for any institution, company, corporation, etc. (n.)

EXTRA PRACTICE CORNER

Task 1. Match the words with their meanings and use them to fill in the gaps in the extract below.

- | | |
|------------------|-----------------------------------|
| a) disclose | 1) the passing away of time |
| b) dissemination | 2) salary |
| c) lapse | 3) distribution, publication |
| d) pseudonym | 4) a false name used by an author |
| e) remuneration | 5) show, reveal |

The Copyrights and Related Rights Act (1994)

Article 8.

1. The owner of the copyright shall be the author unless this Act states otherwise.
2. It shall be presumed that the author is the person whose name has been indicated as the author of copies of the work or whose authorship has been announced to the public in any other manner in connection with the 1) of the work.
3. In order to exercise his/her copyright, the author, as long as he/she does not 2) his/her authorship, shall be represented by the producer or the publisher and in the absence thereof – by the competent organization for collective administration of copyright.

Article 16.

Unless this Act states otherwise, the moral rights shall protect the link between the author and his/her work which is unlimited in time and independent of any waiver or transfer, and, in particular, the right to:

1. be an author of the work;
2. sign the work with the author's name or 3) or to make it available to the public anonymously;
3. have the contents and form of the author's work inviolable and properly used;
4. decide about making the work available to the public for the first time;
5. control the manner of using the work.

Article 17.

Unless this Act states otherwise, the author shall have an exclusive right to use the work and to decide of its use in all manners of exploitation and to receive 4) for the use of the work.

Article 36.

Subject to exceptions provided for in this Act, the author's economic rights shall expire after the 5) of seventy years:

1. from the death of the author, and in case of joint works – from the death of the coauthor who has survived the others;
2. in the case of a work where the author is not known – from the date of the first dissemination, unless the pseudonym does not raise any doubts as to author's identity or if the author discloses his/her or her identity;

Task 4. Read the phrases given below extracted from the conversation and choose the appropriate meaning for the words or expression in bold.

- ...copyright has been **infringed**...
 a) *broken* b) *obeyed*
- The thing is, there is no **acknowledgement** to you in the article...
 a) *information* b) *knowledge*
- a student **sued** the university for not telling him the rules...
 a) *expressed a strong objection* b) *went to court*
- He **claimed** that over three years his 13 essays were all failed, but he had never been told by the university that cutting and pasting was not allowed.
 a) *was furious* b) *stated*
- Right! In such a case it is **fraud**, especially if the article has been included in the Research Assessment Exercise.
 a) *dishonesty* b) *method*
- Well, in this case it's possible that the author **has breached the terms** of his contract with the publishers of the journal.
 a) *has not followed the deadlines* b) *has acted against the conditions*
- The publisher could then act by **banning** this guy from publication for a number of years,
 a) *prohibiting* b) *limiting*
- he is **subject to** disciplinary procedures by his university...
 a) *responsible for* b) *liable for*
- Yes. If you'd like, I could **draft** a letter for you.
 a) *prepare* b) *sign*
- a **fee** from the firm...
 a) *salary* b) *compensation*

. Discuss the following:

- What would you do if you saw an essential part of your Master's degree copied by someone else?
- How should people who plagiarize others' work be punished?
- Is the issue of plagiarism common at Polish universities?
- Have you got any ideas about how the problem might be solved?

CHECK YOUR PROGRESS

I. Match the words below and then use them to complete the text:

- | | |
|-----------------|---------------|
| 1. industrial | a) character |
| 2. individual | b) party |
| 3. component | c) Office |
| 4. a third | d) user |
| 5. implicit | e) design |
| 6. 12-month | f) part |
| 7. informed | g) conditions |
| 8. exclusive | h) right |
| 9. professional | i) purposes |
| 10. patent | j) period |

The Industrial Property Law Act (2000)

Article 102

- Any new and having 1) appearance of the whole or a part of a product resulting from the features of, in particular, the lines, colours, shape, texture or materials of the product and its ornamentation, shall constitute a/an 2) (...)*
- The following shall also be considered to be a product:*
 - A product which is composed of multiple components, which can be replaced permitting disassembly and reassembly of the product (complex product),*
 - A component part, if, once incorporated into the complex product, it remains visible during normal use of the latter, the use being understood as excluding maintenance, servicing or repair work.*
 - A component part, if it may, by itself, be subject of commercialisation.*
- In case of a design applied to or incorporated in to a product which constitutes a/an 3) of a complex product within the meaning of paragraph (3)(i), assessment of novelty and individual character shall only be made in consideration of its visible features.*

Article 103

- An industrial design shall be considered new if, before the date according to which a priority to obtain a right in registration is determined, and subject to paragraph (2), no identical design has been made available to the public, i.e. used, exhibited or otherwise disclosed. Designs shall also be deemed to be identical with those made available to the public if their features differ only in immaterial details. (...)*
- The provision of paragraph (1) shall not prevent a right to registration to be granted, if a design:*
 - has been disclosed to a/an 4) under explicit or 5) of confidentiality,*
 - has been disclosed during 6) preceding the date according to which priority to obtain a right in registration is determined, by the designer, his successor in title or a third person with the right holder's consent, as well as if the disclosure has occurred as a consequence of an abuse in relation to the designer or his successor in title.*

Article 105

1. For an industrial design a right by registration may be granted.
2. The right by registration shall confer the 7) to exploit the industrial design for profit or for 8) throughout the territory of the Republic of Poland.
3. The holder shall enjoy the right to prevent any third party from making, offering, putting on the market, importing, exporting or using a product in which the design is incorporated or to which it is applied, or stocking such a product
4. The right conferred by the registration of an industrial design shall include any design which does not produce on the 9) a different overall impression. Article 104(2) shall apply accordingly.
5. The right conferred by the registration of an industrial design shall be limited to the kind of products, in respect of which the protection has been applied for.
6. Subject to Article 111, the term of a right by registration shall be 25 years counted from the date of filing of an industrial design application with the 10), the said term being divided into 5-year periods.

II. What is the difference between:

1. discovery and invention
2. patent and trademark
3. copyright and industrial property law

III. WORD FORMATION Complete the chart by filling in the correct form and then use the appropriate word in the sentences below.

Verb	Noun (Thing)	Noun (Person)	Adjective/Adverb
to apply			
	creation		
		discoverer	
			inventive
	protection		

1. Databases are usually by copyright.
2. Bell is the of the telephone.
3. This section of law is only to corporation.
4. Henryk Sienkiewicz was the of Pan Wolodyjowski.
5. Japan continues to lead the world in scientific
6. Christopher Columbus was the of America.
7. Your is great! I think you should for the patent.
8. In my opinion working in an advertising agency must be a/ an job.
9. A healthy diet should provide against disease.

IV. PREPOSITIONS. Complete the gaps with an appropriate preposition:

for from in (3x) of (3x) to with

The Copyright Act (1994)

Article 1.

1. The subject matter of copyright shall be any and all manifestation of creative activity of individual nature, established 1) any form, irrespective 2) its value, designation or manner 3) expression (work).
2. 4) particular, the subject matter of copyright shall be:
 - works expressed 5) words, mathematical symbols, graphic signs (literary, journalistic, scientific and cartographic works and computer programs);
 - works of art;
 - photographic works;
 - string musical instruments;
 - industrial design works;
 - architectural works, architectural and town planning works, and town planning works;
 - musical works and textual and musical works;
 - stage works, stage and musical works, choreographic and pantomime works;
 - audiovisual (including film) works.
3. 1). Protection may apply 6) the manner of expression only; no protection shall be provided 7) discoveries, ideas, procedures, methods and principles of operations or mathematical concepts.
4. The work shall be copyrighted 8) the point of its establishment, even though its form may be incomplete.
5. The author shall enjoy copyright protection irrespective 9) complying 10) any formalities.

PREPOSITION AND COLLOCATION BANK

protection may apply to ...
 no protection shall be provided for ...
 the author shall enjoy copyright protection complying with any formalities
 It shall be presumed that ...
 subject to exceptions provided for in this act,
 the author's economic rights shall expire after the lapse of seventy years:
 ... that grants its holder the right to prevent...
 a patent shall confer the exclusive right to exploit the invention,
 the scope of the protection sought shall be determined by the claims
 within the meaning of paragraph (3)(i),
 shall not be deemed to ...
 with the right holder's consent
 the holder shall enjoy the right
 subject to Article 111