

Intellectual Property Rights and Patents

Definition

Intellectual Property Rights (IPR) includes patents, registered designs, copyright, design rights and intellectual capital. Creative work, including research and development, can lead to IPR and some of these can be protected under one or more headings. In some cases, registration and official examination are required e.g. for patents. Copyright, inter alia the protection for computer software is automatic and free, although it is noted that it is less easy to legally defend.

Scope

The default legal position is that ownership of the IPR in everything created by an employee in the course of his or her employee duties is owned by The Education Fellowship, apart from performers' rights, which will require a separate assignment of rights from the employee to the Fellowship. Employees shall, however, own the copyright and related rights in works, performances, data, databases, software and designs created by them outside their contract of employment.

Therefore, in general terms, and specifically in patent law, the IPR created during an employee's normal or specifically assigned activities belongs to The Education Fellowship. This means that most of the IPR arising from the activities of The Education Fellowship teaching and administrative staff belongs to The Education Fellowship. On the other hand, IPR generated by ancillary or peripatetic staff may not, nor will IPR generated by students. Where IPR is generated by a student either alone or as part of a team, the student may be invited to assign the rights to The Education Fellowship for exploitation. He or she will then be treated on the same basis as a member of staff.

Outside Contracts

Where work is being carried out under contract from an outside organisation, specific provisions about IPR may apply. For instance, staff and students may be requested to assign their rights to the contractor, usually in exchange for some benefit to The Education Fellowship.

Notification

The Education Fellowship should be advised of all potential IPR as soon as it is perceived and before information is given to any third party. Disclosure to others may not only invalidate steps to obtain protection but could result in the inventors and The Education Fellowship being excluded from subsequent exploitation by others. Discussions with third party potential partners should only take place after the exchange of a confidentiality agreement. Material should not be made available outside The Education Fellowship before protection has been considered. The Education Fellowship will advise on the steps to be taken, and if it decides to proceed, will make all the necessary arrangements. The Education Fellowship normally meets all the legal costs of applying for protection. Where The Education Fellowship decides not to proceed, the member of staff would normally be free to seek protection independently.

Profitable Exploitation

The prospect of profitable exploitation is the normal reason for The Education Fellowship seeking protection. The Education Fellowship will work with the 'inventors' and other bodies to try and achieve this. Exploitation may be by licensing or assignment to another organization or by an arrangement with The Education Fellowship. 'Inventors' will be fully involved in discussions at all stages.

The Education Fellowship will identify and seek to exploit all intellectual property rights arising from its work. Where IPR is exploited, appropriate arrangements will be made to distribute any income received by the Education Fellowship, less any costs incurred in seeking legal protection but ignoring development costs. The division of income is a matter for The Education Fellowship.