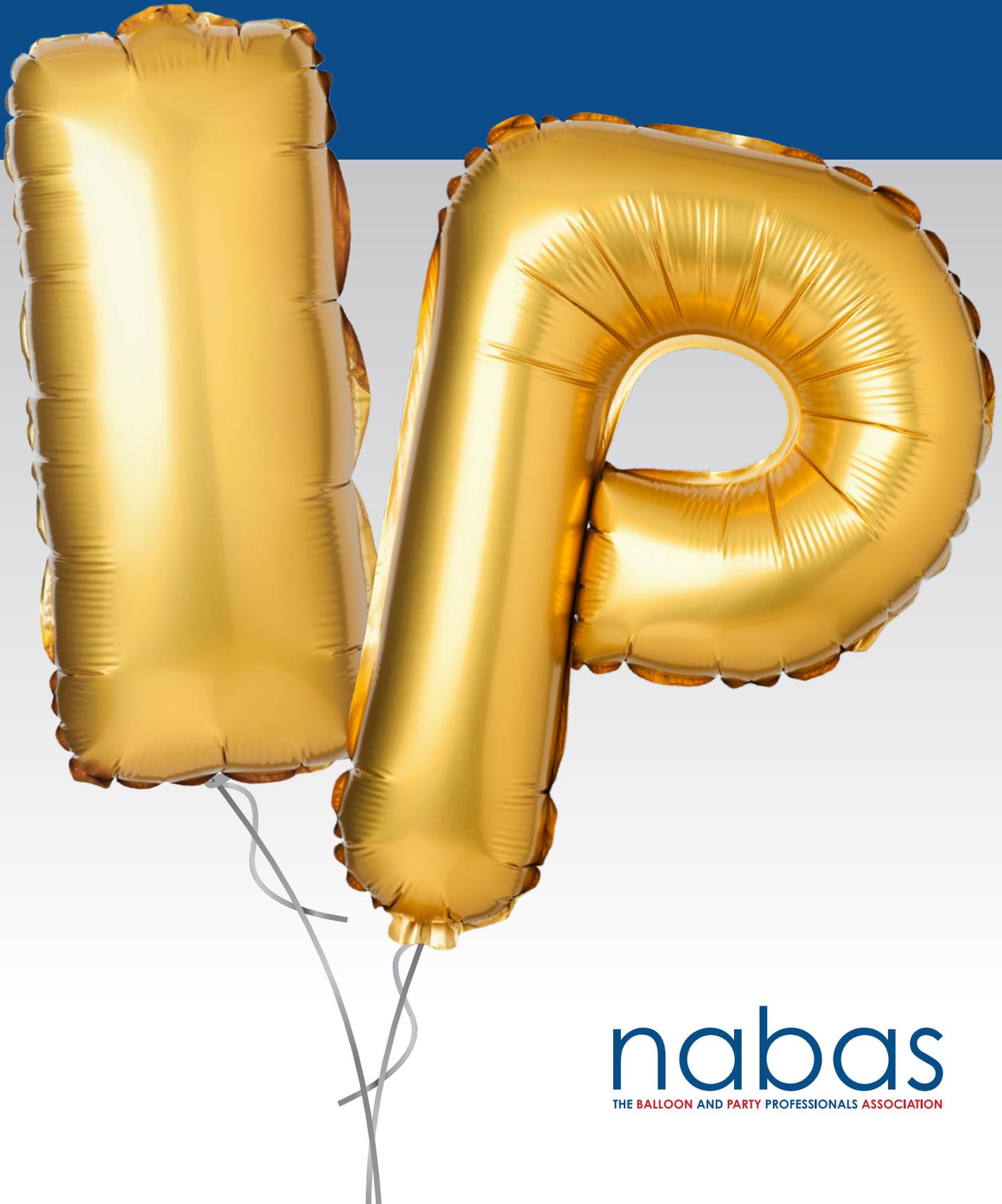


Introductory guide to intellectual property



Intellectual property (IP) refers to intangible assets that are unique creations of a person, group of people, or a business. The term can cover almost anything from logos and slogans to screenplays and paintings. You can protect these creations from being used by others without your express consent – this protection is often called your intellectual property right(s). The form of protection will depend on what exactly you create.

Key changes to IP after Brexit

Under the terms of the withdrawal agreement, EU trademarks and designs registered before the transition period will be cloned in the UK for free. Details and dates will be kept but they will be fully independent UK trademarks. UK representation required.

EU trademarks (EUTMs) will offer no protection in the UK but Intellectual Property Office (IPO) will create an automatic comparable right for every EUTM if registered. You can opt out of the automatic comparable UK right after the transition period if you don't need one. Once a comparable UK trademark is created, you'll need to pay a separate renewal fee and renew separately.

Pending designs and EU trademarks will not be protected in the UK and owners have nine months to apply for a comparable right. Registration fees apply and only a UK address for service will be accepted for new applications.

If proceedings declare an EUTM invalid before January 1st 2021, the corresponding UK right will be cancelled.

And, if an unregistered community design right arose during the transition period, there will be continued protection in the UK for the remaining three-year term.

Finally, ownership of EU domains and registration in the UK will be phased out whereas copyright and patents will be unaffected.

For more information on patents, SPCs, Northern Ireland Protocol and parallel trade between the UK and EEA and more, can be found here:

<https://www.gov.uk/government/news/intellectual-property-after-1-january-2021>

Introduction

While we also have in-depth guides on the subject, here's a brief introduction to help you get to grips with the very basics of these IP rights. You may be surprised to discover just how many of them you are creating within your business, the value that they represent to you and/or how frequently they arise. You might also be surprised to learn just how many commercial opportunities you might be missing out on, by not protecting or not properly permitting others to make use of them.

And don't forget that your PR and commercial reputation, perceived future investment potential and prospects of attracting great talent, may all be positively influenced, or negatively impacted, by how responsibly you evidence the protection and value of what you've created.

This is where our more detailed guides can help you out. But for now, let's take a quick look at what sort of intellectual property you're likely to encounter in your business...

HOW TO GET IT?

Normally, the legal right is automatically granted to the author/creator when the original work is first created. If, however, the author/creator has been commissioned by someone else to create the work (e.g. a business contracts a designer to produce some material for the business to use), the terms of the contract between them are likely to stipulate that the owner of the work is the business, not the designer who authors it and that the business has exclusive ownership of those designs.

It's also essential that the work is original (not copied, in whole or in any part) and that it is recorded in some way. Simply having an idea, without having manifested that idea in some recordable format, is not sufficient for a copyright to arise.

WHERE IS THE COPYRIGHT VISIBLE?

Technically, it doesn't need to be visible, because a copyright doesn't need any form of registration to take effect and to be legally enforceable.

But to ensure that the position of ownership is clear, you'll often find the © mark attached to published works. Signatures on paintings and other creative materials also help to make the authorship position clear.

Many creators will take sensible extra measures to assert their ownership and to deter any infringers, such as using a copyright notice alongside the content they've created, securely storing a date/time stamped original copy somewhere, to prove they produced the protectible work first; or, if they're licensing the work to others, drawing attention to a registration notice (confirming their rights in the work) from a copyright licensing agency (often relevant to books and music).

HOW LONG DOES THE PROTECTION LAST?

According to the government's website ([link here](#)) the length of the copyright depends on the type of work.

- ✓ Written, dramatic, musical, and artistic works: 70 years after the author's death
- ✓ Layout of published editions of written, dramatic, or music works: 25 years from first published date
- ✓ Sound and music recordings: 70 years from first publish date
- ✓ Films: 70 years after the death of the director, screenwriter, and composer
- ✓ Broadcasts: 50 years from first broadcast date

If the author later assigns or licences the right to the copyright to someone else, the period of copyright protection always stays the same.

HOW FAR DOES THE PROTECTION EXTEND?

While copyright is automatically valid in the UK, these international conventions may mean that your work is protected in other countries too. Usually, these copyrights are valid for 25 years for photography and 50 years for written, dramatic, and artistic work.

Trade mark

WHAT IS IT?

A company's trading identity-related intellectual property, such as its logo, slogan, or brand name.

The legal protection contains a right to prevent it – or something confusingly similar to it – from being used by other companies for the same, or confusingly similar, uses.

HOW TO GET IT?

By registering for a trade mark with the Intellectual Property Office (IPO). You can do the application yourself for a modest fee paid directly to the IPO, or for a higher fee, you can appoint a trade mark attorney or a lawyer to help you out.

It may well be worth taking advice from an expert the first time that you register a trade mark for your business. They can help you to ensure that your prospects of successfully getting a registration for your preferred trade mark are high and they can help you to ensure that you gain the right breadth of protection for your business. Trademarks are registered in relation to 'classes' of business activity, and there are quite a few of them. You may find that the protection you're looking for extends to a number of different classes. And within each of those classes, there are often lots of different sub-classes of activity that you will want to rule in or out. There can often be a juggling act here. Especially if your mark is a bit similar to someone else's mark and they are already registered in classes of activity that you want to use too.

The good news is that once you've had expert advice on the right classes first time around, then provided that your business hasn't expanded its proposition into new business activities, you should be able to simply copy over the original class descriptions for any new trade marks that you want to register for your business.

WHERE IS THE TRADE MARK VISIBLE?

On your trade mark registration certificate and on the public registry of trade marks at the IPO. Many businesses also record a small [™] sign alongside a mark that they have applied to be protected and an [®] sign when the mark has in fact been registered and is protected.

HOW LONG DOES THE PROTECTION LAST?

As long as you use it within 5 years of registration, and continue to use it appropriately, you must renew your trade mark every 10 years.

HOW FAR DOES THE PROTECTION EXTEND?

Trade marks registered in the UK are only protectable in the UK. However, you can get protection in other markets by registering the trade mark in different countries.