Module 5. Intellectual property management in the innovation process

Introduction

Intellectual property is that output from our intellectual endeavor which is created by each one of us every day of our lives, it can refer to inventions, artistic creations and names for companies and products. The essential aspects of IP in the innovation process are that we identify all kinds of IP, we understand how to register and protect our IP and we know how to create value from it. IP is termed intangible assets, in contrast to tangible assets like houses, cars and computers. Although IP is intangible in nature, it does have monetary value and can be sold, licensed and assigned in order to make money for the owners. Within the EU there are some differences in how IP is treated in legal terms, but generally IP has 2 distinct rights associated with it, hence the term IPRs [Intellectual Property Rights]. One of those rights is economic as described above, the other is termed moral rights, which apply to copyright in particular.

In the EU IP rights can be registered for a fee, like patents, designs and trademarks; and those rights which are automatic and need no fee, called unregistered rights like copyright. Confusion often arises because in addition registered and unregistered rights can persist for the same IP, for instance trademarks and designs.

As we learned in module 1, the second phase of innovation management includes the protection of intellectual property on inventions. Intellectual property rights are often managed with little planning and without sufficient knowhow, indeed it is often known only as a patent. However, the concept includes copyrights, designs, domains, trademarks, and trade secrets etc. And the most important thing is how IPR should be applied in business.

The goal of this module is to give students basic information about intellectual property, how to protect those properties and to understand the significance of intellectual property in business.

Module 5 includes four chapters. In the first chapter you'll learn how to identify intellectual assets and intellectual property in a company. This chapter also introduces the ideal model and tools of IPR management in the company and how to prepare and evaluate an intellectual property exploitation strategy.

In the second chapter we learn how to manage IPR – issues both nationally and internationally. The information on applying for a patent, trademark, utility model, copyright, design and domain name in Finland and abroad is covered in detail.

In the third chapter we take a review of international IPRs and the control system worldwide. Then in the fourth chapter we study different aspects of intellectual property rights in different countries (FI, UK, LT, LV).

There are 6 tasks and 2 exercises in module 5. The task 5.6 is so called "Tutor mark assignment" (TMA) which will be used for your final assignment.
**Learning objectives**

The goal of this module is that the student:

1. understands what intellectual property rights are,
2. knows how to identify a company’s intellectual assets,
3. understands the significance of intellectual property in business,
4. knows how intellectual property is protected both nationally and internationally

**Table of contents**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Learning objectives</td>
<td>2</td>
</tr>
<tr>
<td>Table of contents</td>
<td>2</td>
</tr>
<tr>
<td>5.1. Intellectual Property Right (IPR) processes and role of IPR know-how</td>
<td>3</td>
</tr>
<tr>
<td>5.1.1. Identifying intellectual assets</td>
<td>4</td>
</tr>
<tr>
<td>5.1.2. Identifying the main types of intellectual property</td>
<td>6</td>
</tr>
<tr>
<td>5.1.3. Understanding the techniques and tools used to identify and critically appraise intellectual assets</td>
<td>15</td>
</tr>
<tr>
<td>5.1.4. Preparing and evaluating an IP exploitation strategy</td>
<td>17</td>
</tr>
<tr>
<td>5.1.5. Sourcing finance and developing a financial case for the exploitation of Intellectual property</td>
<td>19</td>
</tr>
<tr>
<td>5.1.6. Identifying and describing the key elements of a licensing agreement</td>
<td>20</td>
</tr>
<tr>
<td>5.2. Intellectual property rights management national and international environment</td>
<td>22</td>
</tr>
<tr>
<td>5.3. World wide IPR management system</td>
<td>25</td>
</tr>
<tr>
<td>5.4. IPR management specifics in national (FI, UK, LT, LV) environments</td>
<td>26</td>
</tr>
<tr>
<td>Finland</td>
<td>27</td>
</tr>
<tr>
<td>Ministries</td>
<td>27</td>
</tr>
<tr>
<td>Finnish copyright organizations</td>
<td>28</td>
</tr>
<tr>
<td>Funding</td>
<td>30</td>
</tr>
<tr>
<td>Lithuania</td>
<td>31</td>
</tr>
<tr>
<td>Latvia</td>
<td>33</td>
</tr>
<tr>
<td>UK</td>
<td>34</td>
</tr>
<tr>
<td>Summary</td>
<td>37</td>
</tr>
<tr>
<td>Self evaluation</td>
<td>37</td>
</tr>
<tr>
<td>Module 5. Final assessment</td>
<td>39</td>
</tr>
</tbody>
</table>
5.1. Intellectual Property Right (IPR) processes and role of IPR know-how

A fundamental part of new innovations is intellectual property (IP). **Intellectual property rights** are exclusive rights, which means that only a holder of this right or someone with his permission is permitted to use it e.g. a patented invention or utility model in professional activity.

Protecting your IP enables you to:

- prevent others from using your IP without your permission
- prevent others from imitating your product or technology
- help in acquiring financing from outside sources, also as loan collateral
- sell or trade your IP right
- license your IP
- create brand loyalty for your product or technology
- enhance employees’ ability to innovate

Intellectual property rights are premised on national law and international agreements. Our present intellectual property right system is still based on international agreements made in the 1880s, basically on a multilateral agreement of industrial property made in Paris, which is known as the Paris Convention for the Protection of Industrial Property: and also on multilateral agreement of copyright made in Berne, which is known as the Berne Convention for the Protection of Literary and Artistic Works.

In the Paris Convention for the Protection of Industrial Property three ground rules were defined:

- **National treatment**, which means that every member state must guarantee that all the other actors of every member state honour the same rights as those from their own state
- **Minimum cover**, which means the minimum level of protection that an applicant for a patent must get for his inventions
- **Priority of convention**, which means that after an applicant has left his patent application in one member state he must have the possibility to benefit from the same patent application also in any other member state

Know-how in IPR has become a major part of a business strategy in companies.

As we learned in module 1, the second phase of innovation management includes the protection of intellectual property on inventions (or certification of the new product, quality system development of the new service, etc.) Figure 5-1
5.1.1. Identifying intellectual assets

By intellectual assets (property/capital) are meant all the intellectual resources that are in a company’s possession and from which a company can bargain for profit in the future. This usually means IP which is owned by the company, but rights to use other parties IP can still bestow profit for the company.

Intellectual assets consist among other things of knowledge, know-how, customer- and interest group relations, brand, reputation and image. According to a modern view intellectual property and intellectual success factors are composed of three wider interrelated parts of a whole: human, organizational and interpersonal capital. In Finland also a term structural capital is used instead of organizational capital (Figure 5-2)
The most common protection methods of know-how can be classified into formal protection methods and contracts (Figure 5-3). Formal knowledge protection methods refer to copyright and intangible property rights.

Every single small business has intellectual assets. In ACCA research report no. 93, by Chris Martin and Julie Hartley, 2006, they divided intangible assets into eight groups:

1. **Customer capital**: registered trademarks, brand names, company names, logos, shapes protected as intellectual property; brand image and business reputation
2. **Customer relationships**: service and maintenance contracts; customer-supply contracts; customer relationships; customer lists; websites
3. **External approvals and licenses**: quality approvals and external endorsements; license and franchise agreements
4. **Proprietary products and services**: copyrights, registered designs, patents as intellectual property; creative works; product designs; proprietary products, proprietary product documentation; successful service formats
5. **Technical and process knowledge**: proprietary business processes; proprietary software; trade secrets; technical know-how; job cards, drawings and patterns
6. **Supplier and input relationships**: favorable supply contracts; supplier knowledge and advantageous relationships; employment contracts with key employees
7. **People-based intangible assets**: employees with proprietary knowledge; trained and assembled workforces
8. **Learning and growth intangible assets**: owners’ entrepreneurial and developmental outlooks; networks and collaborative agreements; ‘atmospheres’ encouraging innovation and change

5.1.2. **Identifying the main types of intellectual property**

Intellectual properties are normally divided up to industrial property rights and copyright. Figure 5-4.

![Figure 5-4. Intellectual property](image)

**Industrial property rights:**
- Industrial property rights are mostly exclusive rights, which enables assignors to permit and forbid the usage of their rights and agree terms of using
- Industrial property rights are technology-neutral
- Industrial property rights are normally developed by natural persons and they are assignable. In legislation there are few mechanisms where e.g. rights to inventions and works developed in employment are assigned to a company

Laws of industrial property are an international branch of jurisdiction, which is executed by national legislation.

Industrial rights and copyright are still mainly protected by a nation’s own legislation. There are regulations of industrial rights and of copyright in international conventions, framed by the World Trade Organization and World Intellectual Property Organization (www.wipo.int)

Industrial rights mean exclusive rights, by which inventions, marks used as symbols for goods and services and e.g. models of a goods’ appearance are protected. Patents, utility models, registered designs, trademarks, business names and some other more unusual protection forms such as the protection of semi-conductor and plant variety protection law are industrial rights. Also protection against improper action is a part of industrial rights.

Intellectual property also includes business secrets and non-disclosure agreements. This kind of confidential information can be referred to as trade secrets, or know-how, and can include items such as client lists, manufacturing specifications, business and marketing plans.

**Patent** means an exclusive right to the owner of an invention to deny the professional usage of his inventions to others. A patent is granted to the owner after an examination by a patent examiner and only granted if it meets all the criteria set out in national and international patent law and treaties. For a patent to get granted it must be an invention that
has industrial usability, is new and differs substantially from previous inventions, in other words it is New, Novel and Inventive.

Patents are covered by national law and only hold in the country where patent protection has been applied and where it has been granted. There’s no such thing as a “worldwide patent”, but an application for a patent must be requested in every country separately. Applying, anyhow, can be done with only one application, with an international patent application, PCT – application. If markets for the product are only in Europe, it’s possible to apply for a European patent. The European patent application is fully parallel to a national patent.

The term of a patent is a maximum of 20 years from the application date, termed the priority date, as all examinations refer back to that date. Because it can take between 10 and 15 years to get some products to market, for instance pharmaceutical drugs, a supplementary patent extension can be applied for. This will extend the patent rights by 5 years. Once granted patent maintenance payments are made yearly to the national patent office, because fees are due to each individual country, patents can be very expensive to maintain.

Why patent?
Patenting can be a part of a company’s business strategy together with factors such as profit potential, finance, production and marketing; because patents are so expensive they must be considered as investments.

A patent enables a company to hedge against competitors, which forces competitors to look for compensatory solutions if they want to enter the same market. Patents can also be sold or licensed, which means that several rights of use can be permitted to an invention.

Despite owning a patent a product in accordance with the invention can be prepared for use by anyone, if this product isn’t used professionally or for commercial purposes. Professional usage of an invention is e.g. manufacturing of a product, selling, usage, importation and usage of a patented method.

Patent rights are termed ‘negative rights’ which stops industrial use of the patent, however, just because a company owns a patent they may need licenses from other companies to make a product. When many patents need licensing in order that a product can be made, it is termed a ‘patent thicket’. A good example of a patent thicket is the modern day mobile phone. The patent owner must himself supervise and monitor for infringements of a patent.

When to apply for a patent?
The usual time to apply for a patent is the time when the development of the invention is complete. However, the application must be filed before the invention becomes publicly known or someone else applies for a patent on a similar invention.

It is a strategic and tactical decision to decide the time of applying. Commercial questions like are you going to use the invention yourself, sell it or license it need answering before filing for a patent.

Patent application process:

1. Conduct a preliminary search to ensure the novelty of the invention
2. File a carefully designed patent application with necessary drawings and specifications
3. The patent office tests the patentability and accepts or rejects the application
4. Appropriate fees for searches, translations and maintenance must be paid
5. The application is open for claims for invalidity for a certain period of time

**Fees for patents**
A patent is the most expensive industrial right. Here are the listings of fees for applying and maintaining patent applications and patents:

in UK: [http://www.ipo.gov.uk/types/patent/p-formsfees.htm](http://www.ipo.gov.uk/types/patent/p-formsfees.htm)
in Lithuania:

**Utility model**
Many ideas and solutions that include technical inventiveness might be debarred from patent protection because standards for patents are relatively high. To fill a gap between patent protection and protection of designs, a utility model has been created which is also known as a petty or minor patent.

A utility model is national protection which exists in different form in many member states of the EU and for example also in Japan and China. A utility model can be applied only nationally directly from each state’s authority.

Not all member states protect utility models: Cyprus, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Sweden and the United Kingdom do not recognize them.

Belgium and France have a short-term patent that shares some features with typical patents. The treatment of these short-term patents is similar to that of patents, with the only differences being the short duration of the protection (six years), and the absence of a required novelty search.

The meaning of a right to a utility model is to give protection to those kind of technical ideas and solutions that don’t make the grade of patentability. The protection of utility models is also a potential alternative to such inventions to which patent protection is too slow and expensive because of the quality of the invention or because of its short product life cycle. Protection of utility models is also attained faster than for patents, because newness and inventiveness of the inventions isn’t examined.

Protection scope has the same breadth as a patent. The term of a utility model is a maximum 10 years. Protection is permitted first for 4 years and after that it can be renewed first for 4 years and after that for 2 more years by paying a charge.

Both patent and utility models can be applied concurrently to an invention. The utility model can be useful when a certificate of registry is needed to avoid infringements of an invention. A patent application can be converted into a utility model application when it transpires that the invention isn’t inventive enough to have a patent.

**Fees for utility models**


**Task 5.1.**

and Search the esp@cenet database to find patents of a company or a products you prefer. List what kind of data you can find from there.  
http://www.epo.org/searching/free/espacenet.html

A registered design is signified to protect the appearance of a product and it gives fixed-term exclusive right to usage of a design. By design is meant the appearance of a product or a part of its appearance, which results from features of a product or its decoration, such as lines, outlines, colors, forms, surface structure or material.  
A registered design is a national right that provides registration of a model separately in every country.  
The term of a registered design is for a maximum 25 years. It is permitted for 5 years at a time. Recurrence provides payment.  
A registered design is part of harmonized industrial rights in the EU. With the registered design—directive, national legislations are harmonized. In addition a community model system has been created whereby it is possible to get protections that cover the whole EU with one application. Also with community model system it is possible to get protection for a design without having it registered. Announced model is protected against copying for three years.

Fees for registered designs
- In Finland: http://www.prh.fi/en/mallioikeudet/hinnasto/hakemusmaksut.html
- in UK: http://www.ipo.gov.uk/types/design/d-formsfees.htm
- in Lithuania:

Task 5.2. (30 min)
Become acquainted with registered design information by using
- a) In Finland: http://mallioikeus.prh.fi/mallinet/mahakuen.htx
- b) in UK: http://www.ipo.gov.uk/types/design/d-os.htm
- e) in EU (Community Design): http://oami.europa.eu/ows/rw/pages/QPLUS/databases/searchRCD.en.do

Choose a well-known proprietor (person or company) and try to find what kind of registered designs you find and list what kind of information there is.

A trademark is a mark that separates products and services that a company manufactures and produces from the ones of other companies. Trademarks are any kind of mark that can be represented graphically. It can consist of figures, one or more words, letters or numbers or of a unique layout of a product or its covering. It can also be a slogan, a combination of letters, a sound or some other mark that can be represented graphically.

It is the trademark that underpins the brand of a company, and is the most important right to register for marketing purposes.
Requirement for attaining a trademark is that trademark must be distinctive, it mustn’t have confusing similarity with other former trademarks or business names and it mustn’t be misleading. Trademark mustn’t either be against public order or good practice. Trademark differs from patent in a way that trademarks are permanent rights that describe the product or its quality standard whereas patents are fixed-term exclusive rights. Exclusivity of a trademark means that no one is allowed to use mark that has confusing similarity with trademark as a mark of his products in business activity.

Trademark law is harmonized with the EU’s trademark directive. Also a Community trademark system has been created in the EU, which provides protection in all member states of the EU. National trademark and Community trademark can be in force at the same time.

Term of a trademark is ten years from the day of registration. It can be renewed for ten years as often as wanted. In the UK the first trademark was registered as a red triangle in 1876, by the brewing company Bass.

A trademark must be registered for classes of either products or services, there are 34 product classes and 11 service classes in the NICE classification system. A fee is payable for each class, so a trademark registered in all classes becomes expensive. You can’t get a trademark for the same mark in the same class as one already registered, but can get one in another class as long as there is no confusion in the mind of the consumer and any objections from other rights owners are dropped or found to be not valid.

If a trademark is not used in trading, i.e. it is dormant, an application can be made to ‘strick off’ the trademark for others to use.

In common law countries like the UK there exists unregistered trademark rights, but the burden of proof in taking action against infringement lies with the infringed company. It is termed ‘passing off’.

Fees for Trademarks
In UK: [http://www.ipo.gov.uk/types/tm/t-formsfees.htm](http://www.ipo.gov.uk/types/tm/t-formsfees.htm)

Task 5.3. (30 min)
Become acquainted with trademark information by using e.g.
   a) In Finland: [http://tavaramerkki.prh.fi/default_en.pl](http://tavaramerkki.prh.fi/default_en.pl).
   b) In UK: [http://www.ipo.gov.uk/types/tm/t-os.htm](http://www.ipo.gov.uk/types/tm/t-os.htm)

Choose a trademark you know and try to find it from the database. List what kind of information there is.

Business name/ trade name is a name that a tradesman or a company utilizes in its business. The exclusive right to a business name begins with registration in trade register or with assertion.
Protection of registered business names is based on national legislation. In the EU there are not any binding legal provisions about business names. Trade name mustn’t have risk of confusion with trademark of another tradesman. On the other hand holder of a trade name has a right to use his trade name as a mark of his products. There are regulations of protection of registered business names in the Paris Convention.

**Task 5.4. (30 min)**

*Become acquainted with company information by using eg.*

- a) Finnish BIS-search – Trade Register:  
- b) UK companies house: [http://www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)
- c) In Latvia: Register of Enterprises of The Republic of Latvia:  
- d) In Lithuania:

Search company information of the company you know and list what kind of information there is.

A **domain name** is an address on the Internet. Registration of a domain is normally operative for a restricted term and it can be renewed if necessary.

A domain name isn’t part of the law of industrial property, but its effects e.g. to trademarks are significant.

A domain name can in principle consist of any kind of minimum two characters, mainly of letters. It can’t without rights be based on another’s protected name or mark, for example on registered trademark, business name or on name of a person. Domain names are regulated by ICANN, many new global level domains have been approved since the early country and company ones. It is trademark infringement through search engines like Google which is the subject of recent cases brought to the ECJ [European Court of Justice] and yet to be resolved in some cases.

**Fees of Domain names**


**Task 5.5.(30 min)**

Become acquainted with domain information by using e.g.

- a) **FICORA**’s domain name service: [https://domain.ficora.fi/fidomain/aca.aspx](https://domain.ficora.fi/fidomain/aca.aspx)
Search domain name information of the domain you know and list what kind of information there is.

**Copyright** protects literary and artistic work. Work must express creative input of its creator and it must be independent and innovative. It mustn’t be a copy or an imitation of a former work.

The object of a copyright can for example be belletristic or interpretative literary or oral performance, composition, stage performance, film work, photograph work or other work of visual art, product of architecture, handicraft or industrial art. Also computer software can be protected. With copyright it isn’t possible to protect subject, idea, method, principle, information content or plot.

In the first instance copyright belongs to the creator of a work. The creator is always a natural person. Community or company can attain copyrights by making agreements with creators. When the question is about computer software, copyright devolves directly to employer on the basis of the law itself.

Copyright differs from other intellectual property rights in the way that attaining copyright doesn’t require registration, declaration or filling of another formal requirement. Copyright is held from the moment of creation of a work for the lifetime of creator and 70 years after his death. The above applies to literary works like books and music scores, for performances this is reduced to 50 years and for topographical layout just 25 years.

Copyright is an international branch of jurisdiction and copyright-wide legislation exists almost in every country of the world. Protection is however mainly national. International agreements protect certain minimum rights, but content of this protection differs in every nation. Copyright enables far-flung international protection but differences between nations affect actions in practice.

The term of copyright is 70 years from beginning of the year following the creator’s death.

**Duration of Copyright**

- **Literary, Musical, Artistic and Dramatic Works:** Author’s lifetime plus 70 years
- **Films:** 70 years after the death of the last of: Director, Composer of the Score, Author of the Screenplay and the Scriptwriter
- **SoundRecordings, Cable Programmes, TV and Radio Broadcasts:** 50 years from first broadcast
- **Publisher’s Right, Typographical Layout:** 25 years

Copyright carries with it certain moral rights as listed below, these are granted automatically but contracts can ask for moral rights to be waived. It is at the discretion of the copyright owner whether or not to waive their moral rights.

1. The right of attribution, to be identified as the author or director of work.
2. The right to object to a false attribution.
3. The right of integrity, to object to derogatory treatment.
4. Right to privacy, for photographs and films commissioned for private and domestic purposes.
Trade secrets are typically a company’s property that is left outside from protection of intellectual property rights. Business secrets include all the confidential matters that are important for a company’s business. Business secrets as a concept is non-specific and it isn’t always easy to find out whether it’s about business secrets at all. The most famous trade secret is the recipe for Coca Cola.

The meaning of a non-disclosure agreement is to ensure that confidential knowledge and material remains secret. These agreements also forbid usage of information for any other purpose than those specified explicitly in the agreement. In non-disclosure agreements mainly agreements of how to use secret information and to what kind of purposes information can be used are made.

The table 5-1 below contains a summary of the basic features of most common protection methods.

<table>
<thead>
<tr>
<th>IPR</th>
<th>Protected target</th>
<th>Protection condition</th>
<th>Protected by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patent</td>
<td>Product, method</td>
<td>New, involve inventive step and be susceptible to industrial application</td>
<td>Application</td>
</tr>
<tr>
<td>Utility model</td>
<td>Product</td>
<td>New, involve inventive step and be susceptible to industrial application, doesn’t make the grade of patentability</td>
<td>Registration</td>
</tr>
<tr>
<td>Registered design</td>
<td>Design</td>
<td>Differ essentially from others</td>
<td>Registration or unregistered</td>
</tr>
<tr>
<td>Trademark</td>
<td>Figures, one or more words, letters or numbers or of a unique layout of a product</td>
<td>Distinctive, non-confusing similarity</td>
<td>Registration or unregistered</td>
</tr>
<tr>
<td>Domain</td>
<td>Internet address</td>
<td>Do not violate protected names or trademarks</td>
<td>Registration</td>
</tr>
<tr>
<td>Copyright</td>
<td>Concrete literary and artistic works</td>
<td>Work must be independent and original</td>
<td>Automatically</td>
</tr>
</tbody>
</table>

Table 5-1. Summary of most common intangible asset properties

More information about industrial rights:
National Board of Patents and Registration (Finland), www.prh.fi
Foundation for Inventions (Finland), www.keksintosaatio.fi
Ministry of Employment and Economy (Finland), http://www.tem.fi/index.phtml?s=862
Databases of National Board of Patents and Registration:
Patentdata–PatInfo, http://patent.prh.fi/patinfo/default2.asp. This database includes identification, processing, validity and payment details data of patent and utility model applications applied from National Board of Patents and Registration since 1970s.
FI-EP patents, http://patent.prh.fi/FiEp/default2.asp contains European patents in which Finland is designated. Database also contains legal status of these patents.
esp@cenet, http://fi.espacenet.com/search97cgi/s97_cgi.exe?Action=FormGen&Template=fi/FI/home.htm contains identification data and patents from over 70 countries.

European Patent Office:

WIPO:
Patentscope, http://www.wipo.int/pctdb/en/index.jsp is database of WIPO, from which you get information about public PCT –applications. From this database are also found reports of the novelty of the product, written statements of patentability and reports of pilot experiments of patentability given in PCT –applications.

Before a SME begins to undertake research and development they should search the patent databases to ensure that they are not trying to achieve a result which is already patented. More than 80% of the world’s technical information is contained in patents, they represent an important source of information. When searching the esp@cenet database patents can be identified by keywords, by the owner’s name, or by the inventors names as well as by European classification codes.

Exercise 5-1:
Search the esp@cenet database to find:
Who owns patent number:US 2011174981
How many patents are owned by Nokia
What is the ECLA code for: Electric propulsion with power supply from force of nature, e.g. sun, wind

Exercise 5-2:
Search the trademark databases to find:
If you can register the trademark ‘ IPOD ‘ in NICE class 28
What would happen if you registered this trademark in class 13
Who owns the Community Trademark ‘WINDOWS‘ in classes 06,20 and 24
5.1.3. Understanding the techniques and tools used to identify and critically appraise intellectual assets

Previously the capital of a company was seen to be comprised of corporeal capital, such as estates, buildings, devices and machines. Nowadays competitiveness of a company is based on intellectual capital, especially to trademarks, inventions, business secrets, copyrights and designs.

Every company should review how a company’s intellectual property rights are connected with the business strategy of a company.

The Small Business Center at the Aalto University School of Economics investigated relations between start-up companies and intellectual property rights and research was funded by Papula-Nevipat. From that research an ideal model of how to manage intellectual property rights was created. All the elements that a starting company should go through in the right order are represented in this model. (www.papula-nevinpat.com)

“IDEAL MODEL” FOR A START-UP COMPANY

1. Is outside assistance needed in the protection process?
2. Is there anything to protect?
3. What must be protected?
4. How must it be protected?
5. Protection decisions must be made!
6. Starting to use these protection decisions in practice!
7. Is funding needed for protection expenses?

In the first phase is deliberated whether IPR -know-how is found from a company. At first it’s worthwhile to find out the supply of public consultation organizations.

- In Finland this kind of consultation is given by the National Board of Patents and Registration (http://www.prh.fi) Foundation for Inventions and invention representatives of Centers for Economic Development, Transport and Environment.
- In UK: Intellectual property Office (http://www.ipo.gov.uk/)

Information and consultation is also available in universities and in other institutions of higher learning. In complex matters it’s also worthwhile to turn to other experts e.g. patent offices and patent or trademark attorneys.

In the second phase everything that a company has to protect must be defined. At first internal property should be listed.

Create a detailed list of your IPs using e.g. this template with these titles

*Intellectual Property*

- Name registered trademarks, copyrights, registered designs, patents, licenses, own manuals, databases, guidelines, franchise agreements, publications, production processes, all know-how, brand of a company and its products, goodwill, certificates, distribution and manufacturing channels, customer
registers and programs for selling and marketing, signed agreements with key personnel, contractors, consultants or other external suppliers which assign any IP they develop.

**Description**
Describe each asset with few words

**Owner**
Who owns this asset, is it your company, your partner, your employee

**Product life**
Is this asset used at the moment, and when it is potentially useful or no longer used

**Usage**
How the IP is used or unused

**Importance in business (scale 0-5)**
Evaluate how important this asset is in your business

**Estimated Value (€)**
To estimate the value of IP, the evaluation methods are market based, cost based or income methods.
- market based method - price paid for comparable assets
- cost method - the cost to replace the asset with an identical or equivalent asset
- income method - net present value of the future income expected to be received from the asset

**Protection method**
Does it need any application, registering, or is secrecy enough. When are your patents, trademarks or designs due for renewal

---

**Task 5.6 (TMA)(60 min)**
Use this tool to identify your company’s intellectual assets. List all your intangible property

<table>
<thead>
<tr>
<th>Intellectual Property</th>
<th>Description</th>
<th>Owner</th>
<th>Product life</th>
<th>Usage</th>
<th>Importance in business (scale 0-5)</th>
<th>Estimated Value (€)</th>
<th>Protection method</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 5-2: Tool to identify and evaluate intellectual assets.

In the third phase a detailed cost/benefit analysis is carried out for each individual IP asset, a careful analysis of the total lifetime costs and times to get IP registered (or granted in the case of a patent) will enable the company to make decisions as to whether they are the best company to exploit the IP asset themselves.

In the fourth phase a right way of protection to each object is chosen. When all objects worth protection are defined a suitable way to protect those must be chosen.

In fifth phase decisions of what to protect and how, are made. Decisions should be based on analysis of costs and paybacks. In many cases it might be most wise simply to acquiesce in concealment because for example patent application is hard and time-consuming process, which also involves costs.

In sixth phase operations for protection are started. Then applications for objects to protect are drawn up in compliance with chosen expedient.

In seventh phase funding for costs of protection are applied if needed. In Finland most widely used way to fund, which is also especially designed for this, is to use relief fund of Foundation for Inventions. Funding can also been applied from private financiers (private equity investors) but then funding of protection is probably connected with funding entirety of a company.

5.1.4. Preparing and evaluating an IP exploitation strategy

Issues related to intellectual property should be considered as a section to all business operations such as e.g. internationalization, networking, IT and quality matters.

A company’s IPR strategy has to be integrated into the company’s business strategy. These two strategies need to complement each other.

A company needs an IPR strategy to:

- manage their IP
- set objectives
- create a plan of action
- evaluate implementation

The ideal model is a useful tool when a company decides to start managing IPR matters and to take care of them in a professional manner. After you have identified and classified all of the company’s industrial property rights you have created the company’s IP portfolio.

The management of an IP portfolio must be considered part of a company’s asset management strategy. And the costs, value, structure and changes in the portfolio must be frequently evaluated.
Protection from IPR infringement

The IPR strategy must include the protection plan against IPR infringements. Initiative for enforcing IP rights rests exclusively with the right holder. He is responsible for detecting infringements and for bringing them to the infringer’s attention. That’s why the company should establish effective policies for monitoring, identifying and responding to possible infringements.

Monitoring competition

Planning your own strategy is very important when you want to know what your competitors are doing. Each company should plan the method of how to do their searches i.e. which IP registers for detailed legal, technical and business information about a competitor's or potential business partner's operations, products or services to access. Checking for IP infringement has become an easier task with the ever increasing volume of data available on company websites. Larger companies will employ professional search companies to check for global infringement of their rights.

Employee inventions

It is very important that IPR strategy includes guidelines for employee inventions and compensations made systematic.

According to the Patents Act (in Finland, Scandinavia and some European countries), the rights to the invention and its exploitation belong to the inventor, but according to labor laws, the employer has the rights to the results of the employee’s work. The Act on the Right to Employee Inventions aims to balance these two acts.

According to this law an employee shall have the same right in his inventions as other inventors, but the employer may acquire the right in the invention, in whole or in part

- if an invention has ensued from an employee’s activity in the performance of his duties
- if the use of the invention falls within the field of activity of the employer’s enterprise

When an employer acquires the right in an invention, the employee is entitled to reasonable compensation from the employer. When determining the amount of the compensation, particular attention shall be paid to the value of the invention, the scope of the right which the employer acquires, as well as to the terms and conditions of the employment contract of the employee and the contribution which other circumstances connected with the employment had to the conception of the invention.

As an example you can find the code of practice for inventions made by employees of Aalto University:

http://ace.aalto.fi/Documents/code%20of%20practice%20Aalto_30112010_eng.pdf

Levels of Industrial Property Rights for SMEs

Figure 5-5 describes the levels of companies' preparedness to use industrial rights in business. It is an essential part of the learning process that studying this figure the company knows on which level it is today and makes plans to reach next levels.
### Figure 5-5. Levels of Industrial Property Rights for SME’s (Kivi-Koskinen, 1999)

<table>
<thead>
<tr>
<th>Level</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BN is not recognized as IPR. No other IPR.</td>
</tr>
<tr>
<td>2</td>
<td>Claim from competitor on violation of IPR prior to granting of P or UM. Name given to product.</td>
</tr>
<tr>
<td>3</td>
<td>P or UM applied for own inventions, aware of the difference, compensation paid for EI.</td>
</tr>
<tr>
<td>4</td>
<td>P literature becomes source of information; monitoring of competitors becomes systematic and claims are made.</td>
</tr>
<tr>
<td>5</td>
<td>P is referred, value of TM defined.</td>
</tr>
<tr>
<td>6</td>
<td>IPR strategy and license strategy becomes part of business strategy. Income from licensing a significant contributor to business. Rights of use to inventions supporting business are purchased.</td>
</tr>
<tr>
<td>7</td>
<td>All IPR are licensed. Aggressive IPR policy. The values of all IPR are defined (and included in balance sheets).</td>
</tr>
<tr>
<td>8</td>
<td>P acts as a standard, cross-licensing with competitors. TM becomes the leading brand in the industry. CD becomes a trademark.</td>
</tr>
</tbody>
</table>

#### 5.1.5. Sourcing finance and developing a financial case for the exploitation of intellectual property

As we learned in module 3, **Financing Innovation**, companies’ innovation finance comes from the public sector, banks or from private finance-companies.

Intellectual property assets may help you to strengthen your case for obtaining business finance from investors/lenders. Intellectual property rights can be used as collateral for a credit.

Investors or lenders may value your IP assets in different ways and may attach different degrees of importance to IP rights. It is very important to a company to have a well-managed IP portfolio and include the IP assets of the company in their business plan. Also, it is critical to obtain an objective valuation of the identified assets from a competent valuation firm.

In most countries the Government provides support to high-tech start-ups and other innovative SMEs through grants, guarantees, subsidies and loans.

**Finland:**

**Finnvera** - Research and product development

Development of products and services is the basic prerequisite for increasing a company’s sales and improving its competitiveness. An enterprise can apply for...
Finnvera’s loans and guarantees in order to fund research and development and other activities improving its operating potential.

A precondition for arranging financing is that the development project is well planned and that it will have a positive impact on the enterprise’s profitability. It also pays to map the risks associated with the project carefully in advance, before the project start-up.

**Foundation for Finnish Inventions**([http://www.keksintosaatio.fi](http://www.keksintosaatio.fi))

Funding from the Foundation for Finnish Inventions is intended for the development and commercialization of innovative ideas or inventions. The Foundation may grant support funding for the idea or invention to cover, among other things, patenting, building a prototype, testing of the technical and commercial performance and product development.

**Tekes**([http://www.tekes.fi](http://www.tekes.fi))

Tekes offers funding for innovative projects aimed at generating new know-how and new kinds of products, processes, and service or business concepts.

Tekes can also finance R&D projects undertaken by foreign-owned companies registered in Finland. International companies with R&D activities in Finland do not need to have a Finnish partner to be eligible for funding. The financed project should, however, contribute to the Finnish economy.

With a view to promoting international R&D cooperation, Tekes funds collaborative research and development projects and facilitates researcher mobility.

5.1.6. **Identifying and describing the key elements of a licensing agreement**

For example if you do not have resources or experience to develop and market your product or service, it could be an effective exploitation strategy to license your own intellectual property to another company, in order to generate additional income for the enterprise.

Licensing is also a good resolution when looking for international partners. In this way it might be more affordable to conclude a licensing agreement separately in every country and to produce products directly in each country of selling.

In licensing the owner of an idea gives to a company a.k.a. licensee some rights to his invention for remuneration, ordinarily the right to manufacture and sell a product or service. The proprietary right remains with the owner i.e. the licensor.

**Three types of licensing**

1) **Licencing-in** – A company obtains technology from an external source
2) **Licensing-out** – A company gives permission to another for the manufacturing of products
3) **Cross-licensing** – two or more parties grant rights to their intellectual property to the other parties

Licensing usually is only negotiated after a company has taken out registered IP protection on a product or service, for example a patent. The licensor will get a higher payment for the licence if the IP has been protected, as this can provide the licensee with a monopoly in a certain field of use and territory.
After a partner in cooperation has been found negotiations for licensing agreement can begin. In negotiations, rules of licensing are written down in a licensing agreement. Licence agreements can be very long documents, which cover clauses on financial and legal issues. The compensation for licensing is usually tied to the commercial value of the invention. The compensation can be a fixed, an annual fee, or profit-dependent royalty. Foundation for Finnish Inventions (www.keksintosaatio.fi) has compiled a checklist for licensing agreement.

**Checklist for licensing agreement**

This list isn’t exhaustive but it’s meant only to be directive checklist when licensing an invention. In practice every case must be reviewed separately and when an agreement is concluded all the circumstances must be considered.

- Parties and introduction
- Definitions
- Object of a license
- Type of a license
  - Exclusive right
  - Concurrent right
  - Divided right
- Industrial rights related to object of a contract
- Width of a license
  - Allowed ways to exploit
  - Geographical width
  - Possible limited application area
  - Allowed term for exploitation
- Changes of licensed technology, development and enhancements
- Applying of industrial rights and maintenance
- Licence fees
  - One-time payment
  - Initial premium
  - Royalty
  - Yearly minimum royalty
- Accounting obligation, right of inspection of accounting and reporting
- Obligation to exploit
- Permitting of sublicensees
- Technical help and education
- Concealment
- Compensation for damage
- Limitation of risks
- Excusing of industrial rights
- Defence against infringements of industrial rights
• Nullity of industrial rights
• Approval and permission of authority
• Production of rival products
• Right to terminate and right of annulment
• Effects of terminating contracts
• Term of a contract
• Transfer of a contract
• Force majeure
• Partial nullity of a contract
• Serving a notice
• Applicable law
• Solutions of disagreements

5.2. Intellectual property rights management national and international environment.

Patent application
National route
If you intend to apply for a patent in your own country, it may be better to choose the national route and file your application at the IP office in your country. In Finland a patent is applied from the National Board of Patents and Registration (www.prh.fi), in UK from The Intellectual Property Office (www.ipo.gov.uk/), in Latvia from Patent Office of the Republic of Latvia (www.lrpv.lv), in Lithuania from The State Patent Bureau of the Republic of Lithuania (www.vpb.gov.lt). Patent Act, decrees and rules define how application must be done. Those are found for example from different patent databases in Internet.

Every patent application should be made accurately because after the day of application nothing can be added to the application. Requirements of patent can be reworked during process but the information for reworking must be in the text of application, either in exegesis of application or in original requirements.

International patent application (PCT -application)
The international patent application system is only for applications. The result of it isn’t an international patent or worldwide patent but a number of national patents.

The system is founded on international agreement, Patent Cooperation Treaty, which came into force in 1978. At the time of writing this course 144 countries have acceded to this treaty.

PCT –application can be instituted either in your own national patent office or in WIPO (World Intellectual Property Organization) in Geneva or in European Patent Office (EPO). If application is instituted in the national patent office, the office first revises that application is formally right. After revision the application is passed to the international authority for examination. If applicant is Finnish he can choose this authority to be the National Board of Patents and Registration, Swedish Patent and Registration Office or European Patent Office. All the later correspondence happens directly with the chosen international authority.
Application for utility model

In Finland a utility model is applied from the National Board of Patent and Registration. Act on Utility Model Rights, decrees and rules define how an application should be done. Those are found for example from different databases in Internet.

Every application should be made accurately because after the day of application nothing can be added to the application. Requirements of protection can be reworked during process but the information for reworking must be in the text of application, either in exegesis of application or in original requirements.

Application for right of utility model registration abroad

Registration of right of utility model in Finland protects invention only in Finland. If markets of this invention are located only in Finland, this registration should be enough. Often invention is sold also elsewhere, in Europe and probably even further. In that case invention should be protected also outside Finland.

In Europe and also in other world there are in principal same kind of utility model systems than in Finland. This system isn’t broadened as much as patent system. In those countries where it isn’t possible to apply for right of utility model it’s possible to apply for a patent.

Application for right of utility model can be done in Europe in the same way as patent application.

Registration of trademark

Companies or individuals should protect their trademarks by applying for registration. Registration of a trademark in Finland is done from the National Board of Patents and Registration (www.prh.fi), in UK from The Intellectual Property Office (www.ipo.gov.uk/), in Latvia from Patent Office of the Republic of Latvia (www.lrpv.lv), and in Lithuania from The State Patent Bureau of the Republic of Lithuania (www.vpb.gov.lt). By registration holder of a trademark gets exclusive right to use the trademark as a mark of product or service and he can deny others to use this mark or any other mark that has confusing similarity.

Registration of a trademark abroad

An applicant for a trademark has three options for application when applying abroad. He can use either the national registration system or to resort to usage of international systems such as registration according to Madrid Protocol or to Community Trade Mark, which is system that covers the whole European Union. From all of these options is more information available below.

Which system should be utilized in each case depends on the individual case. Those considering foreign trademark protection should often consult the office of authorized representatives.
Registration according to Madrid Protocol

By international registration of a trademark is meant registration of a trademark in accordance with the Madrid Protocol.

An application is made in English. It’s for the attention of the national patent office where correspondences between international application and national registration or application of registration are being inspected. After this the national patent office passes an application to the office of World Intellectual Property Organization (WIPO) in Geneva, Switzerland. WIPO keeps a register of international trademarks.

An applicant must name the countries of Madrid Protocol in which protection is applied in his application. International registration comes into force in those specified countries where no lawful excuses of registration have been found.

Community trademark

The trademark registration system of the European Community enables registered protection of a trademark with one application in the whole of the EU. This currently extends to 27 countries.

National registration

A third way to protect a trademark abroad is to take advantage of the national registration systems. In that case registration is being applied in every target country with separate applications what are treated by national authority in accordance with national legislation. Language of an application is the language of a country and normally a local representative is used. Details of procedure and prerequisites of registration are got from each country’s office.

Links:

Registration of designs

Registration of design in a national authority gives with certain exceptions an exclusive right to utilize that design in your country, so that others can’t use the design without approval of the holder of the design. In Finland from the National Board of Patents and Registration (www.prh.fi), in UK from The Intellectual Property Office (www.ipo.gov.uk/), in Latvia from Patent Office of the Republic of Latvia (www.lrpv.lv), and in Lithuania from The State Patent Bureau of the Republic of Lithuania (www.vpb.gov.lt).

Design registration gives protection to the design of a product or its appearance. Object of a protection is always a concrete product or its part and it’s always discernible with sense of sight. An object can’t be registered if it has to fit into something else, like a plug into a socket.

If you have invested to design a product, it’s wise to protect it with a registered design. Then you have exclusive right to utilization of a design and this way to the results of your design work.

Registration of Community Design

Community Design Regulation enables that with one application it’s possible to have design registration in the whole of the European Union. Community Design model is protection system separated of national registration. Authority of registration is Office for Harmonization in the Internal Market, which is located in Alicante, Spain. Community Design
Regulation contains regulations both of protection of registered design and of unregistered design.

An applicant can submit his application of Community Design directly to OHIM or leave it in national authority when board delivers it for a fee without delay to OHIM. National authority doesn't have any role in processing applications of Community Design. Consultation services endeavour also to answer to enquiries of Utility Design. Information about OHIM and Community Design and also about needed office stationary, fees, classification list and other directions about application of Community Design are found on website of OHIM: http://oami.europa.eu

Links:

Application of domain

The easiest way to get a domain is from your own Internet service provider, when service provider makes application of domain on your behalf to national domain organization. This will need checking for all the other states as the IPO in the UK do not register domain names, it's Nominet.

Read more:
National Board of Patents and Registration: www.prh.fi
Nominet in the UK www.nic.uk/
European Commission Enterprise and Industry:
http://ec.europa.eu/enterprise/index_en.htm
InnovAccess, www.innovaccess.eu has compiled national directions of protecting IPR – rights in Europe to their website.

5.3. World wide IPR management system.

The law of industrial property is an international branch of jurisdiction, which is executed by national legislation.

Industrial rights and copyright are mainly protected by a nation’s own legislation, but there are regulations of industrial rights and of copyright in international conventions, framed by the World Trade Organization(www.wto.org) and the World Intellectual Property Organization (www.wipo.int)

Specialized Agencies of United Nations, WIPO (World Intellectual Property Organization, http://www.wipo.int) was founded to promote cooperation between nations and
cooperation with other international organizations through protection of intellectual property rights.

The mission of WIPO is to promote through international cooperation the creation, dissemination, use and protection of works of the human mind for the economic, cultural and social progress of all mankind. Its effect is to contribute to a balance between the stimulation of creativity worldwide, by sufficiently protecting the moral and material interests of creators on one hand, and providing access to the socio-economic and cultural benefits of such creativity worldwide on the other. (WIPO Intellectual Property Handbook: [http://www.wipo.int/about-ip/en/iprm/](http://www.wipo.int/about-ip/en/iprm/))

**IPR – services of WIPO**

Patent Cooperation Treaty enables inventors and applicants to apply protection for patent in several countries by submitting one international application to one patent office. ([www.wipo.int/pct/en](http://www.wipo.int/pct/en))

**International Registration of Trade Marks, (Madrid System)**
Madrid Agreement opens up a possibility for owners of trademarks to protect trademark in different countries with one application. ([www.wipo.int/madrid/en](http://www.wipo.int/madrid/en))

**International Registration of Industrial Designs, (Hague system)**
Hague Agreement offers functional and effective way to register international industrial designs. ([www.wipo.int/hague/en](http://www.wipo.int/hague/en))

**World Trade Organization (WTO)** ([www.wto.org](http://www.wto.org))
WTO devices rules by which predictability of trade and transparency of national rules controlling trade is pursued.

**TRIPS, The Agreement on Trade-Related Aspects of Intellectual Property Rights** establishes minimum levels of protection that each government has to give to the intellectual property of WTO members. ([http://www.wto.org/english/tratop_e/trips_e/trips_e.htm](http://www.wto.org/english/tratop_e/trips_e/trips_e.htm))

**European Patent Office (EPO)** ([www.wpo.org](http://www.wpo.org))
EPO processes and registers patent applications of European patent system. National promulgation of patents EPO has authorized requires that those countries in which patent is wanted to enforce is named during application phase and also that after authorization patents are registered in national office.

**Office for Harmonization in the Internal Market (Trademarks and Designs)** ([http://oami.europa.eu](http://oami.europa.eu))
OHIM is the European Union agency responsible for registering trademarks and designs that are valid in all 27 countries of the EU.

**Internet Corporation for Assigned Names and Numbers, ICANN**, ([www.icann.org](http://www.icann.org))
ICANN is a non-profit organization that administers domain names of Internet addresses. ICANN administers domain names of upper level (such as .com, .net, .info). ICANN has created a process to solve disagreements considering domain names.

### 5.4. IPR management specifics in national (FI, UK, LT, LV) environments
Finland

In Finland salient regulation of intellectual property rights contains in following regulations:

- Registered Designs Act 12.3.1971/221, Registered Designs Decree 2.4.1971/252
- Trademarks Act 10.1.1964/7, Trademarks Degree 29.5.1964/296
- Act on Collective Marks 5.12.1980/795
- Business Name Act 2.2.1979/128
- Unfair Business Practices Act 1061/1978

Ministries

Issues related to intellectual property rights and their usage is divided to several ministries. Cooperation with ministries isn’t systematically coordinated in issues related to intellectual property rights.

Figure 5-6. IPR-operators in Finland:

National strategies:
- Implication and follow-up of strategy of information society
- Innovation strategy
- IPR -strategy

**Ministry of Employment and Economy (MEE),** [www.tem.fi](http://www.tem.fi)

MEE accounts for development of following intellectual property legislation:
- Acts of patent, utility model rights, registered design, trademark and business name
- Act on the Right in Employee Inventions and in university inventions
- Unfair Business Practices Act
- Consumer Protection Act

**Ministry of Education (ME),** [www.minedu.fi](http://www.minedu.fi)

- Development of legislation considering copyright

**Ministry of Transport and Communication (MTC),** [www.mintc.fi](http://www.mintc.fi)

- Development of communication legislation which include Act on Communication Rights and Marketing Communication Act.
- Legislation considering domain names and domain admin.

**Ministry of Agriculture and Forestry (MAF),** [www.mmm.fi](http://www.mmm.fi)

- Legislation considering Plant Breeder’s Right Act and legislation about geographical indication of origin, to which the EU legislation is applied directly.

**Ministry of Justice (MJ),** [www.om.fi](http://www.om.fi)

- Issues related with legal proceeding and distribution of work of court of justices
- All the forms of procedures related to intellectual property: civil, crime, administrative and marketing law processes
- Auditing of law and internecine coherence of regulations

**Ministry for Foreign Affairs in Finland (MFAF),** [www.formin.fi](http://www.formin.fi)

- Issues related to accessing markets and trade barriers.

**Finnish copyright organizations**

**Copyright society of performing artists and producers of phonograms Gramex,** [www.gramex.fi](http://www.gramex.fi)

- Promotes and administers rights of performing artists and of producers of phonograms
- Collects and distributes remunerations of public performances of phonograms.
KopioStory, www.kopiosto.fi
Copyright organization for authors, publishers and performing artists

Kopioosto administers licenses and distributes remunerations to copyrights owners.

- represents roughly 50,000 Finnish copyrights owners who belong to 44 member organizations representing authors, photographers, performing artists and publishers in all fields of creative work.
- administers among others licenses for photocopying copyrighted material and licenses for retransmission and certain types of broadcasting as well as recording of television and radio program
- admits extended collective licenses and remunerates royalties e.g. to authors

- Represents about 2000 national visual artists and via consummated contracts with international sister organizations about 50,000 foreign artists.
- Controls rights of visual artists in area of utilization of visual works.

Finnish Composers’ Copyright Society Teosto, www.teosto.fi
The Finnish Composers’ Copyright Society Teosto is the copyright organization for composers, lyric writers, arrangers and music publishers. It has more than 25,000 music author and publisher members and, additionally, it represents some two million rightholders around the world

- has supervision of the rights of composers, lyric writers, arrangers and publishers to public performing and recording of music
- authorizes licences to use music and distributes royalties to rightholders.

Copyright association for audiovisual producers in Finland, Tuotos, www.tuotos.fi
- controls rights of works of audiovisual producers

Copyright Society of Literary Sanastory, www.sanasto.fi
- promotes, supervises and manages rights of literary copyright holders in Finland and internationally

Copyright Information & Anti-Piracy Centre (CIAPC), www.antipiracy.fi
Society that supervises rights of its members and informs and educates its members in issues related with copyrights.

- established by several copyright societies
- works e.g. against infringements of copyrights

The Finnish Copyright Society
- acts as a discussion forum
- attached to it are the The Finnish Copyright Institute, which publishes reports and other material relating to copyright
- attached to it is also the Copyright Information Centre, which is a specialized copyright library
Funding

From the following public sources it is possible to get funding for development of intellectual property.

The Foundation for Finnish Inventions [http://www.keksintosaatio.fi]

The Foundation for Finnish Inventions screens and evaluates inventions and innovative ideas, generated by private persons and start-up companies and helps to develop them into businesses. Basic services of the foundation are counseling, evaluation of inventions and funding of protection of inventions, research and development and marketing. Essential criteria for granting funding are commercialization of invention, degree of innovativeness, patentability and level of technology. Customers of funding are private persons and small businesses.

Support Funding

The Foundation for Finnish Inventions’ support funding is intended for, among other things, patenting, product development and commercialization. Support funding is conditionally repayable, depending on the project's success and revenues. If the project is a commercial success, support funding needs to be repaid to the Foundation for Finnish Inventions. If, on the other hand, no profitable business is generated based on the idea, repayment of the support funding is not required.

Grants

Foundation of Finnish Inventions can grant small funding as grants. Grant is mainly intended to invention under idea and experimental phase, to pre-expenses of development. Decision of granting funding is made after evaluating innovativeness, functionality and economy of an idea.

Grants of RunarBäckström’s Foundation

The purpose of this foundation is to develop and encourage invention activity that benefits Finnish companies. Once in a year the foundation distributes several grants by way of projects of inventions are being promoted.


Funding of SMEs development projects is directed to development projects of SMEs that improve the level of products and production, management and marketing skill, internationalization and establishing and operative prerequisites. Funding can be used to cover costs of product and production development or costs of finding out funding and operational preconditions including expenses of use of external services and experts.


TYKE- funding spurs Finnish workplaces to develop innovations, productivity and quality of work life.

Tekes [http://www.tekes.fi]
Tekes is the financer and activator of companies and research institutes of challenging development and research projects. Tekes helps companies to turn a perfectible idea into business by offering funding and expert services.

Sitra, the Finnish Innovation Fund, is an independent public fund, which promotes stable and balanced development in Finland, the qualitative and quantitative growth of its economy and its international competitiveness and co-operation.

Finnvera [http://www.finnvera.fi](http://www.finnvera.fi)
Finnvera can finance enterprise’s operations and development during its life cycle. Object of funding can e.g. be starting a business, development of products and production, growth of business, investments (both corporeal and incorporeal), changes of generations and other merger and acquisitions.

**Development Corporations of Municipalities**
Some municipalities grant funding to patenting and other projects either directly or through development corporations of municipalities.

**Lithuania**

**Institutions, responsible for intellectual property in the republic of Lithuania**

**Ministry of Justice**
[http://en.tm.lt/](http://en.tm.lt/)
Coordination in the activities of the protection of the industrial property

**Ministry of Culture**
[http://www.lrkm.lt/](http://www.lrkm.lt/)
Formation of the state policy in the protection of Copyright and neighboring rights

**The Council for Copyright and Related Rights under the Ministry of Culture**
Representation of authors in copyright and neighboring rights

**State Patent Bureau**
Formation of the state policy in the protection of industrial property
Grant of Industrial property rights
Attestation of patent attorneys

**Lithuanian Technical Library**
Patent information and services to the general public
Publishing of the State Patent Bureau's official bulletin and patent documents

**LATGA-A Agency of Lithuanian Copyright Protection Association**  
[http://www.latga.lt/en](http://www.latga.lt/en)  
Representation of the rights of Lithuanian and foreign authors  
Public performance, communication to the public and rental of music works with or without lyrics;  
Reproduction of music works with or without lyrics in sound or audiovisual recordings;  
Public performance (live) and broadcasting of literary works;  
Reproduction in sound or audiovisual recordings of literary works;  
Public performance, communication to the public and right of rental of audiovisual works;  
Public performance (live) and communication to the public of drama and music-drama works;  
Reproduction, communication to the public, public display and right or rental of visual art works.

**Lithuanian Patent Attorneys**  
Representation of foreign applicants and right holders

**Customs Department**  
[http://www.cust.lt/web/guest/titulinis#en](http://www.cust.lt/web/guest/titulinis#en)  
Under the Ministry of Finance Border enforcement measures in fight against counterfeit and pirated goods

**Competition Council**  
Prohibition of unfair competition activities

**The Center for Research of Plant Varieties**  
Under the Ministry of Agriculture  
Registration and protection of plant varieties

**Courts**  
Enforcement of intellectual property rights

**Lithuanian Criminal Police Bureau**  
Administrative and criminal measures in fight against intellectual property and violation crimes
Latvia

Ministry of Culture

http://www.km.gov.lv

Copyright and Neighboring Rights Division

Ministry of Interior

http://www.iem.gov.lv

is responsible for inland activities regarding enforcement and Economic Police Bureau is responsible for actions which should be taken to enforce intellectual property rights

Patent Office of the Republic of Latvia

http://www.lrpm.lv/

Admits and examines applications for the legal protection of industrial property objects, performs examination of applications, grants patents, registers trademarks, industrial designs and semiconductor topographies, as well as maintains the respective State Registers.

Copyright and Communication Consultations Agency/ Latvian Copyright Agency (AKKA/LAA)

http://www.akka-laa.lv

is the largest collecting society in Latvia and represents more than 2000 Latvian authors, as well as the authors of foreign organizations mentioned above.

Business Software Alliance (BSA) Latvian committee

http://www.bsa.lv

is approved public organization, which aims are protection of legal software and fight against illegal use of software in Latvia

Association of Performers and Phonogram Producers (LaIPA)

http://www.laipa.org

LaIPA is an association founded by performers and phonogram producers, representing 285 performers and 28 phonogram producers of Latvia, as well as 74290 foreign performers and 6609 foreign producers.

Latvian Film Producers' Association (LKPA)

LKPA is an association founded by film producers, representing 29 film producers of Latvia.
Association of Professional Performers of Latvia (LaPAA)

http://aktieris.lv

LaPAA is an association representing 213 professional actors and self-employed artists.

Latvian Committee of Business Software Alliance (BSA)

http://bsa.lv

BSA is an international non-governmental organization, carrying out protection of software copyright and combating illicit software application.

Latvian Music Producers' Association (LaMPA)

LaMPA represents the interests of editors and distributors of legal music recordings and combats piracy of music recordings.

UK

Information on IPR policy in UK you can find from: http://www.ipo.gov.uk.

IP Professional: http://www.ipo.gov.uk/pro-home.htm

Organizations representing copyright owners

http://www.ipo.gov.uk/types/copy/c-manage/c-ownerorg.htm

Music and sound recordings

the Performing Right Society (PRS)

http://www.prsformusic.com/Pages/default.aspx

Public performance, broadcasting and use in a cable programme of most music

Mechanical-Copyright Protection Society (MCPS)

http://www.prsformusic.com/Pages/default.aspx

Making mechanical copies (recording) music

Phonographic Performance Limited (PPL)

http://www.ppluk.com/

Public performance, broadcasting, use in a cable programme and making mechanical copies (dubbing) of sound recordings

Video Performance Limited (VPL)

http://www.ppluk.com/

Public performance and broadcasting of music videos

Christian Copyright Licensing (Europe)

http://www.ccli.co.uk/main.cfm

Copying of religious music
Printed material

Copyright Licensing Agency (CLA)
  http://www.cla.co.uk/
  Photocopying, digitization and some other uses of much literary material

the Design and Artists Copyright Society (DACS)
  http://www.dacs.org.uk/
  Other use of artistic works

the Newspaper Licensing Agency (NLA)
  http://www.nla.co.uk/default.aspx?tabId=40
  Photocopying of many newspapers

The Authors Licensing and Collecting Society (ALCS)
  http://www.alcs.co.uk/
  Protect and promote the rights of authors writing in all disciplines.
  Ensure authors receive fair payment for the various uses of their work.

The Publishers Licensing Society (PLS)
  http://www.pls.org.uk/default.aspx
  Helps with other licenses from publishers;

Broadcasting Dataservices
  http://www.bds.tv/
  Use of some TV programme listings

Artistic works and characters

the Design and Artists Collecting Society (DACS)
  http://www.dacs.org.uk/
  Licenses for use of much artistic material

Copyright Promotions
  http://www.cplg.com/
  Use of a number of characters.

The Copyrights Group
  http://www.rmlicensing.com/ENG/copyrights.htm
  Use of a number of characters.

HIT Entertainment
  http://www.hitentertainment.com/portal/flash/player.asp
  Use of a number of characters.

Broadcast material

The Educational Recording Agency
  http://www.era.org.uk/
  The recording off-air by educational establishments for non-commercial educational purposes of much broadcast material
Open University Worldwide
http://www.ouw.co.uk/
The recording off-air by educational establishments for non-commercial educational purposes of Open University programmes.

Film
Filmbank
http://www.filmbank.co.uk/
Showing of a film in public in such places as clubs, coaches, restaurants, village halls and schools

Motion Picture Licensing Corporation
http://www.mplcuk.com/
Showing of a film in public in such places as clubs, coaches, restaurants, village halls and schools

ComPact Collections
http://www.compactcollections.com/
Cable retransmission rights on behalf of producers.

Video Performance Limited
http://www.ppluk.com/
Certain uses of music videos.
Summary

In this module we learned to identify the main types of intellectual property: patents, utility models, designs, trademarks and the general methods for protecting them. The module also introduced the ideal model of IPR management in the company, a tool how to define and valuate intellectual property and how to prepare and evaluate an intellectual property exploitation strategy. The module also presented possibilities how to finance IPR-activities and how IPR issues should be applied in business.

Self evaluation

1. Which one of the following is not industrial right?
   a. patent
   b. copyright
   c. trademark

2. Which one of the following propositions is false?
   a. Industrial rights and copyright are still mainly protected by nation’s own legislation
   b. Utility model is national protection
   c. A sound cannot be registered trademark

3. Copyrights protects
   a. Books and magazines
   b. Films and photographs
   c. All of the above

4. How do you obtain copyright?
   a. By filling in a registration form
   b. By paying a fee
   c. It is an automatic right; it doesn’t require registration

5. If you apply for a patent an application for your country (FI, UK, LAT, LTU), you have protection in the following?
   a. Any country you wish
   b. Europe
   c. Your country only (FI, UK, LAT, LTU)

6. The patent application must be filled before
   a. The invention
   b. The invention becomes publicly known
   c. Manufacturing of a product

7. In which country you can protect utility model
   a. UK
b. Finland
c. Latvia
d. Lithuania

8. Which of the following must your invention include to be granted a patent?
   a. Have a different appearance to similar items
   b. Differs substantially from previous inventions
   c. Be capable of being made or used

9. What does a registered design protect?
   a. The appearance of a product
   b. The function of a product
   c. The name of a product

10. Registration of Community Design gives protection in?
    a. Any country you wish
    b. The European Union
    c. Your country only (FI, UK, LAT, LTU)

11. Which of the following statements is true?
    a. Design registration protects the look of a product
    b. Design registration protects the name of a product
    c. Design registration protects the function of a product

12. The minimum length of domain name is
    a. 1 character
    b. 2 characters
    c. 3 characters

13. Which one of the following propositions is right
    a. Term of copyright is 50 years from beginning of a year followed by creator’s year of death.
    b. Term of copyright is 60 years from beginning of a year followed by creator’s year of death.
    c. Term of copyright is 70 years from beginning of a year followed by creator’s year of death.

14. According to the Patents Act the rights to the invention and its exploitation belong
    a. To the inventor
    b. To the employer

15. How long does a patent remain in force
    a. One year
    b. Ten years
    c. Fifteen years
    d. Twenty years

16. How long does a registered design remain in force
17. How long does a trademark remain in force from the day of registration
   a. One year
   b. Ten years
   c. Fifteen years
   d. Twenty years

18. How long does a utility model remain in force from the day of registration
   a. Five years
   b. Ten years
   c. Fifteen years
   d. Twenty years

19. Which of these you can patent?
   a. A poem that you’ve written
   b. A device for saving water
   c. A method of doing business

20. Which of these items would you not be able to patent?
   a. A method of doing business
   b. A device for saving water
   c. A technological advance

**Module 5. Final assessment**

How are the IPR issues presented in your Business Plan? Include your IPR issues into your business plan.

- **Business idea**
  Describe your IP-elements in your business idea. What is the core competence in business idea and does it have any relevance with IP?

- **Market and competitors**
  Do you know enough about your competitor's IP strategies and IP portfolios?
  Do you have a plan for gathering competitive intelligence?
  Do you gather or plan to use IP information/databases for obtaining competitive intelligence on your competitors?
  Are there any IP related barriers to enter your competitor’s market, e.g., patents, trademarks or industrial designs which underscore customer loyalty to competitor’s corporate image, brands, etc.?

- **R&D**
  Describe your future development of products/services and evaluate the role of IPR
• Finance
  Do you plan to use your IP assets as security or collateral for a loan, or to create a tradable security in the securities market?
  What is the possibility of securitization of future revenue streams linked to a portfolio of your IP assets?

• Risk
  Does your company’s commercial success depend on intellectual capital and what type of intellectual capital does it most depend on?
  Analyze also how easy it is for others to acquire or copy your existing IPR relevant product/services