

## Arts and Humanities

### Technology transfer in the Arts and Humanities sectors

The Arts and Humanities is an area that has traditionally been overlooked when considering the commercialisation of research, but is now increasingly the subject of agreements between universities and other organisations which aim to utilise the assets and work occurring in universities. This can have huge benefits for the universities; both financial and in terms of prestige. The exploitation of the knowledge and assets of an organisation is commonly called Knowledge Transfer. This can include displaying art collections, commercial production of merchandising products such as postcards, or simply facilitating the sharing of knowledge between groups involved in similar activities.

### What types of IP protection could the Arts and Humanities benefit from?

- Copyright

Copyright is an Intellectual Property right that regulates the creation and use of items such as books, songs, films and computer programs. It arises automatically on creation, and is chiefly for the benefit of the creator, as it governs the uses that can be made of the work. The right itself is not inconsiderable in relation to literary works – it lasts for 70 years from the death of the author.

Examples where copyright protection can be useful in the arts and humanities sector is in photographic and art collections. Any photograph taken at work, in line with the creator's academic work is automatically owned by the university, although the author retains the moral rights. At UCL, a revenue share policy is in operation (please see page ) A collection of photographs that allows access to individual photos and is sorted in a systematic manner could be considered a database, and so would also gain protection under the database directive (please see below for database rights). Art collections have previously been successfully used to generate income for departments and universities and the value of spin off merchandise from such activities should not be underestimated.

Publication is obviously another way in which value can be generated by a department. An academic who is an expert in their field can find that books, reviews and articles are a highly lucrative source of funding. If the publication is directly related to the work being carried out, they may find that the rights are owned by the University, (and again a revenue share type scheme will operate) but in some cases, where the publication is not directly related to their academic work, the academic may find that they own the economic rights to their publication. One issue to be aware of concerns the release of scientific ideas or production methods. If an idea is released into the public domain, this may prevent it being patentable

later. For this reason, before any publication decision is made regarding methods of production or any scientific methods, it is vital that advice be sought from UCL Business so that the most appropriate intellectual property protection can be gained.

Musical composition is another area that can benefit from copyright protection, and this can be used to prevent performance, recording or alteration of the music without a licence. As can be seen, many areas of the art and humanities are protectable by copyright and so this can be used to derive financial benefit from academic endeavours. It can also play an important role in the prevention of problems relating to use of a work, or more damagingly, the misuse of a work by alteration or destruction.

- Database rights

In recognition of the importance of databases, a new set of legislation was introduced to enhance the protection of databases. The Database Right offers protection to “collections of independent works, data or other materials that are arranged in a systematic or methodical way and are individually accessible by electronic or other means” where there has been substantial investment in obtaining, verifying the contents of a database. This investment is not necessarily finance related and may instead be due to human or technical resources – however, whether the investment is directed at another goal can justify this so called sui-generis right is another question e.g. can investment in deciding the times of TV programs justify the database right in the programme listing? At the moment the exact level of protection given to databases is still very much under discussion in the courts.

The protection lasts 15 years from the date of completion of the database, but where it is made available to the public before the end of the 15 years; the rights expire 15 years from when it was first made available to the public. Therefore giving a maximum potentially of 30 years. However, a loophole here is that where the database is “dynamic” in the sense that there are substantial additions, deletions or alterations (where there is new investment in the database) the protection time will begin again and thus a new period of protection will start. It can be envisioned therefore that certain databases will enjoy a rolling period of protection. However, there are difficulties in deciding what a substantial change is, and this has yet to be clarified by the courts.

- Designs

There are a range of different levels and types of protection for designs in the UK and abroad. In general though, Design right is an intellectual property right which applies to original, non-commonplace designs of the shape or configuration of products.

### **In the UK:**

	UK registered design	UK design right
How do I get protection	You need to register your design with UK IPO	<a href="#">Automatic right, no registration required</a>
Length of protection	25 years protection from filing date of application provided.	15 years protection from end of calendar year first recorded in a design document or first made, or, if design is made available for sale or hire within 5 years of the above starting point, 10 years protection from end of calendar year that first occurred
Type of protection	Monopoly protection	<a href="#">Exclusive right against copying</a> . A licence of right is available for the last five years of protection
Renewable?	Yes, every 5 years up to the maximum of 25	No
What does it protect?	The overall appearance of the design, excluding features dictated by technical function	<a href="#">Only three-dimensional aspects of design</a> , excluding surface ornamentation. Protects both functional and aesthetic aspects of design
Originality	Must be new (ie, not identical to existing designs) and have individual character	Must be original (ie, not copied from an existing design), and not commonplace
How much does it cost?	GBP £60 to apply or GBP £35 if the design is a textile made up of mainly checks, strips or lace	Nothing
How easy is it to enforce?	No need to prove design was directly copied in order to enforce rights	Must prove design was directly copied in order to enforce rights, and keep records proving date of creation
Can I sell it?	yes	yes
Does it give me protection abroad?	You can extend your United Kingdom protection to certain countries, mostly members of the Commonwealth	

(table modified from that provided by the UK IPO)

Outside the UK, design protection can either be gained by registering for a Community Design, or by taking out protection in individual countries. Therefore, it is important to examine the motives behind gaining protection, to see whether protection is required outside of the UK, and also whether the expense of registering the design is justified.

- Trademarks

A trade mark is a design or logo that is used by businesses to promote their goods and by consumers to distinguish between goods of various businesses. Most universities have now protected their logo and now use it routinely on advertising. A trade mark can be useful as it enables a consumer to make an informed decision about the goods – for example, if a customer is pleased by a purchase, they would be more likely to then purchase another item that is advertised by that trade mark. This can be seen from the use of the UCL trademark – it has now come to represent a certain level of quality, and the use of it on goods such as merchandising indirectly gives the customer more information about the good.

#### How can UCL Business help?

UCL Business can advise at all stages of the Intellectual Property process, from whether any official registered protection can be gained, or whether an automatic protection such as copyright will be sufficient to protect the asset. We can also help to arrange licensing opportunities, and can oversee the creation of agreements, and the negotiation of royalties. Therefore, for any questions regarding the protection of assets or their commercialisation, please do not hesitate to contact us at UCL Business: 0207 679 9000, [info@uclb.com](mailto:info@uclb.com)