



SAFEGUARDING YOUR INTELLECTUAL PROPERTY (IP)

Intellectual Property (IP) refers to the creations of the mind that can be protected by law from use by any other person. IP Rights are property rights belonging to the creators (or owners) that allow them to benefit from their own work and exclude others from copying and using their creations. IP rights are secured through patents, trademarks and registered designs, provided certain requirements are met which include that the **creation must be novel (i.e. new) /original**. In particular, for a **patent** to be granted, the creation must **not be obvious** and all the information about it **cannot be publicly known**.

You would have noticed in the *EXPO Project Guidebook*, the following is stated in the section **Ethics: Safety and Patents:**

“Some participants display projects that show innovative thinking and provide new products. Expo encourages the development of entrepreneurial products which may lead to the marketing of these products.

*Participants are advised to obtain legal advice about patent applications before entering their work at any Eskom Expo. **Once a design or product has been on public display, it cannot be patented.** However, if any exhibit is displayed for judges only, no patent rights should be lost.”*

Originality/novelty is an important concept in IP protection – this means that you should not disclose it (DON'T share it on Facebook/Twitter, Instagram or on any other social networks).

CHECKLIST

If your ISF project includes a product or design that could be marketed, use the checklist to see if you need to protect your IP:

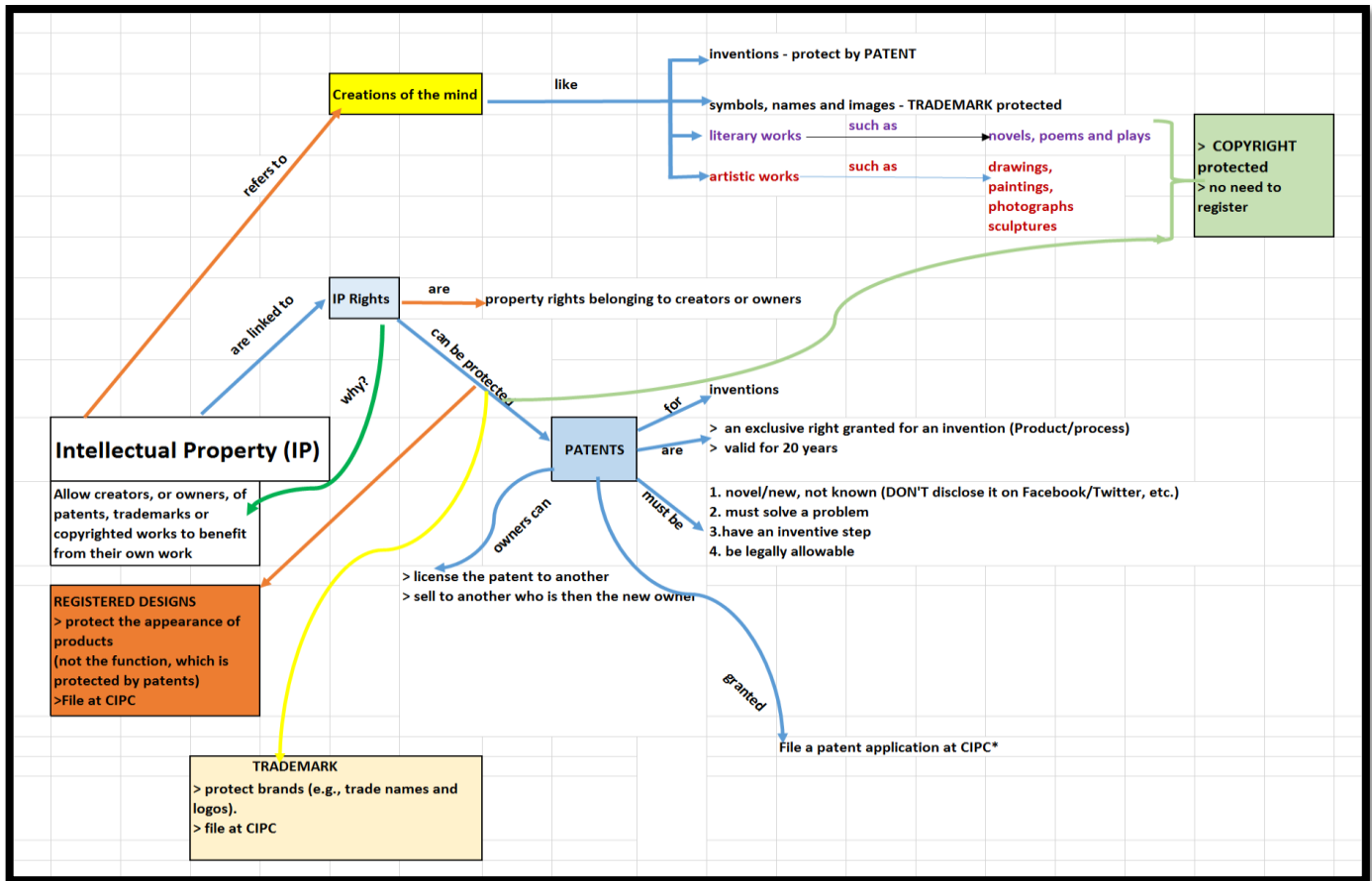
Patent criteria	Registered design criteria
1. Do you wish to protect how your invention works or functions? 2. Is it new to the world (i.e. novel)? 3. Is it a solution to a problem? 4. Does it have an inventive step (i.e. not obvious)?	1. Do you wish to protect the visual (aesthetic) appearance or functional features of your product? 2. Is it new /original or not common place?

If you have answered YES to **all** the Patent criteria AND/OR YES to **all** the Design criteria, then please consider protecting your IP before you exhibit at the EXPO for a Patent or within 6 months of exhibiting for a Design.

For more information, please contact:

- [South African Institute of Intellectual Property Law](#)
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INTELLECTUAL PROPERTY (IP) AND IP RIGHTS IN A NUTSHELL



IP can be protected by:

1. **COPYRIGHT** – this IP right subsists automatically in artistic and literary works (including computer programs and databases) that are reduced to material form and do not need to be registered. Only films should be registered with the Companies and Intellectual Property Commission (CIPC).
2. **TRADE MARKS** – protect brands (like trade names, logos, sounds etc.) finds protection through use (denoted TM) or through registration at CIPC so that the owner of the registered trade mark can have the exclusive right to use that mark (denoted as ®). A registered trade mark, if renewed every 10 years, can be protected forever.
3. **REGISTERED DESIGNS** – protect the appearance of products (not the function since that is protected by patents) and it can be registered with the CIPC so that it is legally protected – aesthetic (visual) designs are protected for 15 years, and functional (functionality) designs for 10 years.
4. **PATENTS** - protect inventions and are an exclusionary right for a product or process. Patents must meet at least 4 criteria – (1) novel/new, not known (DON'T disclose it on Facebook/Twitter, etc.); (2) must be applicable in trade, industry or agriculture; (3) have an inventive step (not obvious); and (4) be legally allowable – not be offensive. A patent application needs to be filed at the CIPC and it is advisable that a patent attorney assists with the filing. A patent is valid for 20 years and the IP creator/owner can license the patent to another or sell it to another who is then the new owner.

Thus, CIPC administers trademarks, patents, designs, copyright (films only).

For more information, visit the CIPC website: <http://www.cipc.co.za/index.php/trade-marks-patents-designs-copyright/what-ip/>

Remember all IP rights are territorial and hence there is no global/ international protection right so if you want to protect your IP in countries outside South Africa you need to apply in those countries too.

IP is a catalyst to innovation and the benefits thereof should be harnessed for socio-economic impact! All the best!