

A Beginner's Guide to IP Ownership for Innovators

1. Does the employee own it?

By law, most forms of intellectual property are personal property - the rights vest initially in the creator(s). However, intellectual property is also “transmissible by assignment, by will or by devolution by operation by law”.

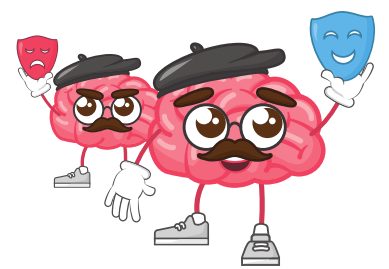
In the absence of an enforceable contract, the entitlement of intellectual property depends on whether the creator is an employee or an independent creator.

- Employment contracts commonly vest ownership in the employer for the intellectual property created by the employee in the performance of their duties.
- An independent creator will generally own the intellectual property in the products created in the performance of their work unless there is a condition in the consultancy agreement that requires them to assign the intellectual property rights to the principal.



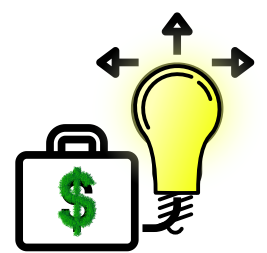
2. What about when a group creates the innovation?

The rights in most forms of intellectual property vest initially in the creators and would result in joint ownership of, for instance, a patent, with each inventor owning an equal and undivided share in the patent, but none being able to license or assign the patent without the consent of the others.



3. When can IP be commercialised?

A written, enforceable agreement that transmits future intellectual property rights from each of the creators to the designated party is essential to ensure a change of ownership and the ability to commercialise the intellectual property.

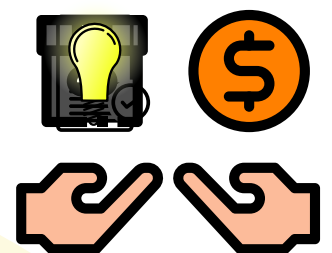


4. Why you might want to transfer ownership of IP

Reasons to transmit the rights from the creators to the other parties may include:

- Insufficient funds to take the creation to a working prototype, or insufficient funds to obtain intellectual property protection via a patent application.
- Lack of capacity to exploit the intellectual property, inject substantial funding or inability to attract external funding.

In return, the other party could commercialise the intellectual property, and consider authorising the creators to exploit those rights in return for royalties or license fees, or spin the invention off into a company to further develop the innovation, and bringing in partners to provide further expertise or funding.



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