

# Intellectual Property Rights relating to Waste Management and Sustainable Packaging

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- What is intellectual property?
- Why it is important.
- How to acquire it.
- How to enforce it.
- IP and waste management.
- IP and packaging
- Professional advisors
- Useful websites

Topics to be  
discussed

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The legal protection of investment  
in intellectual assets:

- Brands
- Designs
- Technology
- Creativity

# What is Intellectual Property?

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# Legal Protection of Brands

Brands are protected by:

- Registration of trade marks; and
- Law of passing off.

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- Functional and aesthetic designs are protected against copying by unregistered design right.
- New designs with individual character are protected by registration as registered designs.
- Designs that could be registered are protected from copying as unregistered Community designs.
- Surface decoration is protected by artistic copyright.
- Copyright also protects works of artistic craftsmanship.



## Legal Protection of Designs

- Law of confidence and Directive (EU) 2016/943 protects trade secrets.
- Patents confer 20 year monopolies of manufacture, sale and use of new inventions.
- Plant breeders' rights protect new plant and seed varieties.
- Literary copyright protects computer software.
- Design right protects functional designs.

## Legal Protection of Technology

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- Copyright protects original artistic, dramatic, literary and musical works, broadcasts, films, sound recordings and typographical arrangements of published editions.
- Rights in performances confer rights on actors, dancers, musicians, singers and other entertainers to object to unauthorized broadcasting, filming or taping of their performances.

## Legal Protection of Creativity

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IP can be both a threat and an opportunity to business:

- A threat in that the sanctions for even accidental infringement of IP rights can be severe.
- An opportunity in that IP enables businesses to recoup costs and establish themselves in the market.

Why IP is  
important

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Some IP rights come into being automatically:

- Copyright
- Unregistered design right
- Rights in performances
- Obligations of confidence

Others have to be registered with an intellectual property office such as the IPO in Newport, the European Patent Office in Munich or the EU Intellectual Property Office in Alicante:

- Patents
- Trade marks
- Registered Designs

## How to acquire IP

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- IP rights are enforced primarily by proceedings in the civil courts.
- Remedies include
  - Injunctions
  - Delivery up of infringing items
  - Damages (compensation)
  - Account of profits (surrender of ill-gotten gains)
  - Costs
- Counterfeiting, piracy and bootlegging are also criminal offences
- ADR:
  - IPO mediation
  - Examiners' opinions on validity and infringement of patents
  - Domain name disputes

## How to enforce IP Rights

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New waste management processes are likely to be patentable inventions:

- A quick search of the esp@cenet database reveals several patents or patent applications from the University of Aberystwyth.
- Other processes will be trade secrets which will be kept under wraps until commercialization.
- Software will be protected by literary copyright.
- Accumulations of data will be protected by database right.

## IP for Waste Management

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- Packaging design can be protected by unregistered design right and design registration and occasionally even as patentable inventions.
- Branding can be protected by trade marks.
- Surface decoration can be protected by artistic copyright.

## IP for Sustainable Packaging

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- Patent attorneys: advice and representation in relation to patent, trade mark and design applications, licensing and enforcement ([www.cipa.org.uk/](http://www.cipa.org.uk/))
- Trade mark attorneys: advice and representation in relation to trade mark and design registrations, licensing and enforcement ([www.citma.org.uk](http://www.citma.org.uk)).
- Specialist solicitors: advice and representation in relation to licensing and enforcement litigation ([www.ipla.org.uk](http://www.ipla.org.uk))
- Specialist counsel: advice on difficult points of law, drafting complex legal instruments and representation in the courts and IP tribunals ([www.ipba.co.uk](http://www.ipba.co.uk)).

## Professional Advisors

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- Intellectual Property Office  
([www.gov.uk/government/organisations/intellectual-property-office](http://www.gov.uk/government/organisations/intellectual-property-office))
- British Library Business and IP Centre ([www.bl.uk/business-and-ip-centre](http://www.bl.uk/business-and-ip-centre))
- European Patent Office  
([www.epo.org](http://www.epo.org))
- EU Intellectual Property Office  
([euipo.europa.eu](http://euipo.europa.eu))
- World Intellectual Property Organization ([www.wipo.int](http://www.wipo.int))
- Jane Lambert's website  
([www.nipclaw.com](http://www.nipclaw.com) with its latest subdomain [www.nipcwales.co.uk](http://www.nipcwales.co.uk))

## Useful Websites

[www.nipcwales.co.uk](http://www.nipcwales.co.uk)



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