



## ICT ENTREPRENEUR



*“One becomes an entrepreneur  
not by birth but by education  
as well as by experience”*

*Volkmann 2004*



Funded by the  
Erasmus+ Programme  
of the European Union

This project has been funded with support from the European Commission.  
This publication [communication] reflects the views only of the author,  
and the Commission cannot be held responsible for any use which may be made  
of the information contained therein.



ICT  
ENTREPRENEUR

# MODULE 5: IPR AND TECHNOLOGY MANAGEMENT



1. INTRODUCTION
2. PATENTS
3. UTILITY MODELS
4. SECRETS
5. INDUSTRIAL DESIGNS
6. BRANDS
7. COPYRIGHT
8. PRACTICAL CASES
9. BIBLIOGRAPHY

Please pre-Access the audience before this module is taught to see their level of current knowledge and interest in this subject.

We suggest you spend less time on this Module and more time in M2.

# DO YOU HAVE AN IDEA?



1. INTRODUCTION
2. PATENTS
3. UTILITY MODELS
4. SECRETS
5. INDUSTRIAL DESIGNS
6. BRANDS
7. COPYRIGHT
8. PRACTICAL CASES
9. BIBLIOGRAPHY

# WHAT KIND OF idea?



## ❑ WHAT IDEA? INNOVATION?

- Technical innovation
- Services innovation
- Innovative business model
- Design innovation
- Social innovation
- Technological innovation

## ❑ WHAT DO WE DO?

# WHAT CAN YOU PROTECT?



- ☐ PATENTS
- ☐ UTILITY MODELS
- ☐ SECRETS
- ☐ DESIGNS
- ☐ BRANDS
- ☐ COPYRIGHT-SOFTWARE

# VALUES



- ☐ EXCLUSIVITY
- ☐ TERRITORIALITY
- ☐ LIMITED DURATION
- ☐ DIVULGATION



# WHAT IS A PATENT?



Patent is a title that recognises the right to exclusively **exploit an invention**, preventing others to fabricate, sell or use it without the owner's consent. As a counterpart, the patent is available to the public for general knowledge.

## KINDS

### ☐ Product patents:

Products characterized by their configuration or structure

Products characterized by their composition

### ☐ Procedure patents:

Sequence or set of operations aimed to obtain a product or technical result

# REQUIREMENTS



☐ NEWNESS

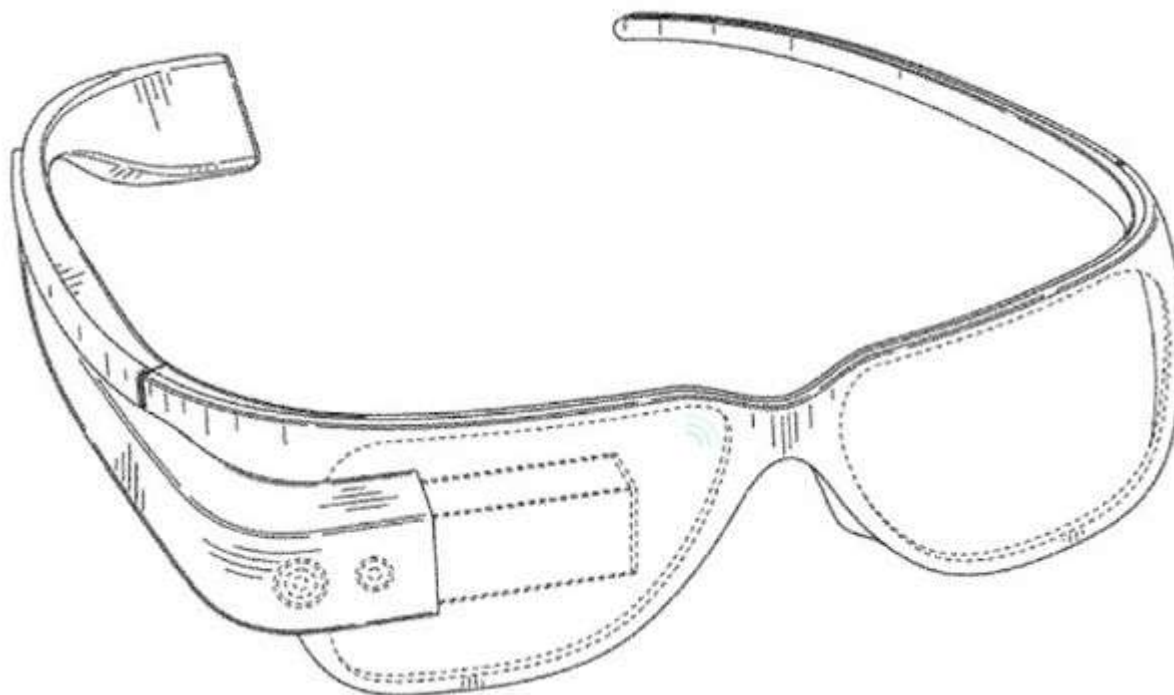
☐ INVENTIVE ACTIVITY

☐ INDUSTRIAL APPLICATION

# EXAMPLE: APPLE GLASSES



ICT  
ENTREPRENEUR



## EXAMPLE 2: APPLE Vs SAMSUNG (CASE STUDY)



# SCOPE



☐ NATIONAL

☐ EUROPEAN

☐ INTERNATIONAL

TERM OF PROTECTION

20 YEARS

# COMPETENT OFFICE



- ❑ NATIONAL LEVEL: National Institution (NI)
- ❑ EUROPEAN LEVEL: NI/ European Patent Office (EPO) (38 countries)
- ❑ INTERNATIONAL LEVEL: NI/ EPO/Institution in country of destination

# TIME OF REGISTRATION



National level:

- ☐ Around 30 months

European level:

- ☐ Around 30-36 months

# COSTS



- ❑ Example of patent in Spain without prior examination: € 800
- ❑ Example of patent in Spain with prior examination: € 1200
- ❑ European Patent (status 2015) (not including the cost of validation and translation) € 5,000
- ❑ European Patent (status 2015) (including the cost of validations and translations in 11 countries) around € 40,000
- ❑ PCT (International Phase without a Preliminary Examination) € 3,250



# TO WHOM CORRESPONDS?



- ❑ It corresponds to the inventor / successor in title
  - Possibility of transmission also between alive people
- ❑ Invention by several people separately
  - Rule of the first inventor applicant
  - Legal actions to protect the legitimate right holder
- ❑ Joint invention by several people
  - Joint Ownership
- ❑ Employees' Invention (or providers' ones)
  - Combined rights for employer and employee (or provider service)
  - e. g.: University Inventions

# LIMITS TO THE RIGHT



- ☐ Acts carried in the private scope
- ☐ Acts done for experimental purposes
- ☐ Community exhaustion
- ☐ The Privilege of farmers and ranchers
- ☐ Prior use right
- ☐ Dependent patents

# WHAT CAN NOT BE A PATENT?



- ❑ The discoveries, scientific theories and mathematical methods.
- ❑ Literary or artistic works or any other aesthetic creation, as well as scientific works.
- ❑ Schemes, rules and methods for performing intellectual activities, games or economic and business activities, as well as computer programs.
- ❑ The methods for presenting information.
- ❑ Methods for surgical or therapeutic treatment of the human or animal body, or diagnostic methods applied on the human or animal body.

# WHAT IS AN UTILITY MODEL?



It is a title that recognizes the exclusive right to exploit an invention, preventing others from its manufacturing, selling or using without the consent of the owner. In return, the utility model is available to the public for general knowledge

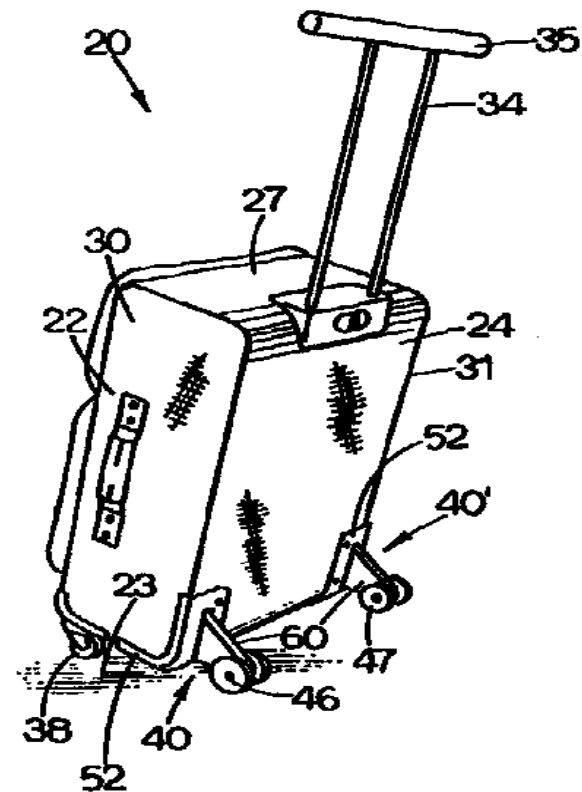
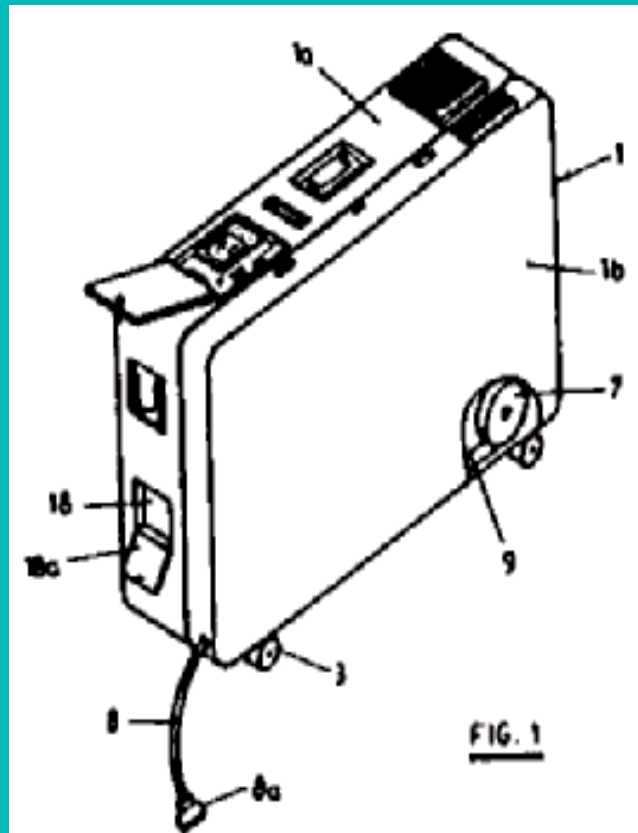
## REQUIREMENTS

- NOVELTY
- To be an obvious INVENTION
- INDUSTRIAL APPLICATION

## LENGTH OF PROTECTION

10 YEARS

# EXAMPLE



# TIME OF REGISTRATION



The time until the concession depends on whether the application suffers some suspense, but the average times taken to get a concession are:

National level:

- Around 10 months

**BE CAREFUL, NOT EVERY COUNTRIES ALLOW THE UTILITY MODEL**

- ❑ SPANISH EXAMPLE OF UTILITY MODEL=  $74,92 \text{ €} + 26,46 \text{ €} =$   
**101,38 €**
- ❑ **BE CAREFUL, NOT EVERY COUNTRIES ALLOW THE UTILITY MODEL**

# UTILITY MODEL VS PATENT



- ❑ A utility model must be manifested (obvious) through the form, structure or constitution of an object to achieve a **technical advantage**.
- ❑ A patent protects (non-obvious) procedures.
- ❑ The duration of protection is lower: 10 years from their application because it protects inventions of less inventive size.
- ❑ It doesn't make an exam or report on the state of the technique. There is a call for to third party oppositions.
- ❑ Its concession is faster than in the case of a patent and its cost, lower.



# WHAT IS A SECRET?



It is a piece of information that is only known by one person or a few people in a business context and must not be told to others. There is no registration involved in this.

## CHARACTERISTICS

- ☐ Neither temporal nor territorial limits
- ☐ Immediate effect
- ☐ INot protected against imitation
- ☐ No registration cost involved

# EXAMPLE



# WHAT IS AN INDUSTRIAL DESIGN?



Industrial Design is the appearance of the whole or a part of a product, which is result of the features of, in particular, the lines, contours, colours, shape, texture or materials of the product itself or its ornamentation.

## REQUIREMENTS

- NOVELTY
- SINGULAR CHARACTER

# EXAMPLE



ICT  
ENTREPRENEUR



De Matthieu Riegler, Wikimedia Commons, CC BY 3.0, \$3

# KIND OF Protection?



- ☐ NATIONAL
- ☐ EUROPEAN UNION LEVEL
- ☐ INTERNATIONAL LEVEL (HAGUE SYSTEM)

# LENGTH OF THE protection?



## NATIONAL (SPAIN)

- ☐ 5 YEARS
- ☐ RENEWABLES UP TO 25 YEARS

## EUROPEAN UNION

- ☐ UNREGISTERED: 3 YEARS (when disclosure is done)
- ☐ REGISTERED: 5 years, renewable for up to a maximum of 25 years

## INTERNATIONAL

- ☐ It depends on the institution in country of destination

# COMPETENT OFFICE



- ❑ NATIONAL LEVEL (SPAIN): OEPM
- ❑ COMMUNITY LEVEL : OHIM  
(OFFICE FOR THE HARMONIZATION OF THE INTERNAL MARKET)
- ❑ INTERNATIONAL LEVEL : OEPM/ OHIM/ OFFICE OF DESTINATION

# REGISTRATION TIME



The time taken to get the concession depends on whether the application suffers some suspense, but the average times to grant are:

## **National level:**

- About 3 days if the application is not suspended and 5 months if the application suffers some suspense

## **Community level:**

3 weeks - 1 week fast option

## **International level:**

It depends on the office of destination



# COSTS



## ☐ NATIONAL (SPAIN):

Registration Request € 74.93

ADDITIONAL DESIGNS to the same application:

11 to 20 designs € 65.56

21 to 30 designs € 54.45

## ☐ EUROPEAN UNION

Registration request € 230

ADDITIONAL DESIGNS to the same application:

2 to 10 designs € 115

+11 Designs € 50

Publication of register 120 €

ADDITIONAL DESIGNS to the same application:

2-10 designs of € 60

+11 Designs € 30

## ☐ INTERNATIONAL (IT DEPENDS OF THE COUNTRY)

# WHAT IS A DISTINCTIVE SIGN?



Distinctive Signs is something that people can see that distinguishes and identifies either the seller or the maker at the market, giving sometimes certain extra information.

There are three main kinds of Distinctive Signs

- ☐ Brand
- ☐ Tradename
- ☐ Label

# BRAND



The **brand** is the sign that distinguishes in the market one seller's product from those of others

## KINDS

- ☐ Denominatives
- ☐ Graphics
- ☐ Mixed
- ☐ Three-dimensional
- ☐ Soundtracks

Many different things can be a brand (words, images, figures, symbols...)

# EXAMPLE



# WHAT CAN BE A BRAND



- ❑ The words and word combinations.
- ❑ Images, figures, symbols and drawings.
- ❑ The letters, numerals and combinations thereof.
- ❑ Three-dimensional shapes, also their wrappings, packaging and the product form.
- ❑ The sounds, provided that they are susceptible of graphic representation, for example in the pentagram.
- ❑ Any combination of the mentioned signs.

# WHAT CANNOT BE A BRAND?



- ☐ The signs that do not fit to the concept of brand
- ☐ Lack of emblem
- ☐ Shapes imposed by the product itself
- ☐ Signs against the law, the public order or the morality
- ☐ Misleading signs
- ☐ Signs that reproduce or imitate official names and symbols
- ☐ Earlier brands

# Classes



☐ Products

☐ Services

## LEVEL OF KNOWLEDGE

- Well Known Trademarks
- Leading Brands

# BY THEIR FUNCTION



ICT  
ENTREPRENEUR

- ☐ Individual brands
- ☐ Collective brands
- ☐ Guarantee brands



# TRADEMARK



A **trademark** is a recognizable sign, design, or expression which identifies products or services of a particular source from those of others

## TRADEMARK HOLDER

- ☐ General rule: the first in registering it
- ☐ Claiming of the ownership at the Register when it is not registered yet
- ☐ Legal actions when it is not properly registered

# EXAMPLE



ICT  
ENTREPRENEUR



# LABEL



A **label** is a piece of paper, polymer, cloth, metal, or other material affixed to a container or product, on which is written or printed information about the product. It must be design according to the brand or trademark.

## KINDS

- ☐ Brand Label
- ☐ Quality Label
- ☐ Descriptive Label

# EXAMPLE



"ASUS IIIIIII" by Milad Mosapoor - Own work. Licensed under Attribution via Commons - [https://commons.wikimedia.org/wiki/File:ASUS\\_IIIIIIII.jpg#/media/File:ASUS\\_IIIIIIII.jpg](https://commons.wikimedia.org/wiki/File:ASUS_IIIIIIII.jpg#/media/File:ASUS_IIIIIIII.jpg)

# DISTINCTIVE SIGNS



## KINDS OF PROTECTION

NATIONAL LEVEL: OEPM

COMMUNITY LEVEL: OEPM/ OHIM

INTERNATIONAL LEVEL: OEPM/ OHIM/ WIPO/ OFFICE IN DESTINATION

## LENGTH OF THE PROTECTION

Brands and trademarks are granted for 10 years from the date of application and can be renewed indefinitely for successive periods of ten years.

# REGISTER TIME



The time until the concession depends on whether the application suffers some suspense, but the average time to the concession are:

## **National level:**

Between 8 and 15 months

## **Community level:**

5 months, if there is no opposition 4 months, fast option

## **International level:**

Depends on the destination country

# ADQUIRED RIGHTS



- ☐ Since the application

Compensation if a third party (aware of the application) uses the trademark

- ☐ Since the grant

Exclusive right to use in economic transactions

Prevent third parties, without your consent, the use in economic transactions

- ☐ Exhaustion of the rights

No right to avoid the circulation of a product when it has been put onto the market by its right market

# COST



- ❑ National brand

144,58 €

96,33 € for the second and each successive class

- ❑ European Brand

900-1050 € for three classes

150 €, additional that exceeds three classes

- ❑ International brand

- ❑ It depends on the country of destination



# WHAT IS A COPYRIGHT?



The intellectual property is composed of personal rights and patrimonial, that give the author the full control and the exclusive right the exploitation of the work without more limitations than those established by the law.

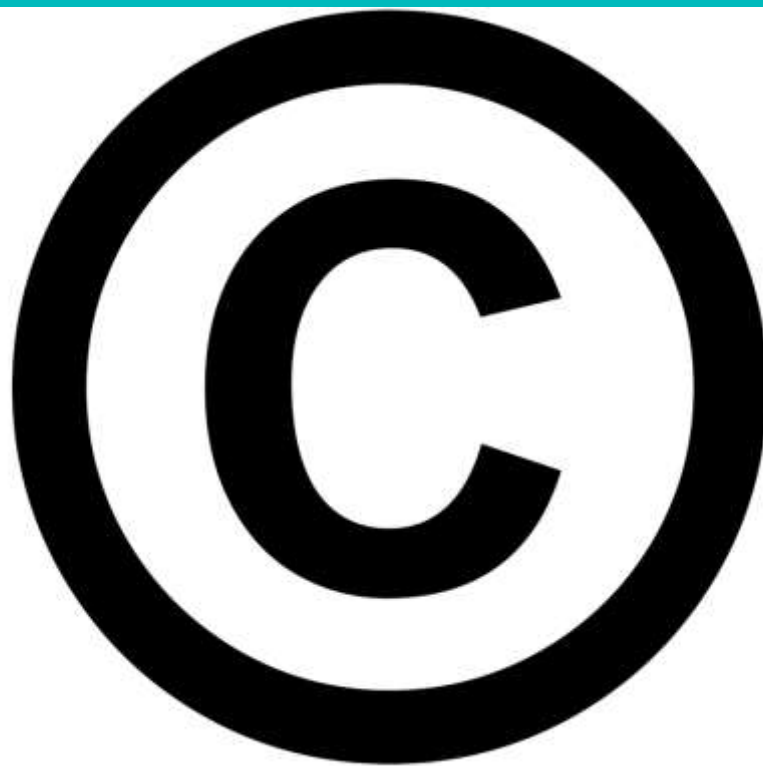
## KINDS

- ☐ Patrimonial rights
- ☐ Moral rights
- ☐ Related Rights
- ☐ Reproduction rights
- ☐ Right of public communication
- ☐ Translation rights

# EXAMPLE



ICT  
ENTREPRENEUR



# OBJECT OF PROTECTION I



- ❑ Books, pamphlets, printed matter, correspondence, writings, speeches and addresses, lectures, court pleadings, academic treatises and any other works of the same nature.
- ❑ Musical compositions with or without words.
- ❑ The dramatic and dramatic-musical works, choreographic and mimed, and in general, theater works.
- ❑ Cinematographic works and any other audiovisual works.
- ❑ Sculptures and works of painting, drawing, engraving, lithography, picture stories, cartoons or comics, including drafts or sketches, and other art works, whether applied or not.

# OBJECT OF PROTECTION II



- ☐ The projects, plans, models and designs of architectural and engineering works.
- ☐ Graphs, maps and designs relating to topography, geography and, in general, science.
- ☐ Photographic works and works expressed by a process analogous to photography.
- ☐ Computer programs.
- ☐ Database

# WHEN IS IT ACQUIRED



From the moment of creation of the work, because the copyright is a natural right and does not require formalities for exercising it. However, it is good to register it officially, so if it is violated it is easier to carry out its protection.

## LENGTH OF THE PROTECTION

The exploitation rights of the artwork will last the lifetime of the author and seventy years after his death or declaration of death.

## OBJECT OF PROTECTION

Books, musical composition, pictures, etc.

Derivative works like translations, summaries, etc.

# LIMITS



- ❑ Temporary and private use
  - When it is made from a legal source
- ❑ When it is looking for a public interest
  - Public security, helping disabled people, etc.
- ❑ When it has an educational or scientific purpose

# COMPETENT OFFICE



- ❑ REGISTRO DE LA PROPIEDAD INTELECTUAL (national level, Spain)
- ❑ WIPO (international level)

## COST

NATIONAL (SPAIN): 13.20 €

# CASE STUDY



## PATENT LAWSUIT BETWEEN APPLE AND SAMSUNG

Read more: <http://www.dailymail.co.uk/sciencetech/article-3346644/Samsung-agrees-hand-548-million-Apple-losing-patent-lawsuit-says-won-t-pay-iPhone-maker-sends-invoice.html#ixzz3yQ6TxkmU>

Samsung fought until the bitter end to avoid paying Apple, but the company now says it will finally hand over the more than \$548 million it owes for infringing the patents and designs of its biggest smartphone rival.

The key to this ruling was that these damages had to be paid from the profits of the sales of the devices that infringed the patents.

Tech wars: Google, HP and other giants in the tech industry are calling on a US court to reconsider a recent patent infringement case awarded to Apple. They believe that asking for profits will damage innovation



# CASE STUDY



This is because they contend the technology and various components that go into making smartphones, as well as smart TVs, are covered by a myriad patents covering everything from the design of a keyboard, to the shape of a wall mount, or a single icon in an application.

'But the panel's decision could allow the owner of the design patent to receive all profits generated by the product or platform, even if the infringing element was largely insignificant to the user and it was the thousands of other features, implemented across the remainder of the software, that drove the demand generating those profits,' explained the filing.

# PRACTICAL EXERCISE



Establish the kind of IPR to use in every case of this article:

<http://www.smithsonianmag.com/history/ten-famous-intellectual-property-disputes-18521880/?no-ist>

- 1.- S. Victor Whitmill v. Warner Bros. Entertainment Inc. (Art)
- 2.- Isaac Newton v. Gottfried Wilhelm Leibniz (Mathematics)
- 8.- Lucasfilm Ltd. v. High Frontier and Lucasfilm v. Committee for a Strong, Peaceful America
- 9.- A&M Records, Inc. v. Napster Inc.

## GUEST SPEAKER



Have as a guest speaker either an IPR expert/lawyer or a start-up founder who has handled IPR issues in relation to his/her innovative start-up idea and can explain in detail the steps followed, what someone needs to be careful of, etc.

Total duration of talk: 60'.

# THANK YOU!



Funded by the  
Erasmus+ Programme  
of the European Union

This project has been funded with support from the European Commission.  
This publication (communication) reflects the views only of the author,  
and the Commission cannot be held responsible for any use which may be made  
of the information contained therein.