

IPR and Open Licences

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Intellectual Property



General principles

Principle of territoriality

IP rights are territorial rights. In general, the exclusive rights are only applicable in the country or region in which a patent has been filed and granted, in accordance with the law of that country or region.



Rights conferred

An IP right grants to its owner a temporary monopoly over its creation. Nobody without their authorisation may use, commercialise etc. the protected item..

By default, granting IPR does not prevent you from using your own design



Duration of the protection

Intellectual Property rights grant a monopoly on the intellect creation for a limited amount of time depending on the type of right that is protected.

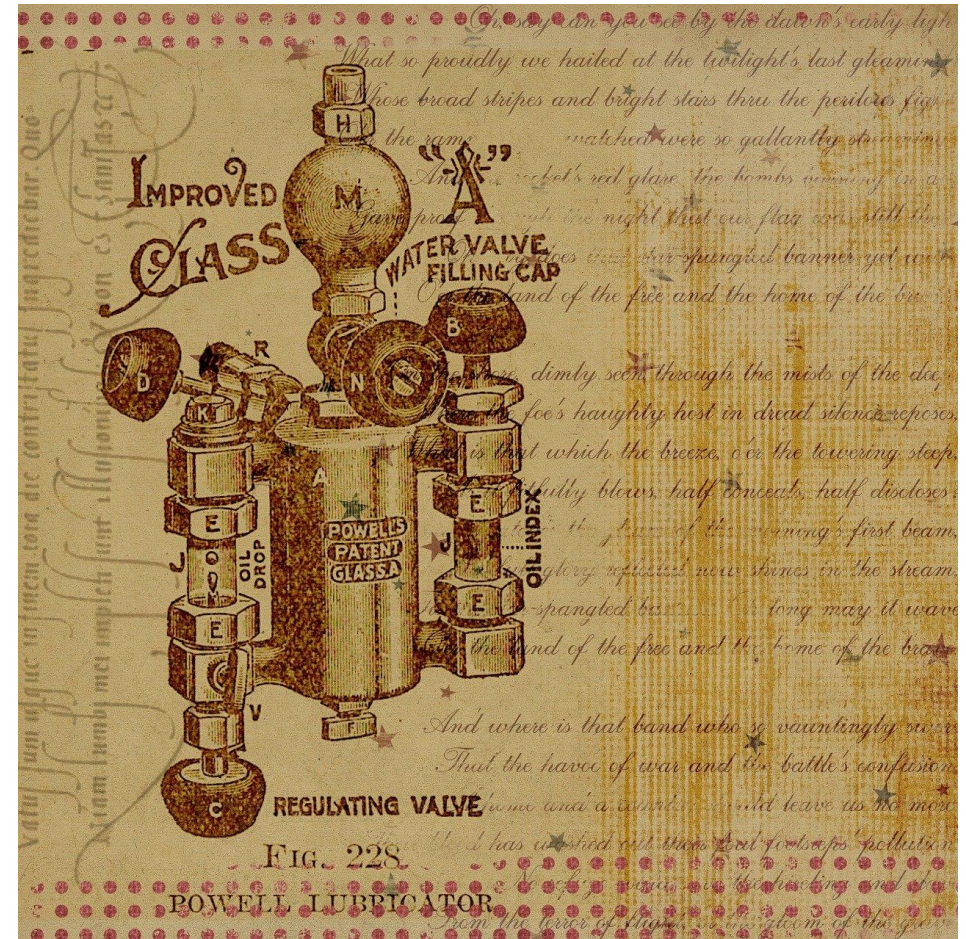
- Copyrights: 70 years after the death of the author
- Patents: 20 years after the application
- Industrial designs: 25 five years after the registration
- Trademarks: indefinitely as long as renewal fees are payed..



Patents

What is it?

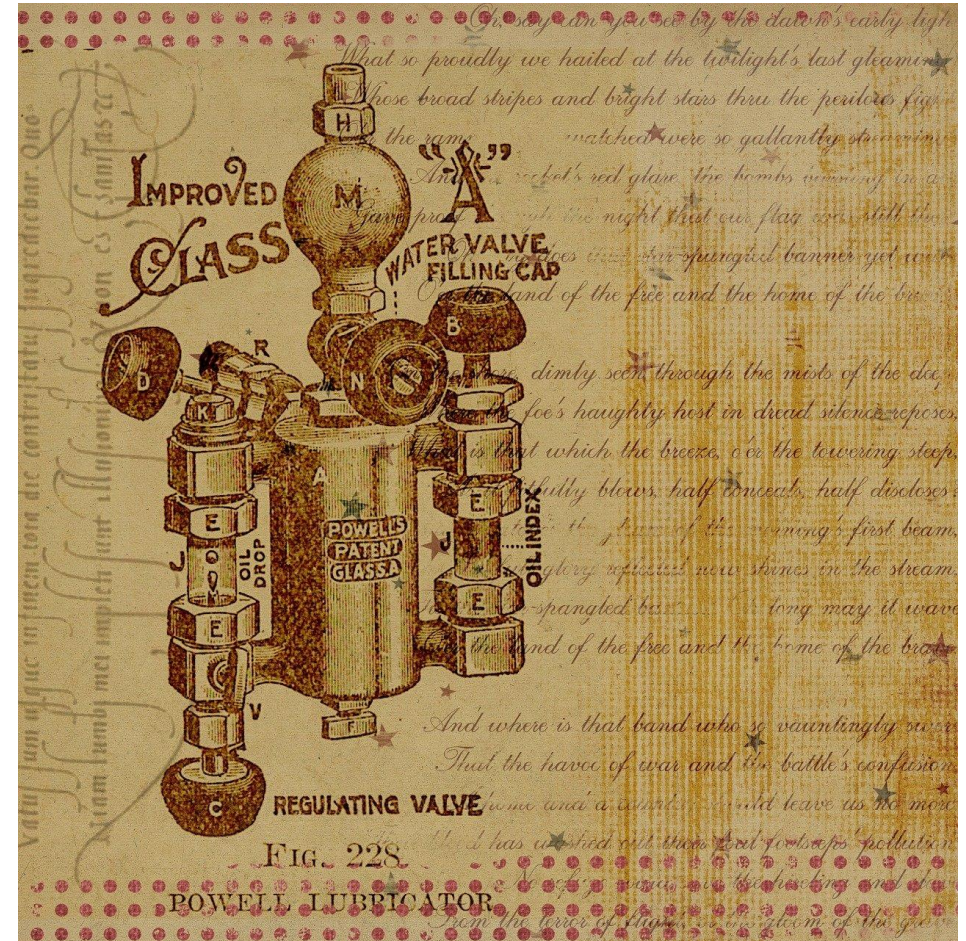
Title providing the inventor and/or the applicant with the exclusive right to prevent others from possessing, using, selling, manufacturing and importing the patented invention or offering to do any of these things within a territory



What can be patented?

Inventions, product or process, that provide a new way of doing something or a technical solution to a problem. To qualify for patent protection the invention must fulfil the so called 'conditions of patentability':

- Patentable subject matter
- Novelty
- Inventive step (non obviousness)
- Industrial Applicability (utility)



Exclusions (Art. 52 & 53 European Patent Convention - EPC)

- Contrary to "order public" or morality, e.g. dangerous to life or health or seriously prejudicial to the environment;
- Plant or animal varieties or essentially biological processes for the production of plants or animals.
- Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body
- Discoveries, scientific theories and mathematical methods;
- Aesthetic creations;
- Schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
- Presentations of information.

Novelty (Art. 54 EPC)

An invention shall be considered to be new if it does not form part of the state of the art - “State of the art” is everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application (worldwide).

-> **Evaluate any potential disclosure or dissemination activity carefully**

Inventive step (Art. 56 EPC)

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art - “person skilled in the art” is a skilled practitioner in the relevant field, possessing average knowledge and ability.

Industrial applicability (Art. 57 EPC)

An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

Patent Registration

NATIONAL PATENT

In general, an application filed before your National Patent Office (NPO) must be accompanied by:

- a specification containing a detailed description of the invention,
- one or more claims,
- any drawings referred to in the description or claims and an abstract
- the required filing fee.

EUROPEAN PATENT

One single application, in one official language may be filed:

- through your NPO, or
- before the EPO

The EPO grants patents having the effect of a **national patent in designated countries (currently max. 38)**. You may decide to maintain it in force in some or all of them.

INTERNATIONAL REGISTRATION

By filing an international application, patent protection can be obtained in each designated states amongst 148 worldwide. PCT applications may be submitted:

- through your NPO,
- through the EPO, or
- before WIPO.

European IP Helpdesk, CC-BY 4.0, no link available

Copyright

General principles

Does not protect the ideas themselves but only the concrete form of expression of ideas

The work will be protected as long as it is original

No formal registration process is required

Copyright protection arises automatically upon creation of the work, provided that it is original



Copyright vs related rights

Copyright protects literary and artistic works, such as novels, music and paintings, cinematographic works, architectural works... Copyright also protects Software and databases.

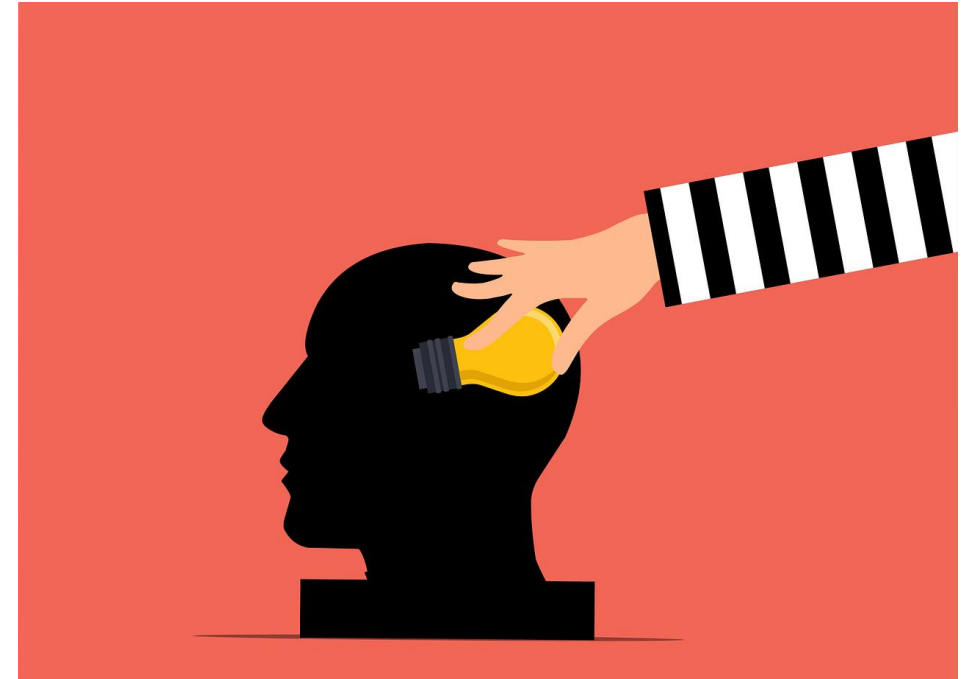
Related rights are related to the protection of works of authorship under copyright. Their purpose is to protect the legal interests of certain persons and legal entities who contribute to making works available to the public such as performing artists, producers of phonograms, broadcasters, etc.



Rights granted

Copyright owners are the only ones who can decide how and who can:

- copy or reproduce (e.g. printed publications or sound recordings);
- distribute to the public;
- perform in public;
- translate into other languages;
- adapt, such as novel into screenplay...



Open Licences

General principles

Middle ground between full copyright and Public Domain

Removes ambiguity over what others can and cannot do with your work

As rights owner, you modify the conditions of what can and cannot be done with your work (combining different conditions)

Removes uncertainty about copyright status for re-user

You still keep (certain) rights, but you grant certain reuses without them needing to contact you

Infringements against the conditions of the license are a copyright infringement

Different types of licences are suitable for different types of content



Creative Commons

A Creative Commons licence is:

- universally recognisable,
- juridically sound,
- easily applicable
- leaves the user in no doubt about the intentions of the author.

CC licences let you easily change your copyright terms from the default of “all rights reserved” to “some rights reserved.”



Be clear and unambiguous

The easier you make it for somebody to figure out their re-use rights, the more likely it is that they will respect them!

Be clear and unambiguous when creating and displaying your work's metadata (i.e. the information about your work)

Use the licence's logo and link to the human-readable licence text

Make sure people can reach you or the platform when in doubt



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ATTRIBUTION (“BY”)

You are free to:

- **Share** — copy and redistribute the material in any medium or format
- **Adapt** — remix, transform, and build upon the material
- for any purpose, **even commercially**

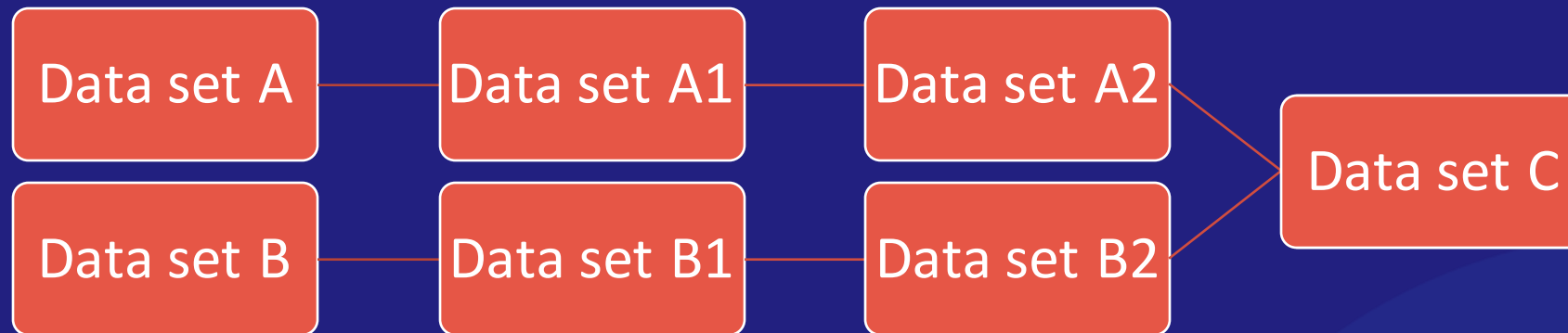
Under the following terms:

- **Attribution** — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.

Potential issues:

Data — can lead to **attribution stacking**

Attribution stacking



In theory, to cite data set C I would need to cite all the other sources that it was built on



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- **Adapt** — remix, transform, and build upon the material
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Potential issues:

May be incompatible with other material the re-user wants to use in their remix of your work

NON-COMMERCIAL (“NC”)



You are free to:

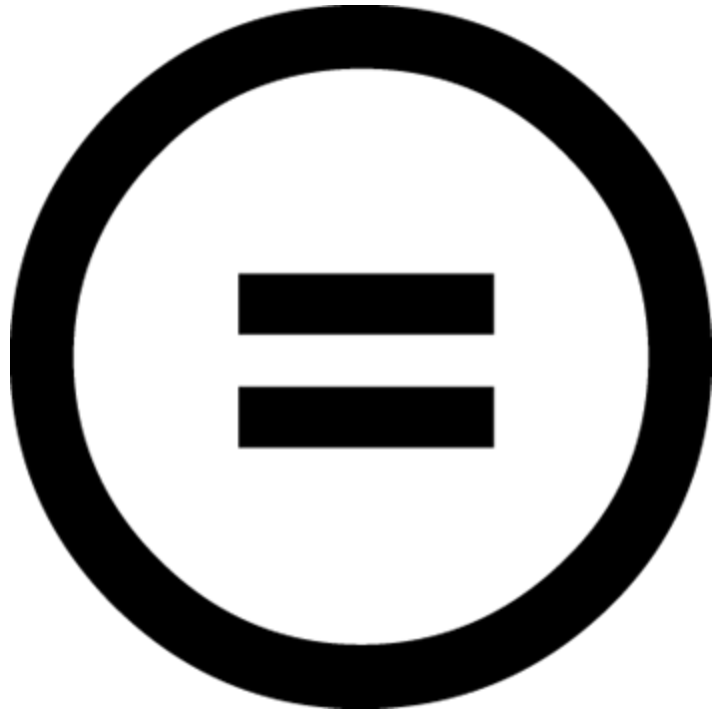
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- **Adapt** — remix, transform, and build upon the material

Under the following terms:

- **Attribution** — You must give [appropriate credit](#), provide a link to the license, and [indicate if changes were made](#)
- **NonCommercial** — You may not use the material for commercial purposes

Potential issues:

The concept of non-commercial is very broad legally; e.g. being paid to give a talk or a workshop (even in an academic context) would be considered a commercial activity



NO DERIVATIVES (“ND”)

You are free to:

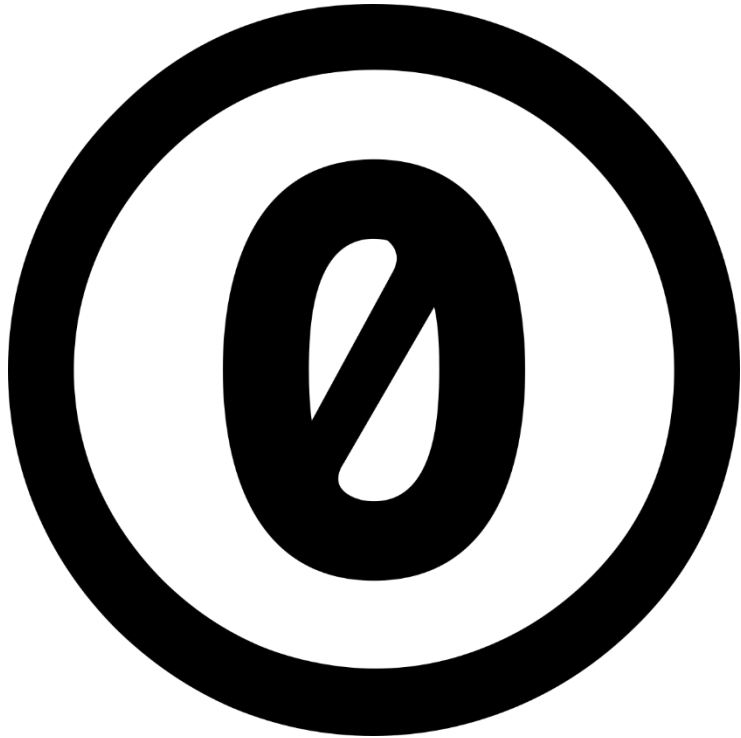
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- **NoDerivatives** — If you remix, transform, or build upon the material, you may not distribute the modified material.

Potential issues:

Data — a dataset has to be used as such, no possibility to extract and use parts of the dataset



CC ZERO (“CC0”)

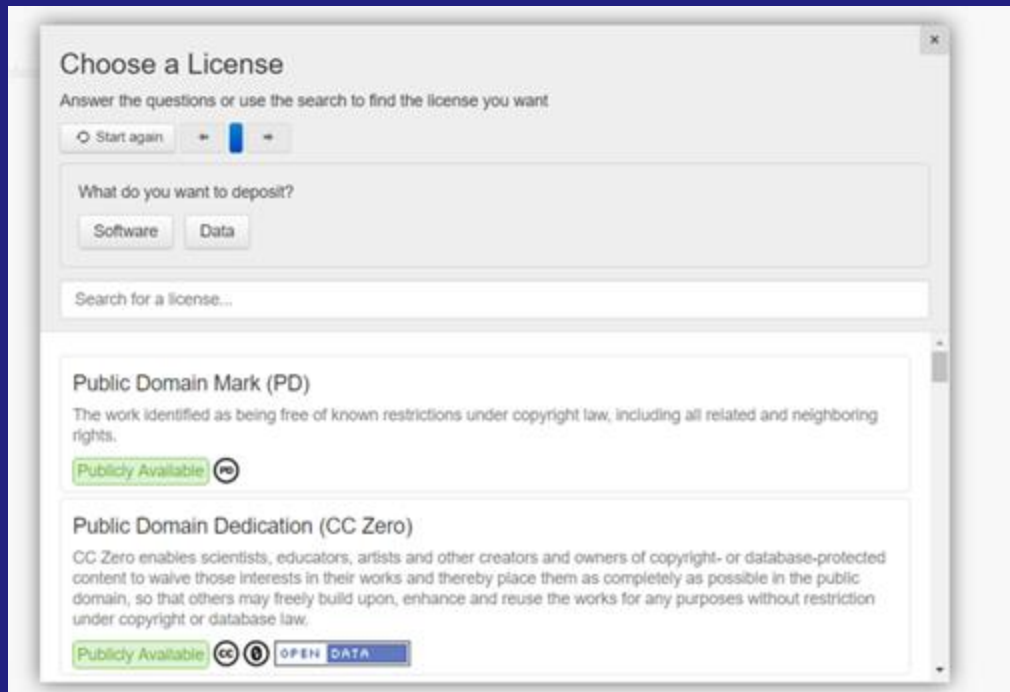
It is different from ‘Public Domain’ because it is an actual licence, but the rights are the same

You are free to:

- **Share** — copy and redistribute the material in any medium or format
- **Adapt** — remix, transform, and build upon the material
- for any purpose, even commercially
- **No Attribution required** — You are free to give appropriate credit (best practice) but it is not required

The CC 0 is the **most appropriate licence for sharing data**, as it avoid attribution stacking, allows commercial reuse such as consulting and allows meta-analyses to be freely carried out.

Choosing a licence



<https://ufal.github.io/public-license-selector/>

<https://creativecommons.org/choose/>

<https://choosealicense.com/>

<https://tldrlegal.com/>

European IP Helpdesk

<https://intellectual-property-helpdesk.ec.europa.eu/>

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THANKS