

Intellectual Property at the EPFL

Who is the owner of immaterial goods?

In principle, all immaterial goods benefit from intellectual property rights¹ as belonging to their creator. Should there be multiple creators, they belong to all their creators. Nevertheless, another person or entity can be the owner by virtue of a law or contract. For example, the inventions made by an employee belong to their employer (by conditions specified in the law).

At EPFL, article 36 in the EPF law regulates the property of immaterial goods, provided that **EPFL is the owner of the rights to the immaterial goods created by its employees within the scope of their activities in service to EPFL.**

- “Employee” entails all the people working for EPFL, that is to say: professors, doctoral-assistants, scientific collaborators, technicians and administrators. Students (bachelor and master) are not employees (see below - Who is the owner of the immaterial goods created within the scope of semester and master projects).
- “Immaterial goods created within the scope of their activities in service to EPFL” entails the immaterial goods that are related to activities for EPFL, independent of where and when they are obtained.
- **Special regulations for copyright** (see article 36, paragraph 2 in the EPF law):

EPFL is the exclusive owner of software copy rights. Copyright laws of scientific publications and course manuals written by professors and other EPFL employees belong to their authors. Similarly, theses content remains the property of the doctorant; nonetheless, EPFL has the non-exclusive right to publish and use all or parts of the theses content if it financially supported the author during his/her work and/or provided logistical support, provided that the sharing of theses content is non-profitable (see article 21 in the doctorat order at EPFL)

Who is the owner of immaterial goods developed within the scope of semester and master projects?

Students (bachelor and master) do not have a work contract with EPFL. That is why in principle they are the owners of rights to inventions that they make within the scope of their semester and master projects, as well as copyright owners of software and reports written within the scope of their projects.

Nonetheless, given that semester and master projects are often carried out in interaction with other people, either at EPFL and/or at external enterprises, in some cases the student is not the only owner of immaterial goods from such a project.

For example, if the master/semester project is conducted in an enterprise or in collaboration with an enterprise, the student may have to sign a contract either with EPFL or directly with the enterprise. Such a contract usually requires that the student transfers his/her rights to inventions and/or software to EPFL (and EPFL in turn signs a contract with the enterprise) or directly to the enterprise. Such a contract can be limited to copyright, for example by specifying that the report may not be published after review of the report by the enterprise and/or professor supervising the project and by specifying clauses protecting the confidentiality of the information provided by the enterprise.

¹ For the notions on “immaterial goods” and “intellectual property” : see the annex of this document

There are cases in which EPFL instructors contribute either to an invention or to software developed within the scope of a master/semester project: In such a case, the student and his/her instructors are co-inventors or co-authors of the software respectively. The invention (or software) will be co-owned by the student and EPFL. This situation requires an agreement between the student and EPFL to regulate the rights and respective obligations of the invention or software.

For all questions related to the management, protection and validation of intellectual property at EPFL, you may contact SRI: <http://sri.epfl.ch/>

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Annex: Some information on intellectual property

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What is intellectual property?

Intellectual property rights refers to the rights of creations of the mind. These rights only exist to the extent they are defined to in the law.

The creations of the mind or “immaterial goods” which are subject to intellectual property rights are defined as follows:

| Immaterial good | Law |
|--------------------------------|------------------------------------------------------------------------------------------|
| Inventions | Patent Act |
| Software | Copyright Act (Patent Act) |
| Literary and artistic works | Copyright Act |
| Names of products and services | Trademark |
| Industrial drawings and forms | Design Act |
| Integrated circuits | Act on the Protection of Topographies of Semi-Conductor Products |
| Plant varieties | Plant Breeders' Rights Act |
| Know-how | Act on Unfair Competition , Provision of the Criminal Act on Manufacturing Secrets, etc. |

What is a patent?

An invention patent gives its owner the right of prohibiting the usage of his/her invention to any other person. It is issued by a national or regional authority (eg. the Swiss Federal Institute of Intellectual Property, the “US patent and trademark office”, the European Patent Office).

The patent is valid for 20 years.

In order to be patentable, an invention must meet three conditions:

1. Novelty: that is to say to be different from what is already known and published
2. Inventive activity: that is to say to not be obvious (compared to what is already known and published)
3. Industrial applicability: that is to say to be reproducible and usable in industry

When examining the conditions of patentability, the inventors own publications must also be considered: that’s why they must not publish the invention prior to filing a patent application, otherwise they risk losing patentability. There’s one exception to this: the “grace year” in the USA. It is possible to file a patent application for a grace period of one year after publishing the invention. However, in this case the protection (should the patent be granted) is limited to USA territories.

What is Copyright?

Copyright protects literary, scientific, musical, architectural etc. works provided that they have an individual character. Software is also protected by copyright.

The copyright consists of multiple elements that the owner may exercise in relation to the work (or software) and prohibit others to exercise.

- right to reproduce the work (or software)
- right to adapt and modify the work
- right to broadcast the work
- right to put the work into circulation in any kind of form (eg. through the granting of licenses)
- right of using and selling the work and of making it publicly available

The protection of copyright is automatically obtained when the work or software is created, without any formalities. The mentioning of © followed by the year of first publication is not necessary for obtaining copyright, but it is useful to inform the public that the author intends to exercise the copyright.