

Intellectual Property and Sport

Introduction

The World Intellectual Property Organisation (WIPO) is a specialised agency of the United Nations (UN), which aims to promote a “balanced and effective international intellectual property (IP) system”.¹ In 2000, WIPO designated 26 April as World Intellectual Property Day to:

- increase the general understanding of intellectual property; and
- highlight the role of intellectual property rights in encouraging innovation and creativity.²

This date was chosen because it marks the day in 1970 on which the WIPO Convention, which established the organisation, came into force. WIPO replaced the United International Bureaux for the Protection of Intellectual Property, which was set up to administer the 1883 Paris Convention for the Protection of Industrial Property and the 1886 Berne Convention for the Protection of Literary and Artistic Works.³

The day’s theme for 2019 is “Intellectual Property and Sports: Reach for Gold”.⁴ The aim of the theme is to raise awareness of how different IP protections “support the global sports ecosystem”.⁵

This House of Lords Library Briefing gives a brief background to intellectual property rights (IPR), the purpose of those rights and the current laws governing them. It then provides a brief overview of how IP is related to sports.

Background: Intellectual Property

IP is defined by WIPO as “creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce”.⁶ Creators, innovators and owners have rights over their IP. These are outlined in Article 27 of the Universal Declaration of Human Rights, which states that “everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”.⁷

IP rights cover:⁸

- Industrial property rights, which include:
 - patents for inventions;
 - trademarks to distinguish goods and services of one enterprise from another enterprise;
 - geographical indications of the origins of goods; and
 - industrial designs.
- Copyright, which covers a broad range of work, including literature, films, music, artistic works and architectural design.

The rights protect creations from being used by others without permission, or set conditions on such use, ensuring that creators and owners can charge a price for the usage of their IP. The protections usually last for a limited period of time.⁹

Purpose of IP Law

WIPO has given two reasons for intellectual property laws. Firstly, to “give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations”. Secondly, to “promote, as a deliberate act of government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development”.¹⁰

IP rights and protections allow creators to earn recognition and profit financially from their work. WIPO has argued that this rewards and encourages creativity, innovation, and investment, and compensates for the time and energy dedicated to those endeavours.¹¹ Moreover, WIPO has emphasised the importance of a balanced system of IP rights; one which recognises and rewards creators, but also ensures that society benefits from those creations.¹² According to the US Chamber of Commerce, there is a positive correlation between effective IP protection and economic growth, creation of complex knowledge-intensive products and global competitiveness.¹³

However, others have argued that the link between IP protections and increased innovation is not supported by evidence. For example, the *Economist* has emphasised that many great inventions occurred before the advent of IPR and has contended that strengthening IPR regimes in various countries has not led to more innovation.¹⁴ Indeed, academics such as Michele Boldrin and David Levine of Washington University have argued that IP protections create market monopolies, therefore restricting innovation, distribution, and economic progress.¹⁵ A report from the UN in 2006 suggested that IP rights encouraged innovation and economic growth in high and middle-income countries, but not in low-income countries.¹⁶

Others have questioned the concept of IP itself. For example, Stephan Kinsella, an IP lawyer, has outlined his belief that ideas cannot be treated as commodities or as equal to physical and tangible assets: a tangible asset can be depleted, but there is no natural scarcity to ideas or information.¹⁷ He has argued that the reuse and duplication of an idea does not diminish the original idea, only its monopolistic value. Richard Stallman, the founder of the Free Software Foundation, has questioned the use of the generalised term ‘intellectual property’ since the three main types of IP laws (patents, trademarks and copyright) are all fundamentally different, with different aims and histories.¹⁸ He has stated, for instance, that only patent laws were designed to encourage innovation, and only copyright laws protect creativity. He contends that each one should be considered separately, and they should not be simplified into one category.

IP and the UK

A number of laws to protect IP rights are currently in force in the UK, each one being developed over time to cover particular IP rights.¹⁹ Most recently, the Intellectual Property Act 2014 modernised aspects of IP law, including a simplified method for patent owners to provide public notice of their patent rights as well as processes to make international patent processing more efficient.²⁰ The

Intellectual Property Office (IPO) is the official UK government body responsible for IPR, including maintaining the IP system and granting IP protections.²¹

The IPO has reported that firms in the UK market invested an estimated £133 billion in knowledge assets in 2014, compared to £121 billion in tangible assets.²² In addition, 53 percent of knowledge investment, worth £70 billion in the UK market, was protected by IPR at that time. In a 2016 report, the law firm Taylor Wessing ranked the UK third in its Global Intellectual Property Index, meaning it has one of the best IP regimes when measured against the criteria of fairness, enforcement, compliance, administrative burden and disruption.²³ In addition, the US Chamber of Commerce ranked the UK second for its IP environment in 2019, highlighting the UK's "strong cross-sectoral enforcement environment".²⁴

IP and Sport

WIPO describes the global sports ecosystem as a "unique landscape that brings together multiple players with overlapping interests". IPR—including patents, trademarks, designs and copyright—underpin the commercial relationships that maintain and support the ecosystem.²⁵ WIPO also states that due to profit generated from IP protections, sports organisations and businesses can finance events and develop the industry, thus helping to secure the economic value of sports.²⁶

IP protections are used within the sports industry in various ways. Some key examples are highlighted below:

- Sports federations and event organisers aim to create high-quality events in high-quality venues to attract athletes and audiences. The use of appealing designs or mascots, for which they would need design patents, can make their event distinct and add commercial value.²⁷
- Venues are becoming increasingly high-tech in an attempt to improve the connectivity between fans and players and amplify the experience of watching a live game.²⁸ Mobile phone applications also allow fans to track the performance of their favourite athletes and teams, creating more engagement within sports. In these types of cases, technology companies use patents to protect their IP.
- Manufacturers of sports equipment use patents to develop new technologies and materials in order to produce innovative and high-quality products which maximise athletic performance. For instance, they have developed equipment with built-in sensors that collect information about an athlete's health and performance, data from which can serve as training guidance.²⁹
- Trademarks are used by brands that specialise in sportswear, and which also aim to promote their products in venues and via sponsorships. Sponsorship can cover an event, a team or a particular athlete. It is beneficial to brands because it raises their profile, but is also beneficial to athletes or organisations who acquire funding. In 2019, for instance, Guinness announced it would be sponsoring six seasons of the Six Nations rugby tournament.³⁰ Trademarks can also be licensed out to third parties to create merchandise and make kits. For example, Manchester United Football Club is currently in a 10-year deal with Adidas worth £750 million, with the Adidas Chief Executive, Herbert Hainer, predicting sales of £1.5 billion during that time.³¹

In addition, IP protections cover broadcasting; exclusive broadcasting rights over live sporting events are given to media companies, and this can become the organisation's largest source of revenue. Research by the consultancy and advisory firm Deloitte indicated that 61 percent (£3.2 billion) of the Premier League's total revenue in 2016/17 was generated from broadcasting rights.³²

Economic Impact of Sport in the UK

The sporting industry in the UK is a billion-pound industry. In 2010, research by Sport England, a public body responsible for grassroots sport, found that sport and sport-related activity generated Gross Value Added of £20.3 billion in England alone (1.9 percent of the England total).³³ This placed sport within the top 15 industry sectors in England. The body also estimated that sport supported over 400,000 full-time equivalent jobs (2.3 percent of all jobs in England). In 2013, Economic Modelling Specialists International, a company that provides data to organisations, reported that the effect of removing the sports industry from the UK economy would equate to a loss of £23.8 billion in earnings and 987,564 jobs.³⁴ According to the *Telegraph*, the success of the industry is borne from turning sport into a business, resulting in "phenomenal growth" in the last 30 years.³⁵

In football, research by Deloitte found that the Premier League generated revenue of £5.2 billion in 2016/17, which is more than any other European League.³⁶ According to a report by UK Sport (the government agency responsible for investing in Olympic and Paralympic sport), the London 2017 World Para Athletics and Athletics Championships together had a direct economic impact of more than £100 million.³⁷ In addition, an eventIMPACTS report (an organisation that provides a toolkit for event organisers to evaluate the impact of their sporting or cultural event) stated that the 2015 RideLondon cycle race had a direct economic impact for London of £23.8 million.³⁸

Further Information

- House of Lords Library, [World Intellectual Property Day: 26 April 2018](#), 25 April 2018
- World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019
- House of Lords Library, [Leaving the European Union: The Impact on Professional Sport](#), 19 July 2017
- Intellectual Property Office, '[IP and Brexit](#)', 22 March 2019

¹ World Intellectual Property Organisation, '[Inside WIPO](#)', accessed 27 March 2019.

² World Intellectual Property Organisation, '[Frequently Asked Questions: World IP Day](#)', accessed 27 March 2019.

³ World Intellectual Property Organisation, '[WIPO—A Brief History](#)', accessed 27 March 2019.

⁴ World Intellectual Property Organisation, '[World Intellectual Property Day: April 26, 2019](#)', accessed 27 March 2019.

⁵ World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019.

⁶ World Intellectual Property Organisation, '[What is Intellectual Property?](#)', accessed 27 March 2019.

⁷ United Nations, '[Universal Declaration of Human Rights](#)', accessed 27 March 2019.

⁸ World Intellectual Property Organisation, '[What is Intellectual Property?](#)', 2011, p 2.

⁹ World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019.

¹⁰ World Intellectual Property Organisation, '[WIPO Intellectual Property Handbook](#)', 2008, p 164.

¹¹ World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019.

¹² World Intellectual Property Organisation, '[Frequently Asked Questions: World IP Day](#)', accessed 27 March 2019.

- ¹³ Patrick Kilbride, '[2019 IP Index Shows IP Protections Increase Countries' Global Competitiveness](#)', US Chamber of Commerce, 8 February 2019.
- ¹⁴ *Economist* (£), '[A Question of Utility](#)', August 2015.
- ¹⁵ Michele Boldrin and David K Levine, '[Does Intellectual Monopoly Help Innovation?](#)', *Review of Law and Economics*, 2009, vol 5 no 3, pp 991–1024.
- ¹⁶ Rod Falvey and Neil Foster, '[The Role of Intellectual Property Rights in Technology Transfer and Economic Growth: Theory and Evidence](#)', United Nations Industrial Development Organization, 2006, pp xi–xii.
- ¹⁷ N Stephan Kinsella, '[Against Intellectual Property](#)', *Journal of Libertarian Studies*, 2001, vol 15 no 2, pp 1–53.
- ¹⁸ Richard M Stallman, '[Did You Say "Intellectual Property"? It's a Seductive Mirage](#)', accessed 27 March 2019.
- ¹⁹ UK Government, '[Intellectual Property: Law and Practice](#)', accessed 27 March 2019.
- ²⁰ Intellectual Property Act 2014. See also: '[Explanatory Notes](#)', 14 May 2014.
- ²¹ Intellectual Property Office, '[About Us](#)', accessed 1 April 2019.
- ²² Intellectual Property Office, '[Fast Facts 2017](#)', accessed 27 March 2019, p 3.
- ²³ Taylor Wessing, '[Global Intellectual Property Index](#)', 2016, p 8.
- ²⁴ US Chamber of Commerce Global Innovation Policy Centre, '[IP Index: United Kingdom](#)', 2019, p 214.
- ²⁵ World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019.
- ²⁶ World Intellectual Property Organisation, '[World Intellectual Property Day: April 26, 2019](#)', accessed 27 March 2019.
- ²⁷ World Intellectual Property Organisation, '[Intellectual Property and Sports: Tracing the Connections](#)', accessed 27 March 2019.
- ²⁸ Oliver Wainwright, '[Stadiums of the Future: A Revolution for the Fan Experience in Sport](#)', *Guardian*, 15 June 2017.
- ²⁹ Andrew Cave and Alex Miller, '[Technology in Sport: the Speed of Science](#)', *Telegraph* (£), 20 August 2015.
- ³⁰ Neil Hopkins, '[Big Brands Doing Big Deals Show the UK Sports Sponsorship Industry Remains in Rude Health](#)', *CityAM*, 14 January 2019.
- ³¹ Bill Wilson, '[Manchester United and Adidas in £750m Deal Over 10 Years](#)', BBC News, 14 July 2014.
- ³² Deloitte, '[Roar Power: Annual Review of Football Finance 2018](#)', June 2018, p 9.
- ³³ Sport England, '[Economic Value of Sport in England](#)', July 2013.
- ³⁴ Rob Slane, '[The Economic Impact of the Sports Sector](#)', Economic Modelling Specialists International, 3 May 2013.
- ³⁵ Andrew Cave, '[Discover the Potential of Sport: a £20 Billion Industry](#)', *Telegraph* (£), 13 May 2015.
- ³⁶ Deloitte, '[Roar Power: Annual Review of Football Finance 2018](#)', June 2018, p 9.
- ³⁷ UK Sport, '[Grant-in-Aid and Lottery Distribution Fund Annual Report and Accounts for the Year Ended 31 March 2018](#)', 2018, p 4.
- ³⁸ eventIMFACTS, '[2016 Case Studies](#)', accessed 27 March 2019.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.