

INTELLECTUAL PROPERTY GUIDE



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WHAT IS INTELLECTUAL PROPERTY?

Intellectual property refers to any product of intellectual creation, an idea, invention, expression, business method, technological process or formula (mathematical, chemical, etc.) Intellectual property can be protected, under the law in force, by an invention patent or industrial design trade mark for inventions, or by copyright for software or scientific works (an idea can be protected by intellectual property rights).

Intellectual property is made up of a framework of rights granted to holders, who are associated with intellectual works, productions of the intellect, most often intangible, for which concrete expressions or fundamental ideas are temporarily granted legal protection against unauthorised use by third parties.

Intellectual property is categorised into two basic areas:

- Copyright and related rights
- Industrial property

Copyright and related rights include rights relating to:

- Literary, artistic and scientific works;
- Performers' performances and performers' performances;
- Phonograms and broadcasting programmes;

Industrial property includes rights relating to:

- Patents;
- Utility models;
- Industrial designs;
- Trade marks, trade and service marks, trade names and trade names;
- Indications of source, appellations of origin and geographical indications;
- Protection against unfair competition.

Computer programmes are assimilated to literary works, and databases are considered derivative works; consequently, both categories of creations are protected by copyright.



PROTECTION OF INTELLECTUAL CREATIONS

Research and development activities result in innovative technical solutions, aesthetic creations, new images or names for products and services developed within or for the organisation. Intellectual creation, irrespective of the type of project and the specific nature of the organisation's activities, whether technical or artistic in nature, whether for commercial purposes or not, must be protected and may be subject to one or more forms of protection. Intellectual property is used to protect intellectual creations. Intellectual property protection is a means of recognising the creative efforts of researchers, technology development engineers, designers, inventors and other creators and, once legally protected, gives them the right to disseminate their creations in society, to exploit them for a fixed period of time.

The protection of creations by intellectual property rights ensures:

- The legal framework and means to take legal action against those who counterfeit and pirate creations and against unfair practices;
- Creating added value - the management of a portfolio of patents, utility models, trade marks, trademarks, designs, software or databases contributes to the organisation's assets, and can be a source of tangible income (from the sale of patents or trade marks or licensing);
- Exploitation of creations - as a factor of recognition, intellectual property is a sure way to valorise the creations resulting from research and to give researchers a good reputation, contributing directly to strengthening links with industry and to the exploitation of research results;
- Stimulating creativity and innovative activity - intellectual property allows the innovative character of a creation to be assessed and encourages the identification of more creative solutions;
- Increasing credibility - seeking protection through industrial property rights or claiming copyright ensures greater credibility in relations with industrial, economic and financial partners;
- Penetration of other markets - by protecting your creation abroad, you open up new markets for exploiting your products and new opportunities for collaboration with foreign partners.

Depending on the nature of the R&D, research results can be protected in the following ways:

- Innovative products and processes can be protected by patents, and innovative products by utility models;
- New plant varieties - through plant variety patent registration;
- Creative designs, including textile designs or graphical user interfaces, by design registration;
- Brands - through trade mark registration;
- Microchips - by registration of topographies of semiconductor products and/or protection as a registered design;
- Designations of products of a particular quality or reputation ascribed to geographical origin, through geographical indication registration;
- Trade secrets - by protecting secret information of commercial value;
- Cultural, artistic and literary works including computer programmes and databases - through copyright and related rights.



Keep in mind that the same features of a product can be protected in different ways if certain conditions are met: for example, a new shape for a product can be protected as a trade secret until the product is launched, the functional features of the product can be protected by patent(s), the aesthetic features by registered design and/or copyright, and the logo or product name as a registered trade mark.

WHAT YOU NEED TO KNOW ABOUT INTELLECTUAL PROPERTY PROTECTION:

1. Intellectual property protection is not universal, but is territorial and therefore valid only where applied for and granted, or in the case of copyright, where protection is obtained under the law; it is also temporal, so it usually lasts for a certain number of years, depending on the particular legislation governing that intellectual property right;
2. The laws and procedures for the protection of intellectual property rights are not the same (or even harmonised) throughout the world; however, there is a harmonised and even unitary policy at EU level for a number of intellectual property rights;
3. A patent, trade mark or design obtained in one country cannot automatically lead to protection in another country;
4. Protection obtained in Romania does not automatically extend to the European Union, even if it is a Member State;
5. Regional or international systems of protection must be used if there is an interest of an industrial and commercial nature in the respective countries;
6. Application for protection abroad must be made, as a rule, with the benefit of priority (established by the Paris Convention for the Protection of Industrial Property) of 12 months for patents or 6 months for industrial models, trade marks and designs, obtained on the basis of a first application filed with OSIM;
7. Early disclosure of information, particularly of a technical and technological nature, without prior application for protection or without a non-disclosure agreement should be avoided;
8. Unauthorised infringement of third parties' intellectual property rights should be avoided, as it can lead to serious cases of counterfeiting and piracy with major negative repercussions;
9. Failure to properly define IPR issues when outsourcing production should be avoided;
10. Licensing a product or technology in a market where the invention or design is not protected should be avoided;
11. Starting an applied research activity should be done by consulting the prior art given by the patent literature as the major technological source.



BASIC FACTS ABOUT PATENTS

What is a patent?

A patent is an industrial property right that provides protection for inventions. Patentable inventions are technical solutions to technical problems on how products work, what actions they perform, what they are made of, how they are made, how they are made.

Accordingly, a patent may relate to a product, a process, or a method.

To be patentable, an invention must:

- be of a technical nature;
- be new;
- be based on an inventive step, i.e. not obvious according to the known state of the art in the field in question;
- it must be industrially applicable, i.e. it must be capable of being used in industry (including agriculture or business).

In order to have a technical character, an invention must have at least one essential technical feature, i.e. it must make a contribution to the state of the art in a field which is not excluded from patentability, which can be identified in a technical problem to be solved, in the technical means which constitute the solution to the problem to be solved or in the technical effects obtained by the solution.

How to obtain a patent at OSIM?

Patenting an invention at OSIM is a complex procedure, which takes on average three years and has the following stages:

- Filing the national patent application;
- preliminary examination, concerning the constitution of the national statutory deposit and the existence "prima facie" of an invention which is not excluded or exempted from patenting;
- publication of the patent application 18 months after the filing or priority date;
- drawing up, at the request of the applicant, a search report, accompanied, where appropriate, by a written opinion on patentability;
- publication of the search report with the application or, where appropriate, subsequently;
- substantive examination at OSIM on the disclosure of the invention and the fulfilment of the specified conditions for patentability;
- A decision by the examination committee on the granting or rejection of the patent application;
- publication of the decision to grant or reject the application in the Official Bulletin of Industrial Property (BOPI) - inventions section;
- entering the patent in the National Patent Register (RNB) and issuing the patent.



Who owns the patent for an invention created under a research contract?

Inventions created within the framework of a research contract fall into the category of service inventions.

According to Law No 83/2014 on service inventions, they can be realised under the following conditions:

- Inventions resulting from the performance of the inventor's service duties, expressly entrusted to the inventor in the individual labour contract and in the job description or established by other acts binding on the inventor, which provide for an inventive mission;
- the inventions have been obtained during the term of the individual employment contract and for a maximum period of 2 years after the termination of this case, through knowledge or use of the employer's experience, through the use of the employer's material means, as a result of the training and professional education and training acquired by the employee inventor through the employer's care and at the employer's expense, or through the use of information resulting from the employer's activity or made available by the employer.

The competence to decide whether or not an invention made by an employee falls within the category of work-related inventions and the type of work-related invention shall rest with the employer.

The employee who creates an invention is obligated to immediately notify the employer of the invention's presentation, providing a clear description of the solution to the problem solved, along with sufficient data to define the invention and the conditions under which it was created.

The employer shall notify the employee inventor, within the statutory period of 4 months from the receipt of the communication, whether the invention is categorised as a work invention and whether he claims any right to it. The inventor may contest the categorisation of his invention by the employer within 4 months.

The right of invention is set out in Article 5 of Law No. 83/2014 as follows:

- the right to inventions realised on the basis of an inventive assignment, shall in all circumstances belong to the employer if the employer is a person governed by private law and has research and development as its object of activity, and if the employer is a person governed by public law and has research and development as its object of activity, the right shall belong to the employer, unless otherwise provided for by contract.
- the right to inventions obtained during the term of the individual contract of employment, and for a maximum period of 2 years after its termination, as the case may be, through knowledge or use of the employer's experience, through the use of the employer's material means, as a result of the training and professional education and training acquired by the employee inventor through the care and at the expense of the employer, or through the use of information resulting from the employer's activity or made available by the employer, shall belong to the employee inventor, unless the employer claims the invention under the conditions provided by law.
- the right to inventions created by employees who do not fall into any of the above situations shall belong to the employee inventor.



For service inventions realised during the term of the individual employment contract (without the existence of an express inventive mission) which have been claimed by the employer, the employee inventor is entitled to a remuneration determined by the employer, under the conditions provided for by law.

If the right to the work invention belongs to the employer, the employer shall be entitled to file an application for a patent or utility model registration in Romania and/or in other states, claiming the right of priority in Romania.

The employee inventor and the employer are obliged to inform each other, in writing, of the filing of an application for a patent or utility model registration. After filing the application for protection for the work invention, the employer shall inform the employee inventor of the procedures for obtaining protection. At the employer's request, the employee inventor assists the employer in obtaining protection and exploiting the invention.

How long does patent protection last?

The term of the patent is 20 years from the date of filing, provided that the holder pays the annual maintenance fees; failing to do so, the patent holder forfeits the rights conferred by the patent.

What is the link between a patent and technology transfer?

Technology transfer generally involves a person's interest in acquiring a new technology that will bring it to the stage of producing or using products or processes at a nationally and internationally competitive level. In these circumstances, the technology transfer must generally (also) be based on an exclusive or non-exclusive licence agreement or a patent assignment relating to the product and/or manufacturing process whose technology is transferred.

BASICS ON THE PROTECTION OF COMPUTER PROGRAMMES AND DATABASES

How are computer programmes protected?

Generally speaking, any computer programme is treated in the same way as a literary work and is therefore protected by copyright. However, since a computer program can often also have a technical character: for example, a program for managing a technological process, a program for compressing or decompressing data, a program for optimising file transfer, etc., they can also be considered and described as computer program inventions and must also be protected as patents.

In these situations, double protection:

- not prohibited by law;
- is complementary, because copyright protects only the expression, in any language, of the programme, whereas a patent protects precisely the technical solution of the working method, the working principle, by its application in a technological field, which was the basis for the creation of the programme;



- It is recommended because it provides the broadest possible protection, combining the advantages of both forms of intellectual property protection;
- since copyright protection is provided by operation of law without the fulfilment of any procedural formalities related to obtaining protection, the software creator only has to fulfil one single procedure related to patenting the invention in connection with computer programs.

Copyright protection

Although protection is obtained under the law from the moment of its creation and without requiring administrative procedures, computer programmes must still be registered in the "National Register of Computer Programmes" managed by the Romanian Copyright Office. This is not a condition for acquiring protection, but a condition for marketing the programmes on Romanian territory. Registration or, as the case may be, enrolment in the National Register is compulsory for:

a. authorised natural persons and legal persons who, in relation to computer programs, carry out on the territory of Romania any of the activities listed below:

- production;
- import;
- distribution;
- renting;
- commercialisation.

b. computer programmes:

- produced in Romania and by authorised dealers;
- imported into Romania and commercialised by specialised traders;

The standard application must be accompanied by the following documents:

a. for natural or legal persons who produce computer programmes with a view to commercialisation on Romanian territory:

- a copy of the computer programme, in the form in which it is produced for commercialisation;
- a copy of the licence contract granted on the territory of Romania to the users of the software;
- the document proving the consent of the holder of the copyright on the computer program or a sworn statement by the author of the computer program;

b. for natural or legal persons importing computer programmes with a view to introducing them into the commercial circuit:

- a certified copy of the document evidencing the agreement of the holder of the copyright in the computer program for distribution, commercialisation and rental activities;



- c. for natural or legal persons distributing and/or commercialising computer programs:
 - documentary evidence of the agreement of the holder of the copyright in the computer program for distribution and/or commercialisation activities;
- d. for natural or legal persons renting computer programs in Internet access rooms or game rooms using computer programs:
 - a copy of the documentary evidence of the agreement of the holder of the copyright in the computer program for the activities of rental of the computer program.

The author of a computer programme shall have the following copyright:

- a. the permanent or temporary reproduction of a computer program, in whole or in part, by any means and in any form, including where the reproduction is made by installing, storing, running or executing, displaying or network transmission
- b. the translation, adaptation, arrangement and any other transformation of a computer program and the reproduction of the result of such operations without prejudice to the rights of persons transforming the computer program
- c. any form of distribution to the public, including the rental of the original programme or of copies thereof.

The following acts related to the exploitation of the programme are exempted from exclusive rights

- use of the programme and correction of errors;
- making back-up copies;
- observing, studying and testing the programme to understand how it works;
- decompiling the programme for reverse engineering.

The term of protection for computer programmes is similar to that of a literary work, i.e., during the lifetime of the author and, after their death, for 70 years, by inheritance under civil law. The 70-year period is calculated from 1 January of the year following the author's death. The term is not extended by any non-essential changes or corrections to the programme.

Patent protection

The software-related invention may be claimed both as a method or process for realising a technical objective in a computer-aided manner, and/or as a programme product for realising the method or process in question.

The holder of a software patent has the following exclusive rights:

- Use of the process/method - for the computer-aided realised process/method;
- commercialisation, offer for sale, use, import or storage for the purpose of commercialisation, offer for sale or use - for the programme product implementing the process/method.



Protection of databases

A database is defined as a collection of independent works, data or other elements, whether or not protected by copyright or related rights, arranged in a systematic or methodical manner, and individually accessible by electronic or other means.

In Romania, database producers are protected under copyright law in two specific ways:

- Copyright protection, by assimilating the database to a derivative work;
- sui generis protection.

The two forms are not alternative but synergistic, and can be invoked in combination, depending on the concrete situation encountered.

Copyright protection

The condition for protection by copyright is the originality of the database, or in other words, the fact that, for reasons of selection or arrangement of content, the database constitutes the author's own intellectual creation. The author of a database has the right to perform, authorise or prohibit acts of:

- a. temporary or permanent reproduction, by any means and in any form, in whole or in part;
- b. translation, adaptation, arrangement or any other modification;
- c. distribution in any form whatsoever to the public of the database or copies thereof;
- d. communication, visualisation or interpretation to the public in any form;
- e. reproduction, distribution, communication, communication, visualisation or results of the acts referred to in point (b).

By including the database in the category of derivative works, the term of protection is for the life of the author and 70 years after his death, the copyright being transferred by inheritance under civil law.

Sui-generis protection

The sui generis right protects the content of the database, irrespective of whether an element of creativity can be evidenced in the arrangement of the data, provided that a substantial investment has been made in obtaining, verifying, or presenting the material.

In contrast to copyright protection, database protection by a droit generis belongs to and is exercised by the database maker. Through sui generis protection, the database maker acquires the exclusive right to authorise and prohibit the extraction and/or re-utilisation of all or a substantial part of the database, evaluated qualitatively and/or quantitatively.

An exception to the exercise of the exclusive right shall be made in two situations:

- lack of commercial purpose in the use;
- national emergency or administrative, or judicial proceedings.



BASIC ELEMENTS ABOUT TRADE SECRETS IN A COMPANY'S INNOVATION POLICY

What are trade secrets?

Although not strictly speaking a distinct object of intellectual property, a trade secret is nevertheless a form of protection of information specific to the firm, and therefore of an intellectual nature, which, if it were to fall into the hands of competitors, could jeopardise the advantage that the firm has by holding it.

Any confidential information which gives an undertaking a competitive advantage may be regarded as a trade secret.

The unauthorised use of such information by persons other than the owner is considered to be an unfair practice and a breach of trade secrecy.

Depending on the legislative system, the protection of trade secrets forms part of the general concept of protection against unfair competition or is based on specific provisions on the protection of confidential information.

Trade secrets mainly concern:

- manufacturing processes, techniques and know-how;
- data collections (e.g. customer lists);
- sketches, drawings, plans, maps;
- algorithms, processes that are implemented by computer programmes and computer programmes themselves;
- formulae for realising products;
- business strategies, business plans, export plans, marketing plans;
- financial information;
- personnel records;
- manuals;
- ingredients;
- research and development information.

Trade secret protection

Unlike patents or utility models, trade secrets are protected without registration, i.e. without any procedural formalities, with a state authority such as OSIM or ORDA. As a result, the trade secret is an attribute of the organisation's policy and strategy and can therefore be protected for an unlimited period of time or as long as the information remains confidential. For these reasons, trade secret protection may appear particularly attractive to SMEs.

In order to be characterised as a trade secret, information must fulfil the following cumulative requirements:

- a. it is secret - in the sense that it is not, as a whole or in the form in which its elements are presented or articulated, generally known or readily accessible to persons in circles normally dealing with the type of information in question;
- b. commercial value by virtue of being secret;



- c. it has been subject to steps that were reasonable under the circumstances by the person lawfully in control of the information concerned to maintain its secrecy.

The trade secret holder is any natural or legal person in lawful control of a trade secret.

When should information be protected as a trade secret?

In addition to the economic, administrative and strategic trade secrets mentioned above, there are two types of trade secrets related to technical inventions that can be emphasised, namely:

- trade secrets which concern inventions relating to products or manufacturing processes which do not fulfil the patentability criteria and therefore can only be protected as trade secrets
- inventions which, if protection were sought, would meet the patentability requirements and could therefore be protected by patents, but which the organisation decides, on management's discretion, to keep as a trade secret.

The use or disclosure of a trade secret is considered unlawful whenever it is committed, without the consent of the owner of the trade secret, by a person who:

- a. acquired the trade secret unlawfully;
- b. violates a confidentiality agreement or any other obligation not to disclose the trade secret;
- c. violates a contractual or other obligation limiting commercial use.

TECHNOLOGICAL TRANSFER (of knowledge/technology)

A new technology developed by a firm is normally accompanied by the protection of all intellectual property rights that define it:

- the technology itself, by patent;
- its name, through a trade mark;
- the appearance of the product obtained by the new technology, including its packaging, by registered design;
- the computer programme with which a product is designed or the technological process is driven, by copyright and/or patent;
- the database of the technology, by copyright and/or sui-generis right.

Contractual arrangements in technology transfer

A transfer of technology generally takes place through a legal relationship whereby the owner of a technology protected by one or more intellectual property rights, in particular a patent or know-how, sells the technology or grants a licence to use that technology or know-how to another natural or legal person.

These relationships are of a contractual nature, which means that the transferor of the technology permits the transfer and the recipient agrees to receive the rights, licence or know-how in question.



Technology transfer based on direct transfer of intellectual property rights

- a. **contract of partial or total assignment of intellectual property rights** - a contract whereby the owner (assignor) sells some or all of the exclusive rights to the patented invention or other intellectual property rights and another natural or legal person (assignee) acquires these rights. Under partial assignment, for example, a patent holder assigns the manufacturing technology but retains the right to use and sell the product resulting from the application of the patented technology.
- b. **exclusive or non-exclusive intellectual property rights licence contract** - a contract for the transfer of the right of use granted by the owner of a patented invention or other intellectual property right (licensor) to a natural or legal person (licensee) to perform, within the area covered and for the duration of the patent or other intellectual property right or for a limited duration, one or more acts covered by the exclusive rights.
- c. **Know-how contract** - know-how generally refers to knowledge of how to do something, to experience acquired in a particular field, and supplements the information contained in the patent which was the subject of a transfer of rights, in order to enable the person acquiring a technology to know specific details of the technology; it may be communicated in tangible form, such as documents, photographs, plans, drawings, and storage media in the case of computers, etc.

BASIC PROVISIONS ON INTELLECTUAL PROPERTY IN CONTRACTS R&D CONTRACTS

As a rule, R&D projects are initiated by the submission and approval of a funding proposal from an entity or consortium of entities capable of performing R&D and which, for the funding granted under the contract, undertakes to obtain the results defined in the approved topic.

For this reason, both between the entities participating in the consortium and between the funder and the consortium, clear relationships must be defined with regard to:

- Confidentiality of information related to intellectual property rights;
- the structure of the results, the benefit associated with them, including the intellectual property rights to be obtained.

Confidentiality of information which is or may be subject to intellectual property rights

Sharing information with other parties is a necessity and therefore occurs regularly in joint research projects. In this respect, confidentiality is an important issue for project participants, whatever the nature of the project, from the initiation phase of such joint endeavour to the implementation and exploitation phases.

Confidentiality of information should be considered in the following situations:

- the proposal stage, defining a proposal for a project requires:
 - Suitable ideas for joint research activities;



- finding suitable partners;
 - discussions and exchange of information between potential project partners;
 - provision of written and oral information to third parties to describe the idea of a project, the knowledge a party has prior to the project, materials submitted for review or to define the scope, objectives and tasks of the proposal.
- In the realisation, implementation and exploitation phases;
 - the participants in a research and development project must determine the level of confidentiality of technical and scientific information with reference to the regime of rights and obligations established under intellectual property.
 - in the utilisation and dissemination of results - the issue of confidentiality becomes significant in the context of participants' obligations to use and disseminate research results including the intellectual property rights obtained for them; with serious justification, participants may request partners not to disclose certain research results or details of those results.
 - through publication and other dissemination activities (conferences, websites, etc.) - special precautions are recommended in the case of planned project activities to be published and other activities involving disclosure of results to the public (conferences, websites, etc.).

Internal agreements

For a uniform approach by project participants, it is advisable to define internal rules, including confidentiality clauses, for the use and dissemination of results. There should be clauses setting out the results that cannot be disclosed and the basis of information that can be used and disseminated.

Confidentiality contract

Confidentiality agreements guarantee that a person or organisation will not disclose the information or know-how they are preparing to present to other persons or organisations to third parties. They are used by both inventors and companies when exchanging business ideas, prototypes, innovative products or other confidential information with third parties. Once the recipient has signed a non-disclosure agreement, the owner is relieved of the issues related to confidential information.

When are non-disclosure agreements used?

The best way to keep a secret is always not to disclose it, and if a secret must indeed be disclosed, only the information that is necessary to fulfil the business purpose should be disclosed. Consequently, companies should not use confidentiality contracts too often. The non-disclosure contract can set a time period within which the information disclosed is within the terms of the contract.



Confidentiality contracts both ways

Sometimes the flow of information is two-way, with the two contracting parties disclosing confidential information to each other, as when a joint venture is established between them. Confidentiality contracts should reflect this arrangement, clearly specifying the confidential information that is shared by each party.

MANAGEMENT OF INTELLECTUAL PROPERTY RIGHTS

Management of forms of intellectual property

The most relevant form of intellectual property is the patent. Thus, patent management is considered to have the following components:

- The management of patent protection of inventions, including an organisation's patent portfolio;
- management of the information contained in patent documentation;
- management of the transfer of the patent right, including the management of the authorisation for assignment;
- patent enforcement management

Intellectual property rights management in the context of innovation management

In this respect, the management of intellectual property rights is important for the R&D project starting with the negotiations concerning the proposal submission and the realisation of the consortium. The participants outlining the proposal (usually the project coordinator) should describe the consortium's plans for the management of intellectual property rights, in good communication with the other participants when exchanging information on the technical part of the proposal.

Assignment of intellectual property rights

The provisions of the partnership agreement must not alter or prejudice the allocation of rights, interests and royalties between the participants, which must be in accordance with the rules and practices applicable to each participant. In this respect, the partnership agreement shall respect the following principles:

- adequate protection of intellectual property
- consideration of the contribution of the participants in determining their rights and interests
- effective exploitation of results;
- non-discriminatory treatment of participants
- protection of confidential information;
- the joint development of a technology management plan, concerning ownership and exploitation (utilisation), including publication of information and intellectual property to be created in the course of joint research.



A participant receiving undisclosed information shall respect the privileged nature thereof.

The restriction shall automatically terminate when the information is disclosed by the owner into the public domain.

Non-disseminable information communicated to a participant may be used by the participant with the assurance that the non-disseminable information will be subject to a confidentiality agreement and will be recognised as such.

Management of intellectual property rights for R&D projects involving SMEs

The research programmes encourage consortia between innovative SMEs/associations of SMEs with limited or no research or technology facilities and R&D&I performers (e.g. INCDS, universities, publicly funded research institutes, companies specialised in carrying out research, etc.) with the necessary facilities and expertise. In this situation, three distinct regimes for the distribution of ownership of intellectual property rights can be identified:

- SMEs/ associations of SMEs retain the rights to the research results;
- performers become owners of the results;

THE ROLE OF A RESEARCH PROJECT MANAGER IN THE PROTECTION AND VALORISATION OF INTELLECTUAL PROPERTY RIGHTS

The relationship between applied research, which aims to find and apply innovative products and technologies, and intellectual property is a particularly valuable one, the neglect of which can lead to incalculable negative consequences. In this respect, a research project manager should consider the following aspects:

- the existence in the partnership agreement of clear and unambiguous clauses on who is entitled to the intellectual property rights that may arise from the research results and in parallel on the rights of the inventors and/or creators involved in the project;
- Careful analysis of the existing prior art in the literature on patents, designs, trade marks, computer programmes, etc., and the area over which these rights are protected;
- decision on the form of protection of intellectual property rights resulting from the research;
- applying for protection to OSIM, which provides national protection;
- calling on professionals in the field of intellectual property protection who are able to apply for and adequately pursue protection at national or international level;
- adequate valorisation of research results including through specific techniques of intellectual property law applied in technology transfer to productive units at home and abroad;
- the appropriate rewarding of inventors and creators who have contributed to the success of the applied research, commensurate with the effort and contribution made, in a manner that motivates them to further research and development.



BASIC LEGISLATIVE FRAMEWORK

Basic national legislation:

- Law no. 64/1991 on patents republished pursuant to art. 18 of Law no. 83/2014;
- H.G. no. 547/2008 for the approval of the Regulation for the application of Law no. 64/1991 on patents;
- Law no. 383/1999 for the approval of GEO no. 41/1998 on fees in the field of industrial property protection and the regime for their utilisation;
- Law No 611/2002 on Romania's accession to the European Patent Convention;
- Law No 350/2007 on utility models;
- Law No 83/2014 on service inventions;
- Law No 84 /1998 on trademarks and geographical indications;
- Government Decision No 1.134/10.XI.2010 for the approval of the Regulation for the application of Law No 84/1998;
- Law No 129/1992 on the protection of designs;
- H.G. No 211/2008 for the approval of the Regulation implementing Law No 129/1992;
- Law 8/1996 on copyright and related rights.

Basic European/Community legislation:

- European Patent Convention - EPC - Romania member since 2003;
- Community Trade Mark Regulation;
- Community Design Regulation.

Basic international legislation:

- Paris Convention (1887) on the protection of industrial property;
- Berne Convention (1886) for the Protection of Literary and Artistic Works;
- Patent Co-operation Treaty (1970) - PCT.

INSTITUTIONS PROTECTING INTELLECTUAL PROPERTY

In Romania, the protection of intellectual property is carried out, according to the law, by two specialised institutions: the **State Office for Inventions and Trademarks (OSIM)** - in the field of industrial property, and the **Romanian Copyright Office (ORDA)** - in the field of copyright and related rights.

The mission of **the State Office for Inventions and Trademarks (OSIM)**, the sole authority in Romania responsible for protecting industrial property, is to support innovation, competitiveness, and profitability as key factors in economic growth.

OSIM provides specialised public services, issues titles of protection granting holders exclusive rights in Romania in the field of industrial property, promotes industrial property through all possible means, and ensures Romania's cooperation in international relations, in accordance with the treaties, conventions, and agreements in this field to which our country is a party.



The Romanian Copyright Office is organised and operates on the basis of Law no. 8/1996 on copyright and related rights, republished, as well as according to Government Decision no. 401/2006 on the organisation, functioning, staff structure and equipment necessary for the performance of the tasks of the Romanian Copyright Office, as amended and supplemented, as a specialised body subordinated to the Government, under the methodological coordination of the Minister of Culture, with sole authority on Romanian territory in the field of regulation, registration in national registers, supervision, authorisation, arbitration and ascertainment in the field of copyright and related rights.

Other responsible institutions:

- Ministry of Education and Research;
- National Research Authority;
- Ministry of Economy, Digitalisation, Entrepreneurship and Tourism;
- Ministry of Culture;
- Public Ministry - Public Prosecutor's Office of the High Court of Cassation and Justice;
- Ministry of Internal Affairs, through the General Inspectorate of the Romanian Police and the Inspectorate
- General Inspectorate of Border Police;
- Ministry of Justice;
- National Institute of Magistracy;
- Ministry of Finance through the Romanian Customs Authority;
- National Authority for Consumer Protection;

BIBLIOGRAPHY:

1. "INTELLECTUAL PROPERTY GUIDE" - <https://sipoca393.research.gov.ro/wp-content/uploads/2021/03/Ghid-de-Proprietate-Intelectuala.pdf>
2. Alexandru Cristian Strenec, "INTELLECTUAL PROPERTY RIGHTS" - <https://www.scribd.com/document/678750320/Drepturi-de-proprietate-intelectuala-suport-curs>
3. NATIONAL INTELLECTUAL PROPERTY STRATEGY 2024-2028 - <https://infocons.ro/wp-content/uploads/2025/12/ANEXA-1-STRATEGIA-1.pdf>

