

Defining Intellectual Property Types

This document is a resource to answer basic questions about intellectual property (IP) in the context of scaling partnerships between HQIM publishers and professional learning providers. It explains what IP is, why it is important, and what the relevant types of IP are.

Summary

Intellectual property (IP) refers to the creations of the mind, and includes things like inventions, creative works, designs, and brand identifiers. It's about protecting the unique works and expressions that have value, and it's important because these protections provide the legal means for creators to control how their work is used. For educators and trainers, understanding IP helps in safeguarding original materials and respecting the work of others. The main types of IP include copyrights, trademarks, trade secrets, and patents. As a rule, ideas by themselves are not protectable – it is only when the ideas are manifested into one of the four main 'buckets' of IP that they become protectable under the law. The following slides are directed to support protection in the US. Each type of IP offers a different scope of protection, and sometimes more than one type of protection can be applied to a single item.

Protecting Your Secret Sauce

Why Intellectual Property Matters for PL Organizations

What if another organization started using your unique product or approach to professional learning/coaching/training without permission? Or claimed your innovative framework as their own?

Why This Matters to You

- Your Expertise is Valuable. When you create a new instructional framework with a publisher, who owns it? Who gets to decide how it's used and shared?
- Partnerships Create New Questions: If your collaboration leads to new AI-enhanced features to the instructional material that integrate guidance from the PL, who owns the improvements? Who controls how they're used in the future?

- Your Future Growth Depends on It. How do you protect your training methods when partners start learning your approach? What stops them from using your techniques without permission after the partnership ends?
- Equal Footing in Partnerships: Understanding IP rights helps you negotiate fair agreements with larger partners. You bring valuable expertise to the table – make sure your contributions are protected and properly valued.

Your professional learning expertise is likely your most valuable asset. Let's talk about protecting it.

Understanding Intellectual Property is Key

- Intellectual property (IP) is about protecting your unique creations. This includes training materials such as original teaching methods, and even the branding of your program.
- IP protection provides essential competitive advantage in the education market
- It's not just about patents; what may be more applicable to you are copyrights for written, drawn or recorded content, trademarks for your brand names, and trade secrets for confidential strategies.
- Understanding IP helps you protect your hard work and control how it is shared.
- Recognizing your IP is the first step to safeguarding your work.

Do I Have Intellectual Property?

- If you have created something original, you likely have some form of IP. Key areas include original curricula, proprietary methodologies, and distinctive branding.
- Do you use a unique name, logo, or slogan for your training program? This could be a trademark.
- Have you developed original content like training manuals, frameworks, lesson plans, or presentations? These could be protected by copyright.
- Do you have a secret method or process that makes your training highly effective and that can be kept secret indefinitely? That could be a trade secret.
- Use the IP Identifier tool to help clarify what type of IP you might have [<https://ipidentifier.uspto.gov/>].

Securing your Intellectual Assets Through Copyright

- Copyright protects original works of authorship, such as training manuals, videos, presentations, and software/apps. For example, the College Board's AP course materials and test prep resources are copyrighted.
- It automatically exists the moment you create the work in a tangible form; however, proper marking provides crucial benefits. Implement a standard copyright notice: © [Years of creation] [Organization Name]. All rights reserved.
- Document creation dates and maintain clear records of your original materials
- Best practice: Include copyright notices on all materials, including:
 - Training manuals and workbooks
 - Presentation slides and handouts
 - Digital resources and assessments
 - Online learning modules.
- If you hire an independent contractor to create materials for you, the contract must include terms reflecting who owns the copyright – consult an attorney. Without appropriate contract language, the default is that the creator owns the copyright.
- You don't need to register your work at the Copyright Office to have copyright protection. However, timely registration is required to sue for infringement and allows for damages defined by statute. It's not hard to register, though you will want to consult an attorney.

Remember: Copyright protects the expression of an idea, not the idea itself.

Trademarks and Your Program's Identity

- A trademark is a unique word, symbol, or design that identifies the source of goods and services and must be used in commerce. It distinguishes your training program. For example, Harry Wong's "The First Days of School"® training methodology name is trademarked.
- Trademarks help build brand recognition and trust.
- Using a name or logo to brand your program may create common law trademark rights. These are indicated by a ™ symbol.
- If you acquire federal registration from the US Patent and Trademark Office through your trademark attorney, you should use the ® symbol, which gives you a higher level of protection nationwide.
- Best Practices:
 - Implement proper trademark usage guidelines across your organization
 - Conduct or commission thorough searches before adopting new trademarks

- Document first use in commerce dates and maintain evidence of continuous use, which keeps a trademark in force.
- Important: Do not use the ® symbol until you have obtained federal registration.

Trade Secrets: Safeguarding Your Proprietary Methodologies

- A trade secret is confidential information that gives your training program a competitive edge.
- This can include unique training methods, recipes, formulas, or business strategies. For example, Kaplan's trade secrets likely include their approach to specific test preparation strategies, curriculum development processes, and other educational methodologies that are not publicly disclosed in order to protect their business interest.
- To protect a trade secret, you must keep it confidential. Limit access to sensitive information and require NDAs (nondisclosure agreements) when sharing information. Note: particularly valuable trade secret information should rarely if ever be disclosed.
- Unlike patents and copyrights, trade secrets can last indefinitely as long as the information remains secret.
- If a trade secret is discovered through reverse engineering or independent invention, it no longer has protection.
- Follow organizational policies on data storage, physical and electronic file access control, firewalls, encryption, employee training on confidentiality, and protection to keep trade secrets, including marking material as CONFIDENTIAL.