

An EU intellectual property policy to boost innovation

- Intellectual property rights-intensive industries generated almost 39 % of total economic activity in the EU, worth €4.7 trillion.
- IPR-intensive industries account directly for 26 % of all jobs in the EU – around 56 million direct jobs.
- A fully integrated digital single market, including in its IP dimension, could contribute between €260 and €520 billion to European gross domestic product (GDP).

Intellectual property (IP) lies at the heart of innovation and competitiveness around the world as well as in the European Union, and intellectual property rights (IPRs) are protected mainly through patents, trade marks and copyright. IPRs enable individuals and companies to earn recognition and/or financial benefit from what they invent or create. By striking the right balance between innovators and public interest, IP aims to foster an environment in which creativity and innovation can flourish.

What protection for intellectual property in the EU?

The EU has shaped a framework that defines and protects innovations and creations through IP. This framework mainly comprises of directives and regulations protecting copyright, trade marks, patents, designs and geographical indications and has the following main characteristics:

IP right	Copyright	Geographical indications	Patents	Trade marks	Designs
Subject	Artistic, literary works; maps, technical drawings; computer programs and databases	Product from a particular location whose quality or reputation is linked to its geographical origin	Inventions (solutions to technical problems)	Distinctive signs	Appearance of an article or product
Acquisition of right	No registration needed: automatic upon creation	Registration needed by national authority and the European Commission	Registration needed by the patent office.	Registered trade marks: IP office. Unregistered trade marks: use in commerce.	Registered designs: IP office. Unregistered designs: act of disclosure.
Duration	For authors, lifetime plus 70 years. For performers, phonograms or film producers, generally 70 years. 50 years for broadcasters.	Indefinite, no need for renewal	Commonly 20 years, subject to payment of annual renewal fees	For registered trade marks, 10 years that can be renewed.	For registered designs, the maximum-term is 25 years.

Source: EPRS.

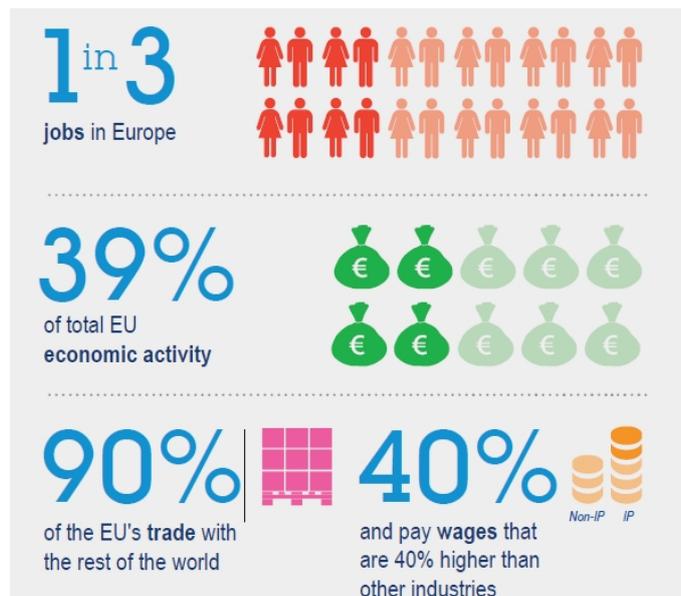
Thanks to this framework, the internal market creates an appropriate environment for achieving economies of scale for products and services characterised by intensive use of IPRs, which accounts for more than 39 % of the EU's gross domestic product (GDP), worth about €4.7 trillion.

About half of EU industries are IPR-intensive,¹ accounting directly for 26 % of all jobs in the EU – around 56 million direct jobs.

In addition, the IPR-intensive industry pays higher remuneration, with a premium of more than 40 % and account for 90 % of the EU's trade with the rest of the world.

Finally, IPR-intensive industries appear to have coped better with the severe economic crisis than the economy as a whole, contributing to Europe's prosperity and competitiveness.

IPR-intensive industries and economic performance in the European Union



Source: [Intellectual property rights intensive industries and economic performance in the European Union](#), European Patent Office and the European Union Intellectual Property Office, 2016.

European added value of the EU approach to intellectual property

Copyright

The EU copyright-intensive industry directly employs over 11 million people in the EU (5.4 % of all EU employment) and contributes around €914 billion to the EU economy, or 6.8 % of EU GDP.² Copyright is the right that creators have over use of their literary and artistic works. Whether you read a book, watch a film, listen music, or take a photo, copyright issues are present. In general, copyright is territorial, which means that its protection does not extend beyond the territory of a specific state. However, the EU provides a secure environment for cross-border trade in copyright-protected goods and services and facilitates the development of electronic commerce. The internal market aspects of copyright mainly relate to territorial licencing, geo-blocking, exceptions and limitations to copyright protection, harmonisation of the rights of reproduction, distribution, communication to the public, the legal protection of anti-copying devices and rights management systems.³

Geographical indications of origin

Geographical indications (GIs) are signs used on goods that have a specific geographical origin and possess qualities, a reputation or characteristics that are essentially attributable to that place of origin. *Champagne* or *Prosciutto di Parma* are well-known examples of agricultural GIs. The EU GIs protection benefit consumers (quality assurance), producers (openness of the system to all producers complying with quality requirements; fair competition; price premium; efficient protection), the society (link of valuable products to rural areas; preserving tradition; reconnection of producers and consumers) and the environment (linking traditional

¹ [Intellectual property rights intensive industries: contribution to economic performance and employment in the European Union](#), September 2013.

² [Intellectual property rights intensive industries and economic performance in the European Union](#), Industry-Level Analysis Report, Second edition, A joint project between the European Patent Office and the European Union Intellectual Property Office, October 2016, p.59 and p.62.

³ Mainly with Directive [2001/29](#) of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

products with landscapes and farming systems).⁴ The sales value of all EU GIs was €54.3 billion in 2010 (5.7 % of the total EU food and drink sector) and the estimated EU GI exports value is € 11.5 billion (15 % of EU food and drink industry exports).

Patents

A patent gives the owner the right to prevent others from making, using or selling the invention without permission, and provides an incentive for investing in innovation. Technical inventions can be protected in Europe either by national patents, granted by the competent [national IP authorities](#) from EU Member States, or by European patents⁵ granted by the [European Patent Office \(EPO\)](#). Once into force, the unitary EU patent will provide uniform protection across 26 EU Member States (all EU Member States except Croatia and Spain) in one step, providing huge cost advantages, reducing administrative burden and improving legal certainty. Before the introduction of the EU unitary patent, the validation costs for obtaining patent protection in 27 Member States could amount to €32 000, meaning around €193 million per year for the entire EU.⁶ With the unitary EU patent, according to the EPO, those fees could be reduced to an average of €5 710 (or €5 620 if the application is filed online), giving a net gain of more than €26 000 for each EU patent filing.

Trade marks

A trade mark is a name, word, phrase or logo used to make it clear that a product or service originates from a unique source. To make it easier and cheaper for businesses operating in the internal market to register their trade marks, the Community trade mark was established in 1993.⁷ The EU trade mark replaced the Community trade mark in 2016,⁸ and provides uniform protection throughout the EU, which can be obtained by means of a single procedure, and filed online in any EU language. It gives its owner an exclusive right in all EU Member States for 10 years. However, national and EU trade marks still co-exist. The same trade mark can be registered at EU and/or national level. The EU trade mark significantly reduced its registration fees, businesses now pay €850 to register online an EU trade mark, instead of the previous fee of €1 750.⁹

Designs

A Community design is a unitary industrial design (in machinery, tools, electronic equipment, etc.) right that covers the European Union. It has both unregistered and registered forms. The unregistered community design came into effect on 6 March 2002 and the registered Community design is available since 1 April 2003.¹⁰ National registration systems still co-exist. Community designs (and EU trade marks) are registered at the [EU Intellectual Property Office \(EUIPO\)](#). The introduction of a Community design allowed degressive registration fees (a design registered separately in all Member States would cost at least €2 695.25, compared to €350 at EUIPO),¹¹ litigation/enforcement costs, transactional costs and facilitated registration filing.¹²

⁴ T. Chever, C. Renault, S. Renault, V. Romieu (AND-International), [Value of production of agricultural products and foodstuffs, wines, aromatised wines and spirits protected by a geographical indication \(GI\)](#), October 2012.

⁵ Regulations [1257/2012](#) and [1260/2012](#).

⁶ Commission impact assessment, [SEC\(2011\) 482](#), p.16-17.

⁷ [Council Regulation 40/94](#) of 20 December 1993 on the Community trade mark.

⁸ [Directive \(EU\) 2015/2436 to approximate the laws of the Members States relating to trade marks](#), and [Regulation \(EU\) 2015/2424](#)

⁹ [20 years of the European Single Market Main achievements](#), European Commission, 2012.

¹⁰ Directive [98/71](#).

¹¹ [The Economic Review of Industrial Design in Europe - Final Report](#), European Commission, January 2015, p.92.

¹² [Legal review on industrial design protection in Europe](#), European Commission, 15 April 2016.

Economic benefits of registering European patents, EU trade marks, and Community designs.

	Cost of 28 national applications	Cost of EU-wide protection	Gain for companies opting for EU-wide protection
Patent	€32 000	€5 620	26 380€
Trade mark	€1 750	€850	€900
Design	€2 695,25	€350	€2 345,25

Source: EPRS.

The need for reinforcement of EU IP policy

While the EU has fostered measures to protect IPRs, many challenges remain. In the **copyright** area, the [review of the EU copyright framework](#)¹³ assessed that the EU copyright regime is still fragmented. It underlined that the EU today is still characterised by 28 different copyright systems, and that the implementation and scope of exceptions and limitations in Member States vary significantly. It underlines, inter alia, that this fragmentation harms commercial users of copyright works, online intermediaries and end users,¹⁴ and recommends further harmonisation.

The emergence of new business models and consumption patterns increasingly characterised by the use of the internet has a significant impact on users and the creative industries, and represents a challenge to copyright protection within the internal market. Available data sets show that a fully integrated **digital single market**, including in its IP dimension, could contribute between €260 billion and €520 billion to EU GDP. The long-term growth impact of the digital reform effort already undertaken is estimated at above 1 %, and further efforts, in line with the digital agenda for Europe targets, are expected to generate an additional 2.1 % of GDP growth.¹⁵

In addition, as there is currently no **EU-wide GI protection for non-agricultural goods**, the national legal frameworks differ quite significantly. The European Parliament,¹⁶ and a study conducted by the European Commission,¹⁷ consider that there is a case for harmonisation and for the creation of a new unitary title of protection for non-agricultural geographical indication products across the EU.

Finally, the rise in the number of registered European trade marks, patents and designs¹⁸ should be closely monitored, together with the co-existence of national schemes, to analyse whether harmonisation could be beneficial to the EU.

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¹³ S. Reynolds, [Review of the EU copyright framework](#), European Parliament, October 2015.

¹⁴ [The Cost of Non-Europe in the Single Market III - Digital Single Market](#), European Parliament, September 2014.

¹⁵ S. Reynolds, [Review of the EU copyright framework](#), European Parliament, October 2015, p. I-48.

¹⁶ [European Parliament resolution of 6 October 2015 on the possible extension of geographical indication protection of the European Union to non-agricultural products](#).

¹⁷ [Study on geographical indications protection for non-agricultural products in the internal market](#), February 2013.

¹⁸ [Intellectual property rights intensive industries and economic performance in the European Union](#), Second edition, A joint project between the European Patent Office and the European Union Intellectual Property Office, October 2016.