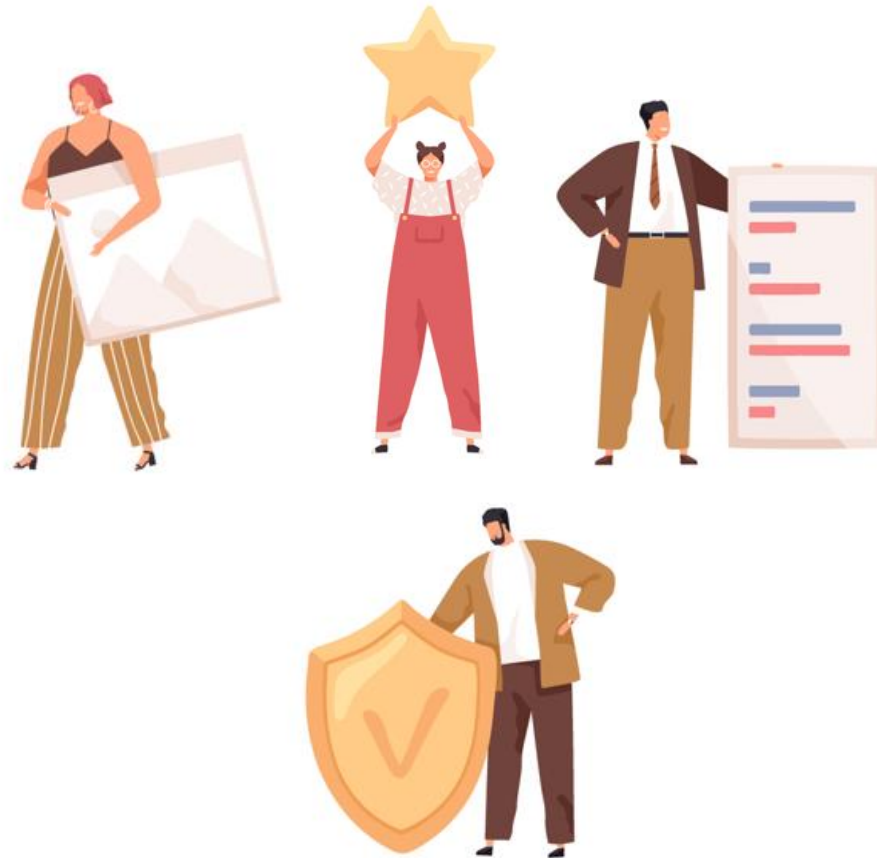


# Intellectual Property

Teacher's Guide



Description:

Intellectual property is covered in the entrepreneurship course. This workshop clearly explains trademarks, copyright, royalty payments, patents, and other related concepts. After learning the basics, students will apply this knowledge through practical exercises, including one based on a real court case and one that involves searching the online Canadian Trademarks Database (optional).

**Learning objectives:**

- Introduce students to the basic concepts of intellectual property.
- Explain the different types of intellectual property.
- Reflect on the limitations of intellectual property.
- Examine how the court makes decisions through questions based on a real intellectual property case.

**School subject and suggested subject-specific competencies**

**Entrepreneurship (two or four units):**

- Determines his/her suitability for entrepreneurship
  - Broadens his/her view of entrepreneurship
- Implements an entrepreneurial project
  - Plans the project
  - Carries out the project
  - Evaluates the project

**Suggested duration:**

One or two classes

**Broad areas of learning:**

Media literacy: Intellectual property, freedom of expression, privacy, and reputation  
Citizenship and community life: Promotion of the rules of social conduct

**Subject-specific competencies:**

To use information

To use information and communications technologies

**External tools:**

Government of Canada:

- [Copyright](#)
  - [A guide to copyright](#)
  - [What copyright is](#)
- [Trademarks](#)
  - [Trademarks guide](#)
  - [What are trademarks?](#)
- [Patents](#)
  - [What is a patent?](#)

Entreprises Québec (French only):

- [Droit d'auteur](#)
- [Marque de commerce](#)
- [Brevet](#)

BDC (Business Development Bank of Canada):

- [Copyright](#)
- [Trademark](#)
- [Patents](#)

COPIBEC – Société québécoise de gestion collective des droits de production:

- [Copyright Act overview](#)

**Related content:**

- [Copyright: Protecting Creative Works](#)
- [Copyright: When Can You Use Someone Else's Work?](#)
- [Does Copyright Apply to Christmas Songs?](#)

**You'll need:**

- PowerPoint presentation (Additional information is provided **in the Notes section** of the presentation.)
- This Teacher's Guide
- One copy of the Student Guide for each student
- Devices with Internet access for the students (optional activity)

	In-class procedure	Exercises
<b>Class 1</b>	<b>Presentation of the workshop.</b> What we will be covering (slide 1): <ul style="list-style-type: none"><li>- What is intellectual property?</li><li>- Distinguishing between different types of intellectual property</li><li>- Understanding the importance of registering a trademark</li><li>- Understanding the possible legal consequences of using another person's intellectual property without permission</li></ul>	
	<b>Introduction to intellectual property</b> <ol style="list-style-type: none"><li>1. Introductory video and discussion (slide 2)</li><li>2. What is intellectual property? (slides 3 and 4)</li></ol>	<b>Exercise 1</b>
	<b>Quiz to test comprehension</b> (slides 5 to 10)	<b>Exercise 2</b>
	<b>What can be protected?</b> (slides 11 to 14) <ul style="list-style-type: none"><li>- Can an idea be protected?</li><li>- Can a drawing made at home on a sheet of paper be protected?</li></ul>	<b>Exercises 3 and 4</b>

	<b>Scenario 1</b> <ul style="list-style-type: none"> <li>- Scenario (slides 15 to 17)</li> <li>- Use of a trademark (not its registration) means you have the right to protect it (slide 18)</li> <li>- What to do if there's a disagreement (slides 19 and 20)</li> <li>- What can't be registered as a trademark? (slide 21)</li> </ul>	<b>Scenario 1</b>
<b>Class 2</b>	<b>Scenario 2</b> <ul style="list-style-type: none"> <li>- Scenario (slide 22)</li> <li>- Work created by an employee as part of their job usually belongs to the employer (slide 23)</li> </ul>	<b>Scenario 2</b>
	<b>Scenario 3</b> <ul style="list-style-type: none"> <li>- Scenario (slide 24)</li> <li>- Copyright (slides 25 to 27)</li> </ul>	<b>Scenario 3</b>
	<b>Scenario based on a real case (optional)</b> <ul style="list-style-type: none"> <li>- Presentation of the case (slide 30 + Student Guide)</li> <li>- The court's decision (slide 31)</li> </ul>	<b>Section: Scenario based on a real case</b>
	<b>Research (optional)</b> <ul style="list-style-type: none"> <li>- Research in the Canadian Trademarks Database (slide 32)</li> </ul>	<b>Section: Putting it into practice!</b>

### Answer key

#### Vocabulary

**Please note: These definitions are suggestions only; students may provide different definitions.**

**Patent:** A legal document giving an inventor the exclusive right to use their invention for up to 20 years. A patented invention can be a product, a process, a machine, or a combination of materials, or an improvement to any of these.

**Copyright:** A creator's exclusive right to use their work. The duration and legal requirements may vary.

**Injunction:** A court order requiring a person or a company to not do something or to stop doing something. If they don't follow the order, they could be held in contempt of court.

**Litigation:** Suing someone in court over a disagreement.

**Trademark:** A specific mark someone uses to distinguish their products or services from those of their competitors.

**Demand letter:** A letter to a person or a company informing them that they're not respecting their legal obligations. The letter asks them to take action or stop doing certain things within a specific time limit or else you will sue them.

Royalty payments: Payments made to an inventor for using their patented invention, for example.

### 1. What is intellectual property?

What I think it is:

Personal answer

Legal definition:

Broad term that includes artistic, literary and industrial property.

### 2. Write down the type of intellectual property rights that matches each example!

Example A: Patent

Example B: Copyright

Example C: Copyright and trademark

Example D: Copyright

### 3. You have a great idea for a book, a logo for your shoe company or an invention that will change the world. Does the law protect your idea?

No. Intellectual property laws don't generally protect an idea.

#### If you share your idea with a friend, is your idea protected? Why or why not?

No, it still isn't protected. You must express your idea in a material form. Talking about your idea isn't enough.

### 4. If you draw on a sheet of paper at home, does the law protect your drawing?

The drawing meets the legal requirement of being expressed in a material form (on a sheet of paper). It could be protected by law if it shows some talent or reflection.

#### Scenario

1. You recently opened a new shoe store and called it Soulierlala. You're starting to make a name for yourself in Montreal, and you were even featured in a major newspaper!

Six months later, your acquaintance, Samuel, opens another shoe store around the corner. It's also called Soulierlala, and the logo is almost identical to yours.

When you confront him, he says he can do whatever he wants. He says he searched the Canadian Trademarks Database and you never registered your business name or logo.

#### Is Samuel right?

Samuel is allowed to do this because . . .	Samuel isn't allowed to do this because . . .
<p>Personal answers are allowed. The answers must be based on the content discussed in class.</p>	

**Is there anything you can do about Samuel using your name and logo?**

- Send Samuel a demand letter.
- Sue Samuel in court.

**2.** Your company is very successful, and you hired new employees to design and create new products for your store. One of your employees created a new logo.

**Who has the rights to the logo?**

The employee has the rights to the logo because . . .	Your company has the rights to the logo because . . .
<p>Personal answers are allowed. The answers must be based on the content discussed in class.</p>	

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**Logos and products developed by an employee usually belong to:**

**The employer.**

**3.** You want to use a Montreal musician’s new song in an ad on social media (Instagram, TikTok, etc.).

**Are you allowed to do this? No**

You can use the song because . . .	You can't use the song because . . .
<p><b>Personal answers are allowed. The answers must be based on the content discussed in class.</b></p>	

**Scenario based on a real case**

Mark, 30, opens his first restaurant in Montreal. It’s a bar and grill that mainly serves barbecued ribs, souvlaki, steak, chicken, and seafood. He calls it “Barbie’s” as a play on words, and one of the items on the menu is the “BarbieQ.” He also designs a logo based on the name. The logo appears at the entrance to the restaurant as well as on menus and some of the restaurant’s products.

After a year in business, the restaurant has become quite successful in the Montreal area. Mark therefore decides to register both the name “Barbie’s” and the logo. He states in his application that

the trademark will be used for “restaurant services, take-out services, catering and banquet services.”

The toy company Mattel makes the Barbie doll, which has been a global icon for decades. They’re contesting Mark’s application to register his “Barbie’s” trademark.

This scenario is based on a real case, but we have made some modifications. Therefore, it should not be interpreted as an accurate description of the facts of the case *Mattel, Inc v 3894207 Canada Inc*, 2006 SCC 22.

1. Why do you think Mattel is contesting Mark’s application?

Mattel may think that Mark wants to use the popularity of its Barbie dolls to make his restaurant famous. Mattel could argue that another person shouldn’t be allowed to benefit from their continuous and expensive advertising to make a different product famous without much effort.

2. What type of intellectual property is involved in this litigation?

Trademark

3. In your opinion, should the court decide in favour of Mark or Mattel? Complete the following table to help you answer this question.

The court should decide in favour of Mark because . . .	The court should decide in favour of Mattel because . . .
Personal answers are allowed. The answers must be based on the content discussed in class.	

In my opinion, the court should decide in favour of \_\_\_\_\_.

In the end, the court decided in favour of Mark. See the PowerPoint presentation for the court’s reasons.



4. If Mark required his servers to wear uniforms resembling Barbie and Ken dolls, would this change your answer? Why?

The court did not consider this issue. You can mention to students that intellectual property rights are not always clear-cut and that the court makes a decision based on all the facts.

The court might still decide in Mark's favour because the type of product he's offering is still different from Mattel's products. Or the court might now decide in favour of Mattel if Mark is clearly trying to benefit from the notoriety of Barbie dolls.

5. If Mark had decided to open a toy store instead, would this change your answer? Why or why not?

If both products involved toys, there's more of a chance that the court would have decided in Mattel's favour because of the risk of confusion between the two products.

### Putting it into practice!

Choose a product, expression or word from the following list:

- Assassin's Creed
- Moto-Ski
- Céline Dion
- Oasis
- Couche-Tard
- Tiguidou !
- Montreal Canadiens
- You'll find it all, even a friend.
- Midi Go!

Look it up in the Canadian Trademarks Database at <https://ised-isde.canada.ca/cipo/trademark-search/srch>), or enter "Canadian Trademarks Database" in a search engine.

Next, complete the following table:

Who owns the trademark?	Registration date	Registration expiry date	Does the trademark cover certain types of products only? Which ones?
The answers will vary depending on the product, expression or word the students choose. The information on the Canadian Trademarks Database can			

<p>be updated. We invite you to consult the database before assessing the students' work.</p>			
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