IP Licenses and Insolvency Guide - United Kingdom

4. Are there differences regarding trademark, copyright and patent licenses, noting any exceptions, e.g., mandatory licensing or standard essential patents?

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# 4. Are there differences regarding trademark, copyright and patent licenses, noting any exceptions, e.g., mandatory licensing or standard essential patents?

No.

For the purposes of insolvency in the UK, there are no differences between the treatment each of the main IP rights ("**IPR**").  However, it should be noted that the differing inherent elements of each right may make it easier, or alternatively more challenging, to protect as licensed IPR (per our comments above) depending on the nature of the underlying IPR.

For example, patents, trade marks and registered designs are all registered rights against which licenses of those rights can be recorded centrally, which makes it easier to give notice on the licensee’s right.  However these rights are also subject to the payment of renewal fees in order to remain validly enforceable.

On the other hand copyright is not a registrable right in the UK, and therefore a licensee will not have the option to centrally record its licensed IPR, but instead might take the benefit of holding security over the IPR in order to register their interest. If the relevant copyright interest is held for example in respect of software, then it might also be more likely that an escrow arrangement can be put in place to protect the licensee’s copyright interest in the source code.

Each of the IP rights will be treated the same for the purposes of insolvency, but there will often be differing strategic considerations in relation to the preferred method of protection.

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