

It's my idea so I own it! Right?

IDEAS ARE OWNED BY THE CREATOR, EXCEPT WHEN IT IS PART OF THEIR EMPLOYMENT

Intellectual property (IP)¹ is the concept that ideas and other creative works can be owned just like real property (ex. land or a car). Generally they are owned by the creator, but not always.

Works for Hire

Works for hire is when a person is employed to create intellectual property. In this case the employer owns the IP like anything created at work. If you develop an idea at work and it is patented your employer owns the patent. He will ask you to sign a document transferring your rights to the company, but technically they already own the rights. This is the paperwork it to make it public record. The alternative is they can sue you for taking property that belongs to them and get a court order to be the public record. I have heard engineers say they will not sign over the patent rights to a company, because it was their idea. If they came up with the idea as part of their job they will lose.

But, I Did It at Home!

IP and ownership is sometimes difficult to determine. Let us say, you work for GM assembling Cadillacs, and like Johnny Cash² you took home a car part every day. Eventually having all the parts and you built a Cadillac at home. Do you own the car? Of course not. It was built using property that belongs to someone else, even though you assembled it on your own time. The same goes for use of IP.

Let us say, I am employed on a project to create the world's greatest potato salad. At home one night, on my own time, I make a batch of potato salad for dinner. My family raves about it, finding I have created the world's greatest. Do I own the recipe? It is pretty obvious I used specific knowledge gained as part of my employment. Unfortunately my employer would own the recipe. But, what if I created the world's greatest macaroni salad at home? Macaroni salad is basically potato salad with swapping the title ingredients. Now it is getting fuzzy as to ownership. In this case my employer might own the recipe.

What about fruit salad? Since potato salad and fruit salad are completely different, I would own the recipe. That is unless I know about others at my company working on fruit salad. Then my company could claim ownership of the fruit salad recipe because it is possible I used company knowledge.

OK, now how about if I quit and develop the world's greatest potato salad at home a week later? My ex-company would most probably own the recipe because it is highly likely I used knowledge taken from my previous employment. How about if it took me a few months or a few years to develop it? The probability I own it is increasing but it is not a sure thing. Experience gained while employed is mine, but specific knowledge is not. I might end up in court fighting my ex-company to prove it was my experience and not specific knowledge developed in their employ.

¹ Something worth more than the sum of its parts. See *Intellectual Property Basics* by this author for more details.

² 'One Piece at a Time'

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