

License

Generally, a “license” is permission granted by a qualified authority permitting a licensee to do something that would otherwise be prohibited. “License” may also refer to a physical document granting such permission, sometimes referred to as a permit. Licenses may have geographical limits, and/or time limits and can be revoked or forfeited.

- Permissions granted by a license are limited by the licensor’s power to confer such permissions. For example, in *Gibbons v. Ogden* the Supreme Court ruled that a license granted by New York state giving Ogden exclusive use of a water route was void because New York lacked the power to regulate interstate commerce.
- Licenses may be granted by public or private entities. Common examples of public licenses include marriage licenses, professional licenses, business licenses, and licenses to drive. Examples of private licenses include licenses to use land or intellectual property owned by another.

With respect to real property, a “license” is permission to enter or use land or property owned by another in a manner that would otherwise constitute a trespass. License to use or enter another’s land may be either express or implied.

In intellectual property (“IP”) law, licenses allow individuals and entities to use patents, trademarks, and creative works owned by others without infringing on the owners’ property rights.

- IP owners have the right to exclude others from using their property as conferred by statutes such as [35 U.S.C. § 154](#).
- When IP owners license use of their IP to others, they effectively agree to forfeit their right to exclude the licensees from using the IP for a typically limited amount of time.
- IP owners benefit from licensing because they maintain ownership over their IP while profiting from a licensee’s use of their IP.
- IP licenses are usually formed contractually as license agreements with fixed terms, and owners usually profit from royalties paid by the licensee in exchange for use of the IP.
- IP licensing is intended to reward innovators while incentivizing release of the IP into the public market.