

Best Practices in Intellectual Property Infringement and Illicit Trade

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President



Welcome Who Am I?



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New Mexico Attorney General issues holiday scam alert



Reports | Ruidoso News

As the shopping season ramps up, Attorney General Hector Balderas issued a holiday scam alert today to help New Mexicans protect themselves. The three most prominent holiday scams New Mexico may experience involve fake online shopping websites, fraudulent gift cards

What is the Definition of Intellectual Property Rights?

The definition of intellectual property rights is any and all rights associated with intangible assets owned by a person or company and protected against use without consent.

Intangible assets refer to non-physical property, including right of ownership in intellectual property.



Examples of intellectual property rights include:

- Patents
- Domain names
- Industrial design
- Confidential information
- Inventions
- Moral rights
- Database rights
- Works of authorship
- Service marks
- Logos
- Trademarks
- Design rights
- Business or trade names
- Commercial secrets
- Computer software

What Are the Types of Intellectual Property?

- There are four main types of intellectual property rights, including patents, trademarks, copyrights, and trade secrets.
- Owners of intellectual property frequently use more than one of these types of intellectual property law to protect the same intangible assets. For instance, trademark law protects a product's name, whereas copyright law covers its tagline.



1. Patents

- The U.S. Patent and Trademark Office grants property rights to original inventions, from processes to machines. Patent law protects inventions from use by other individuals and gives exclusive rights to one or more inventors. Technology companies commonly use patents, as seen in the patent for the first invention of its kind to protect their investment in creating new and innovative products.
- **The three types of patents consist of:**
- Design patents: Protection for the aesthetics of a device or invention. Ornamental design patents include a product's shape or design, emojis, fonts, or any other distinct visual traits.
- Plant patents: Safeguards for new varieties of plants. An example of a plant patent is pest-free versions of fruit trees. But inventors may also want a design patent if the tree has unique visual properties.
- Utility patents: Protection for a product that serves a practical purpose and is useful. Intellectual Property examples include vehicle safety systems, software, and pharmaceuticals. This was the first, and is still the largest, area of patent law.

2. Trademarks



- Trademarks protect logos, sounds, words, colors, or symbols used by a company to distinguish its service or product. Trademark examples include the Twitter logo, McDonald's golden arches, and the font used by Dunkin.
- Although patents protect one product, trademarks may cover a group of products. The Lanham Act, also called the Trademark Act of 1946, governs trademarks, infringement, and service marks.



What is the Lanham Act?

- The Lanham Act created a national trademark registration system. Enacted in 1946, this act also protects a trademark owner against others using similar marks.
- The Lanham Act also provided a way for companies to watch for modifications to their trademarks. This section of the law, called trademark dilution, gives the owner of a famous trademark a way to protect it from changes. No other person or company can use the mark in a way that reduces how unique it is. The Lanham Act allows legal entities to consider the implications of issuing a trademark under the trademark laws.
- Also called the Trademark Act of 1946, this legal statute oversees unfair competition laws and violations. President Harry Truman signed it into law on July 5, 1947.
- The Lanham Act protects trademarks, which include graphics, symbols, phrases, words, and logos. A trademark helps to identify from where a product or service comes. For example, the current Ford logo has trademark protection. It includes the word "Ford" in a specific font, set on a blue backdrop and surrounded with an oval.
- The trademark doesn't restrict other companies from ever using the word "Ford" in a name, logo, or graphic. But this specific design and layout cannot be duplicated without legal consequences.
- The name comes from a Texas Congress Representative, Fritz G. Lanham. He focused much of his time and energy during his political career to secure federal laws that recognized trademarks.

3. Copyrights

- Copyright law protects the rights of the original creator of original works of intellectual property. Unlike patents, copyrights must be tangible. For instance, you can't copyright an idea. But you can write down an original speech, poem, or song and get a copyright.
- Once someone creates an original work of authorship (OWA), the author automatically owns the copyright. Registering with the U.S. Copyright Office gives owners a head-start in the legal system.



4. Trade Secrets

- Trade secrets are a company's intellectual property that isn't public, has economic value, and carries information. They may be a formula, recipe, or process used to gain a competitive advantage.
- To qualify as a trade secret, companies must work to protect proprietary information actively. Once the information is public knowledge, then it's no longer protected under trade secrets laws. According to 18 USC § 1839(3), assets may be tangible or intangible, and a trade secret can involve information that's:
 1. Business
 2. Financial
 3. Technical
 4. Economic
 5. Scientific
 6. Engineering
- *Two well-known examples include the recipe for Coca-Cola and Google's search algorithm. Although a patent is public, trade secrets remain unavailable to anyone but the owner.*

What Are Some Examples of Violations of Intellectual Property?

- The significant violations of intellectual property consist of infringement, counterfeiting, and misappropriation of trade secrets. Violations of intellectual property include:
- Creating a logo or name meant to confuse buyers into thinking they're buying the original brand.
- Recording video or music without authorization or copying copyrighted materials (yes, even on a photocopier, for private use).
- Copying another person's patent and marketing it as a new patent.
- Manufacturing patented goods without a license to do so.
- Since intellectual property can be bought, sold, or leased out, it offers many protections equal to real property ownership. Likewise, similar remedies exist. A dispute may end with property confiscation, an order of monetary damages, or cease and desist orders.


Who owns intellectual property?

- IP Ownership
- As it relates to IP, the overriding principle is that its creator, developer or inventor is the owner. While IP can take many forms, this article will focus on issues surrounding copyrights, trademarks, patents and trade secrets.

What is violation of intellectual property rights?

- IPR infringement refers to the unauthorized use, duplication, or sale of materials or products that are legally regarded as protected intellectual property. IPR infringement refers to the unauthorized use, duplication, or sale of materials or products that are legally regarded as protected intellectual property (IP).

What is the difference between copyright and intellectual property?

- Intellectual property is protected by laws specific to the expression of an idea. Copyright is the law specific to the expression of ideas in visual or audio form. Unlike a trademark that indicates a specific item or design is protected, copyright covers a different expression of thought.
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3 LEGAL STRATEGIES TO PROTECT YOUR IP

1. NONDISCLOSURE AGREEMENTS (NDAS)

NDAs restrict use and limit disclosure of your company's protected information. NDAs offer you legally enforceable protection against accidental and intentional confidentiality breaches by third parties.

2. EMPLOYMENT AGREEMENTS

If you're engaging a new employee who might contribute to the company's IP, they should sign an employment agreement before they start work. The employment agreement should clearly define what IP is owned by the company, and how the employee is expected to handle confidential information and other IP during and after the course of their employment.

3. INVENTION DISCLOSURE RECORDS (IDRS)

IDRs are the most effective way for your company to track IP created by your employees. Essentially, an IDR is used to internally document relevant details about company-related inventions.

All tech companies should have an IDR templates that employees complete when they develop new, valuable innovations. The completed IDR can then be used as a starting point for obtaining patent or trade secret protection.

BEST PRACTICES TO PROTECT YOUR INTELLECTUAL PROPERTY

1. OFFER EMPLOYEE TRAINING AND INCENTIVES

When confidential information is improperly disclosed, it's typically through people — namely, your employees.

2. CONTROL WHO CAN ACCESS SENSITIVE INFORMATION

You must maintain full visibility over where critical information is stored, and who is given administrative privileges and access rights to that information.

Data controls: Use file management systems that allow you to set permissions by user and administrative group.

Physical controls: Physically secure rooms containing sensitive material, and set restrictions on who can gain access to these rooms.

In your NDAs, consider including requirements for similar data and physical controls over information access.



Combat Illicit Trade. Protect Public Safety. Build Lasting Partnerships.

- IP theft is not a victimless crime. Victims are American consumers, businesses, trademark holders and people who manufacture and sell legitimate products. Often, the illicit proceeds resulting from the sale of counterfeit or unlicensed products are funneled back to support a broad range of illegal crimes. Every day, the IPR Center works with industries and agencies to stop IP theft that threatens U.S. businesses, robs hardworking Americans of their jobs and negatively impacts the economy. From criminal arrests to the seizure of goods, the numbers tell the story.
- Criminals sell pirated merchandise and counterfeit U.S. products around the globe. And, while it seems harmless to buy a knock-off purse, an inexpensive electronic device or cheaper medication, these trade practices threaten the public's health and safety, the U.S. economy and national security by introducing harmful and banned materials into counterfeit products and supporting illegal labor practices. The U.S. government created the IPR Center to stop predatory and illegal trade practices.
- By bringing together domestic and international government agencies and private industry partners, the IPR Center presents a unified force to combat global intellectual property theft and enforce IP rights violations. The IPR Center was established to combat global IP theft and, accordingly, has a significant role policing the sale and distribution of counterfeit goods on websites, social media, and the dark web.

FY 22 IMPACT

INTELLECTUAL PROPERTY THEFT AND COMMERCIAL FRAUD



1,367

**Cases
Initiated**



540

**Criminal
Arrests**



309

Indictments



129

Convictions



2,386

**Seizure
Incidents**



\$1.12
BILLION

**MSRP of IP
Theft/Comm
Fraud Seizures**

THANK YOU!