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Protecting Your Intellectual Property and dealing with IP disputes

By

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What is Intellectual property?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. - WIPO

Intellectual Property Rights?

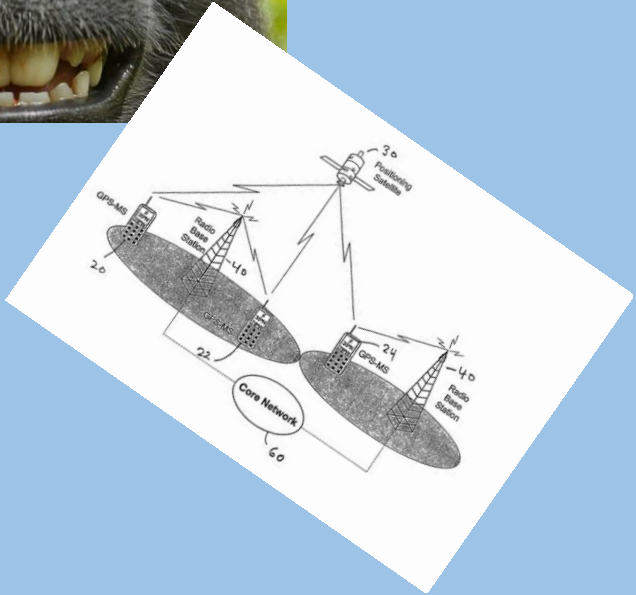
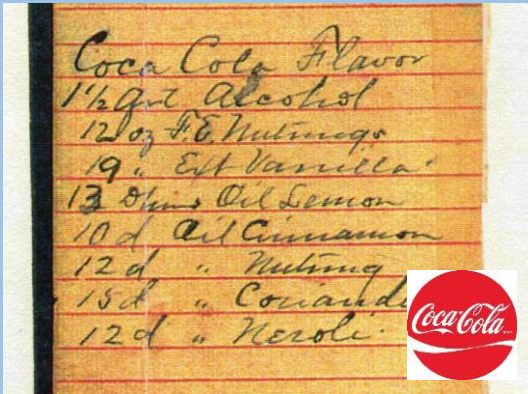
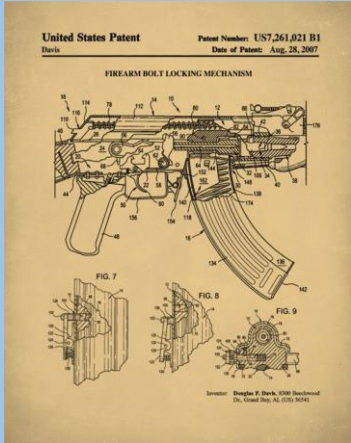
Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time. – WTO



Economic Rights vs Moral Rights

=>right to economic exploitation of the creation by the right holder and

=> the protection of the creator's non-pecuniary interests.



Type of Intellectual Property

Patent...protect inventive ideas or processes – things that are new, useful and nonobvious. Patents are also used to protect newly engineered plant species or strains, as well.

Copyright...protect written works, art, music, architectural drawings, or even programming code for software. Copyrights do not protect ideas, but rather the manner in which ideas are expressed

Domain Names.....TDL (GTDL and ccTDL)

Trademarks...A trademark is a sign by which a business identifies its products or services and distinguishes them from those supplied by competitors. Include **words, phrases, symbols, sounds, smells and colour schemes**.

Trade Secret...protect the secrets of a business, which helps it gain an economic advantage over others. Trade secrets concern secret or proprietary information of commercial value.

Industrial designs...Designs are concerned with the features, the appearance of a part or the whole product. Registration of design confers on the owner (for a limited time) the exclusive right to use the design and to authorise others to use it.

THE IP CASE STUDY OF



What every IP Conscious organization must do

- Register your trademarks, patents, copyrights, industrial designs etc
- Register business, product and domain names
- Create confidentiality, non-disclosure or licensing contracts for employees and partners
- Implement Strong Physical and digital Access Controls
- Be careful on joint ownerships if you can't avoid them
- Separate innovation teams
- Publish It Widely With Attribution
- Implement business procedures to augment non-disclosure agreements
- Identify, assess and take steps to manage risks associated with trade secrets
 - Assemble a trade secret SWAT team
 - Schedule and implement IP Audits and ensure you use experts
 - Implement IP surveillance – engage experts

Remember: not all lawyers are IP experts

HANDLING IP DISPUTES

IP disputes often arise when other businesses infringe your IP, or take action against you for infringing their IP rights. As with other commercial disputes, you need to understand your rights and the best approach to dispute resolution.

OPTIONS

1. Send a cease and desist letter telling the infringer to stop using your work.
2. Request a court injunction to stop a patent infringer from continuing to make or sell the product.
3. File a lawsuit. Depending on your situation, you may have to decide if you have a strong enough case to make this option worth the cost and effort.
4. Use ADR: Negotiation, Expert Determination, Mediation and Arbitration

*** Uniform Domain-Name Dispute-Resolution Policy (often referred to as the "UDRP") of ICANN,

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