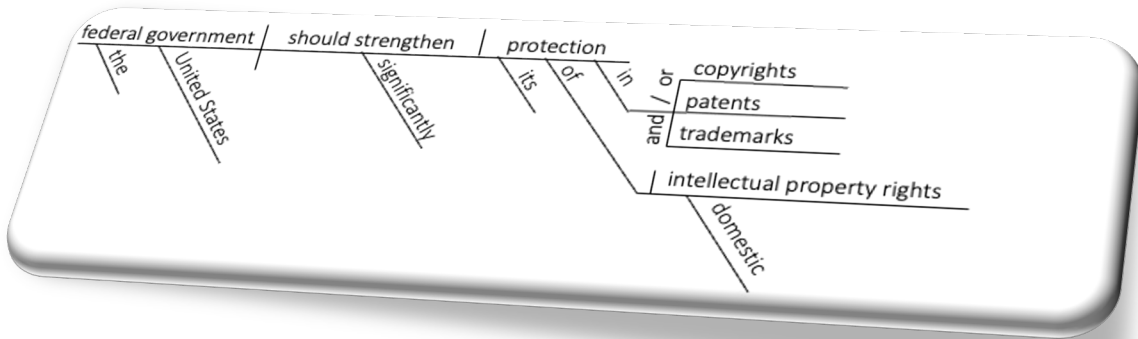


DEFINITIONS OF TERMS ON THE INTELLECTUAL PROPERTY TOPIC

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The 2024-25 Interscholastic Debate Resolution: *Resolved: The United States federal government should significantly strengthen its protection of domestic intellectual property rights in copyrights, patents, and/or trademarks.*



The resolution on the intellectual property topic originated with a proposal submitted by Preston Stolte. Mr. Stolte is the debate coach at Winston Churchill High School in San Antonio, Texas. The topic author and the members of the Topic Selection Committee Wording Committee jointly wrote a topic paragraph for inclusion on the ballot.

TOPIC PARAGRAPH AS INCLUDED ON THE 2024-25 BALLOT: A useful index of the intent of the topic framers is provided by the paragraph which is sent along with the topic selection ballot. The authors of the topic proposal and the members of the Wording Committee jointly wrote this paragraph.

The paragraph on the ballot for the intellectual property topic follows:

The importance of intellectual property rights stretches across all areas of American life from the technology we use, to the pharmaceutical drugs we rely on, to the entertainment that we enjoy. Not only has the protection of intellectual property rights (IPR) been a part of United States innovation policy since the country was founded, but to see its relevance in our own day-to-day lives we only need to look at the rise of AI created art, soaring drug prices, or impending release of 1989—Taylor’s Version. There is not a single good or service that we enjoy in our daily lives that is not in some way, shape, or form affected by the protection of IPR.

The proposed resolution asks affirmative teams to strengthen IPR in one or more of the three main areas of US IP law: copyrights, patents, or trademarks. This resolution represents a departure from the past two decades of status quo policy that will generate a diverse and deep array of affirmative advantage areas including: technology, climate change, pharmaceutical drugs, computing/artificial intelligence, art/music, economy, etc.. Potential affirmative cases include legislative, judicial, and executive actions such as legislating changes to the patent application process and either overturning or legislatively overruling key court cases. Likewise, the topic also allows for numerous conversations over the ways in which various minority groups in the United States have not been able to protect their creations and knowledge due to a lack of strong IP protections by taking

actions to strengthen groups and individuals ability to protect their original works and knowledges.

Negative teams will be well served by this topic and have numerous options and strategies to generate clash with affirmative cases, because IP protections are generally applied broadly across all industries, affirmative changes to the system will have downstream effects on a wide variety of industries. There will be robust case debate supported by an incredibly deep literature base of authors who disagree with the stated effects of a strong patent system. There are not only several core topic disadvantages but affirmative cases will also generate specific disadvantages based on the plan mechanism or target area. The negative will have a large and interesting set of counterplans including actor counterplans, regulation/reform counterplans, and counterplans that set out to abolish patents altogether. Additionally, there is no shortage of kritik ground on the topic as there are a wide variety of literature bases that are critical of United States IP regimes and IP as a concept.

For an activity that attracts such a large number of students who have at least a partial interest in future legal careers, we as a community have rarely ever debated explicitly legal topics despite high interest and unique educational opportunities of exploring new literature bases. Additionally, IPR has never been a policy topic despite its centrality and importance to our lives. Debates on this topic will be accessible to novices who all can intuitively understand the need to protect original works and inventions while also having a deep enough literature base to keep even the most advanced debaters interested and engaged throughout the competitive season.

Usually, the topic paragraph has very little influence on topicality debates – such matters are typically left to the arguments made by debaters in each individual round of policy debate. However, it may be significant to note any particular affirmative or negative positions that the topic authors and the members of the Wording Committee specifically mentioned.

TOPICALITY VIOLATIONS THAT SHOULD BE ANTICIPATED:

Note: Below is the list of topicality violations supported with evidence and argument in Volume 3 of the Baylor Briefs “Topicality Casebook” prepared by Dr. Ryan Galloway of Samford University.

1. Domestic—intellectual property rights do not deal with other countries.

This topicality argument states that the term domestic in the resolution does not allow the affirmative to deal with other countries. Many multilateral organizations require other countries to strengthen the intellectual properties of United States companies within their own countries, while requiring the United States to strengthen the intellectual property rights of the other countries’ companies in the United States. Many teams may not wish to unilaterally increase intellectual property rights because there are advantages to working with another country or multiple other countries in dealing with intellectual property rights, such as relations advantages as well as bolstering the economy of another country. According to this definition of domestic, such cases would be not topical.

2. Intellectual property rights are protected by Congress.

This topicality argument states that intellectual property rights are protected by the United States Congress. Indeed, the US constitution certifies in Article 8 of Congressional powers that the Congress has the power “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” Many affirmative teams may try and avoid disadvantages specific to Congressional action like politics disadvantages and business confidence disadvantages by acting through either the Supreme Court or an obscure executive agency. However, this violation shows that intellectual property is granted by the United States Congress.

3. Intellectual property rights are legal rights.

This topicality violation states that intellectual property rights are legal rights granted by the government. Many teams may try and get around disadvantages or solvency attacks that stem from the

affirmative being required to provide legal rights under the intellectual property rights part of the topic. However, this violation would make such cases not topical.

4. *Intellectual property is made by humans and not artificial intelligence..*

This topicality violation states that intellectual property refers to rights created by humans. A popular case on the college anti-trust topic granted artificial intelligence the right to its inventions, so it is likely that affirmatives would want to run cases defending the rights of artificial intelligence to be able to patent or copyright its own inventions.

5. *Intellectual property refers to creations of the mind.*

This topicality violation states that intellectual property refers to creations of the mind. The affirmative team might try and run a case that gets around traditional intellectual property rights in an effort to ensure that the affirmative case can distinguish the affirmative case from the negative attacks.

6. *Intellectual property must be physical in nature.*

This violation says that intellectual property must be physical in nature, such as a work of art, a song, or a physical invention. Many affirmative teams may wish to avoid the topic by saying that it protects intangible properties to avoid disadvantages or solvency attacks.

7. *Strengthen means to make stronger: The affirmative plan cannot create new intellectual property rights..*

This violation states that the word strengthen in the resolution means that the right dealt with must be made stronger, not just be created in the first place.

8. *Patents are official government documents.*

This violation states that the word patents in the resolution deals with official government documents conferring patent rights. Many teams may focus on the intellectual property clause in the resolution and ignore the part of the topic which refers to the categories that the affirmative must meet to defend the topic.

9. *Patents are given by the federal government.*

This violation argues that the term patents in the resolution are given by the federal government. Many affirmative teams may be tempted to give intellectual property through the state governments and not the federal government.

10. *Patents deal with legal rights.*

This violation states that patents are protections which give legal rights which exclude non-patent holders from using the product or idea in question. Many teams may try to say they uphold human rights, moral rights, or natural rights without granting the legal rights conferred by patents.

11. *Copyrights are exclusive rights granted by federal statute.*

This violation argues that the term copyrights in the resolution deals with exclusive rights granted by federal statute. Many teams may attempt to grant a copyright through either the states or international law, however, this interpretation argues that such cases do not affirm the resolution.

12. *Copyrights protect original expressions of authorship fixed in physical and/or digital forms.*

This violation argues that copyrights must be in physical and/or digital forms. Many affirmative teams may be tempted to strengthen abstract ideas or concepts as opposed to defend a copyright that is physical or digital in nature.

I. DEFINITIONS OF TERMS ON THE INTELLECTUAL PROPERTY TOPIC

A. “United States federal government” is defined.

BLACK’S LAW DICTIONARY, 2004, p. 716. Federal government: A national government that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national political matters.

ENCARTA DICTIONARY, 1999, p. 651. Federal government: The central government of a federation.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 308. Federal government: Connected with the central government of a country.

NEW INTERNATIONAL WEBSTER’S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 463. Federal government: Of or pertaining to a form of government in which certain states agree by compact to grant control of common affairs to a central authority but retain individual control over internal affairs.

WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p.671. Federal government: Designating or having to do with a central government.

BALLENTINE’S LAW DICTIONARY, 1969, p. 461. Federal government: The government of the United States.

COLLINS ENGLISH DICTIONARY, 2006, p. 596. Federal government: The national government of a federated state.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 580. Federal government: Relating to the central government of a country such as the U.S., rather than the government of one of its states.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 615. Federal government: Of, relating to, or denoting the central government as distinguished from the separate units constituting a federation.

B. “Significantly” is defined.

1. “Significantly” means “important.”

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 604. Significant: Important, large, or great, especially in leading to a different result or to an important change.

WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1688. Significant: Important; momentous.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1536. Significant: Having an important effect, especially on what will happen in the future.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1536. Significantly: In an important way or to an important degree.

RANDOM HOUSE WEBSTER’S COLLEGE DICTIONARY, 2005, p. 1140. Significant: Important; of consequence.

2. “Significantly” means “large.”

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1536. Significant: Large enough to be noticeable or have noticeable effects.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1579. Significant: Sufficiently great or important to be worthy of attention; importance.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 604. Significantly: By a large amount.

3. “Significantly” in the field context of the AI Inventorship case.

Cole Merritt, (JD Candidate), VANDERBILT JOURNAL OF ENTERTAINMENT AND TECHNOLOGY LAW, Winter 2023, p. 232. While it is true that AI itself does not need the incentives that a human inventor needs, the goal of patent law is not just to promote the pursuit of inventions but also to promote their disclosure and public use. Recognizing AI inventorship in US patent law is a significant step towards achieving these goals.

4. “Significantly” in the field context of the Cannabis Trademarks case.

Viva Moffat et al., (Prof., Law, U. of Denver College of Law), WILLIAM & MARY LAW REVIEW, May 2022, p. 1943. But the unavailability of federal trademark protection is not just an issue for cannabis companies; it is also a problem for cannabis consumers and thus significantly impedes the goals of the trademark system. Trademarks are not only, and not even primarily, for the benefit of their owners. Instead, by conferring rights on trademark owners, trademark law aims to protect consumers from confusing and deceptive behavior in the marketplace and to ensure fair competition.

April Garbuz, (JD Candidate, Suffolk U. Law School), HASTINGS SCIENCE & TECHNOLOGY LAW JOURNAL, 2022, p. 362. Trademarks are a valuable form of intellectual property that businesses use to protect and build their brands. Companies aspire to own a federal trademark registration because it provides several significant advantages over state or common law rights alone. In a precedential decision in June 2020, the Trademark Trial and Appeal Board ("TTAB") affirmed the refusal to register a trademark for a cannabidiol ("CBD") product marketed as a dietary supplement, reasoning that hemp oil extract was per se unlawful under the Food, Drug, and Cosmetics Act ("FDCA"). This decision is a roadblock for cannabis products seeking trademark registration because the TTAB is reluctant to grant registration covering cannabis derivatives in the absence of full national legalization of cannabis. Given the rapid increase in cannabis products and their impact on the global economy, there is a significant public policy need for national legislation that enables cannabis companies in the U.S. to secure federal trademark protection.

5. "Significantly" in the field context of the Genetic Testing case.

Shahrokh Falati, (Prof., Law, Albany Law School), NORTH CAROLINA JOURNAL OF LAW & TECHNOLOGY, Mar. 2020, p. 88. In a medical clinical setting, such medical diagnostic tests can be used to confirm/exclude, triage, monitor, prognose, or screen for a particular marker or condition. For example, a diagnostic test can confirm or exclude that a patient has a particular disease, or a test could be used repeatedly to monitor how effective a concurrent treatment is, or assess the progression and/or outcome of a disease, or screen for a disease condition in people who do not show outwardly any symptoms. Thus, the breadth and impact of the medical diagnostic field in being able to provide better patient care is enormous. Having a robust, accurate and precise medical diagnostic test that is readily repeatable and reproducible is a significant technological leap forward in the process of managing health outcomes in patients. In this emerging new technological era of advanced medical diagnostic technologies, the vision is to provide "the right drug, with the right dose at the right time to the right patient." The question is: how does the new patent eligibility law interplay with innovations in this personalized medicine and medical diagnostics field?

6. "Significantly" in the field context of the Green Patents case.

Alice Yoon, (JD Candidate), BOSTON COLLEGE INTELLECTUAL PROPERTY & TECHNOLOGY FORUM, 2023, p. 3. Green tech is focused on mitigating and even reversing the effects humans have on the environment by reducing emissions and improving renewable energy sources. Scholars have proposed strengthening and expanding IP rights to incentivize the research and development of green tech. Some argue that IP could significantly encourage the development of climate-related technology because the IP system promotes innovation and technology transfer, which is the formal or informal movement of knowledge and technologies.

Eman Daas, (JD), MARQUETTE INTELLECTUAL PROPERTY LAW REVIEW, Summer 2023. Retrieved Jan. 12, 2024 from Nexis. If the USPTO adopts an accelerated examination program for assistive technologies, it would help close the gap by increasing the number of available products. Although there are several other socioeconomic factors to consider, this program is a step in the right direction. As shown by the Green Technology Pilot Program, there was a significant increase during the running of the program where inventors and businesses submitted applications for green technology patents. One would hope that if the USPTO were to adopt a program similar to the pilot program for assistive technologies, there would be an incentive for innovators to create more assistive technologies. With this program, the USPTO should choose not to place a fee on the accelerated examination of the applications like it did with the pilot program.

7. "Significantly" in the field context of the Statute of Limitations for Trademarks case.

Aaron Schindler, (Intellectual Property Attorney), MARQUETTE INTELLECTUAL PROPERTY LAW REVIEW, Summer 2023. Retrieved Feb. 25, 2024 from Nexis Uni. In 1971 the American Bar Association recommended that Congress amend the Lanham Act by adding a statute of limitations for trademark infringement. Congress never did. Today, more than fifty years later, with annual trademark registrations up an astounding twenty-fold, the need for a statute of limitations is significantly more pressing.

8. In the field context of the "Gene Patenting" case the change is not significant.

David S. Olson & Fabrizio Ducci, (Prof., Boston College Law School), INDIANA LAW JOURNAL, Spring 2023, p. 1198. After the Supreme Court's decision in Myriad, genes can no longer be patented, except for cDNA. Having a patent on cDNA does give some advantages, but because researchers and diagnostic companies can still work unincumbered with naturally occurring DNA, being able to patent only the cDNA version of a gene does not give substantial exclusivity over the gene or its genetic associations to disease. Thus, patentability of cDNA alone does not provide significant incentive to discover new genes and their functions.

9. In the field context of the "Green Technology" case the change is likely not significant.

Alice Yoon, (JD Candidate), BOSTON COLLEGE INTELLECTUAL PROPERTY & TECHNOLOGY FORUM, 2023, p. 1. The development and implementation of technology that can mitigate climate change, known as "green technology," will be critical moving forward. A commonly proposed method for incentivizing the development of green technology is strengthening intellectual property rights for companies who develop such technology. Nevertheless, considering the recent harmful role intellectual property rights played during the COVID-19 pandemic, it is unclear whether emphasizing increased access to patent rights for green technology will actually lead to significant development and innovation within the field of green technology.

Alice Yoon, (JD Candidate), BOSTON COLLEGE INTELLECTUAL PROPERTY & TECHNOLOGY FORUM, 2023, p. 14. The potential role of IP rights to incentivize new green technology innovation has been explored as a means of countering growing concerns around climate change. As the climate crisis continues to worsen, it is clear that focusing on green technology to reduce or lessen greenhouse gas emissions will be critical for reversing and mitigating climate change. The United States and other countries have increasingly focused on providing easier access to patent rights for green technology by expediting patent processing times as an incentive to develop and innovate the technology. Despite these developments, it is unclear whether increased emphasis on IP rights to incentivize green technology will be significantly beneficial for the fight against climate change.

C. “Strengthen” is defined.

1. “Strengthen” means to make more effective.

CAMBRIDGE DICTIONARY, July 12, 2022. Retrieved May 19, 2024 from <https://dictionary.cambridge.org/us/dictionary/english/strengthen> Strengthen: to make something more effective or powerful.

BRITANNICA DICTIONARY, Dec. 7, 2022. Retrieved May 19, 2024 from <https://www.britannica.com/dictionary/strengthen> Strengthen: to make (someone or something) stronger, more forceful, more effective, etc.

CAMBRIDGE DICTIONARY, July 12, 2022. Retrieved May 19, 2024 from <https://dictionary.cambridge.org/us/dictionary/english/strengthen> Strengthen: to make something stronger or more effective, or to become stronger or more effective.

OXFORD LEARNER’S DICTIONARY, Jan. 21, 2023. Retrieved May 19, 2024 from <https://www.oxfordlearnersdictionaries.com/us/definition/english/strengthen> Strengthen: to become more powerful or effective; to make somebody/something more powerful or effective

2. “Strengthen” means to make more secure.

COLLINS DICTIONARY, Mar. 25, 2023. Retrieved May 19, 2024 from <https://www.collinsdictionary.com/us/dictionary/english/strengthen> Strengthen: If something strengthens a person or group or if they strengthen their position, they become more powerful and secure, or more likely to succeed.

3. “Strengthen” means to improve.

CAMBRIDGE DICTIONARY, July 12, 2022. Retrieved May 19, 2024 from <https://dictionary.cambridge.org/us/dictionary/english/strengthen> Strengthen: if the financial position of a company, economy, etc. strengthens, or if something strengthens it, it improves.

LONGMAN DICTIONARY, Mar. 15, 2023. Retrieved May 19, 2023 from <https://www.ldoceonline.com/dictionary/strengthen> Strengthen: if the financial situation of a country or company strengthens or is strengthened, it improves or is made to improve.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1643. Strengthen: If the financial situation of a country or company strengthens, it improves or is made to improve.

4. “Strengthen” means to become stronger.

COLLINS ENGLISH DICTIONARY, 2006, p. 1595. Strengthen: To become stronger.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1642. Strengthen: To become stronger or make something stronger.

NEW INTERNATIONAL WEBSTER’S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 1240. Strengthen: To become or grow stronger.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1676. Strengthen: To make or become stronger.

5. “Strengthen” means to increase in value.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1643. Strengthen: To increase in value.

6. “Strengthen” means to prove something.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1643. Strengthen: To help prove something.

7. “Strengthen” means to encourage.

NEW INTERNATIONAL WEBSTER’S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 1240. Strengthen: To encourage.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1676. Strengthen: To enable or encourage a person to act more vigorously.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1801.
Strengthen: To animate; encourage.

8. "Strengthen" means to benefit.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1676. Strength: A good or beneficial quality or attribute of a person or thing.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 1210. Strengthen: To give strength to.

9. "Strengthen" means to give moral force to something.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 1210. Strengthen: Give intellectual or moral force.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1801.
Strengthen: To add strength to, either physical, legal, or moral.

10. "Strengthen" means to make more forceful.

BRITANNICA DICTIONARY, Dec. 7, 2022. Retrieved May 19, 2024 from <https://www.britannica.com/dictionary/strengthen> Strengthen: to become stronger, more forceful, more effective, etc.

11. "Strengthen" means to make more powerful.

CAMBRIDGE DICTIONARY, July 12, 2022. Retrieved May 19, 2024 from <https://dictionary.cambridge.org/us/dictionary/english/strengthen> Strengthen: to become more powerful or more difficult to break, or to make something stronger.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 865. Strengthen: To become more powerful or difficult to break.

12. "Strengthen" means to increase in force.

ENCARTA DICTIONARY, 1999, p. 1768. Strengthen: To make something stronger or more powerful, or to increase in strength or force.

13. Contextual uses of the word "strengthen" as it pertains to intellectual property.

Chris Coons & Steve Stivers, (U.S. Senator, Delaware/U.S. Representative, Ohio), RESTORING AND STRENGTHENING THE US PATENT SYSTEM, Dec. 2, 2019. Retrieved May 19, 2024 from <https://www.coons.senate.gov/news/op-eds/restoring-and-strengthening-the-us-patent-system> Our STRONGER Patents Act would restore much needed balance to the U.S. patent system and predictability for American innovators and entrepreneurs. It would ensure that innovators can focus on research and development rather than wasting resources re-litigating patents that have already survived multiple rounds of scrutiny. It would require courts to recognize the property rights established by our Founders while also empowering the Federal Trade Commission to crack down on frivolous infringement claims.

Chris Coons & Steve Stivers, (U.S. Senator, Delaware/U.S. Representative, Ohio), RESTORING AND STRENGTHENING THE US PATENT SYSTEM, Dec. 2, 2019. Retrieved May 19, 2024 from <https://www.coons.senate.gov/news/op-eds/restoring-and-strengthening-the-us-patent-system> Over the last decade, though, our patent system has fallen into crisis. Recent legislative and judicial changes intended to protect innovators and entrepreneurs by deterring frivolous lawsuits have handicapped those very creators the patent system was designed to protect. Of course, abuse of the patent system should never be tolerated, but inventors should know that if someone infringes their patent – steals their invention – a court will stop them. Sadly, that is no longer the case. We've also reached the point where patents – despite being examined and approved by the U.S. Patent and Trademark Office – are subject to repeated challenges at any time, by anyone. The new administrative proceedings to resolve these challenges were supposed to be faster, cheaper, and more efficient than the court system, but they don't apply the same standards as courts. As a result, it's nearly impossible to determine whether any patent is fully valid and enforceable, as the courts and administrative judges can – and often do – hand down conflicting decisions.

Hideki Tomoshige, (Analyst, Center for Strategic and International Studies), FOUR ACTIONS TO STRENGTHEN THE U.S. INTELLECTUAL PROPERTY SYSTEM, Aug. 28, 2023. Retrieved May 19, 2024 from <https://www.csis.org/analysis/four-actions-strengthen-us-intellectual-property-system> Strengthen Patent Enforceability: Even if a court finds that a patent has been infringed, it is very difficult for the patent holder to obtain an injunction in the United States. This is because the Supreme Court, in its 2006 decision in eBay Inc. v. MercExchange, L.L.C., decided that injunctions are no longer the default response of the legal system when patent theft is proven. In other words, if a company steals another company's intellectual property and uses that intellectual property to develop a competing business, the infringing company is better off paying the damages awarded in court over the years. The patentee cannot exercise their right to exclude the infringer from the market. Congress should consider restoring the presumption that an injunction is an appropriate remedy when a patent is found to be infringed.

Hideki Tomoshige, (Analyst, Center for Strategic and International Studies), FOUR ACTIONS TO STRENGTHEN THE U.S. INTELLECTUAL PROPERTY SYSTEM, Aug. 28, 2023. Retrieved May 19, 2024 from <https://www.csis.org/analysis/four-actions-strengthen-us-intellectual-property-system> Promote Broader Access through Better Data: Women and minority inventors have made some of the most significant inventions in the history of the United States. However, according to a report by the U.S. Patent and Trademark Office (USPTO)'s Office of the Chief Economist, only 21.9 percent of all U.S. patents in 2019 listed women as inventors, and women represented only 12.8 percent of all inventor-patentees in the United States. Bipartisan and bicameral lawmakers introduced the Inventor Diversity for Economic Development (IDEA) Act of 2019 and the IDEA Act of 2021 which aimed to help the USPTO better understand the personal challenges faced by women and minorities applying for patents.

Hideki Tomoshige, (Analyst, Center for Strategic and International Studies), FOUR ACTIONS TO STRENGTHEN THE U.S. INTELLECTUAL PROPERTY SYSTEM, Aug. 28, 2023. Retrieved May 19, 2024 from <https://www.csis.org/analysis/four-actions-strengthen-us-intellectual-property-system> Clarify Patent Eligibility Requirements: In order to obtain a patent in the United States, the invention for which an application is filed must satisfy certain statutory requirements in Title 35 of the United States Code, such as novelty (Section 102) and non-obviousness (Section 103). Subject matter eligibility (Section 101) is another statutory requirement that must be satisfied, and this one in particular has been debated for many years in the United States. The U.S. Supreme Court's 2014 decision in *Alice v. CLS Bank* created a two-part patent test to determine whether a patent application recites patentable subject matter. However, this two-part patent eligibility test has been difficult to apply. This has led to uncertainty for innovators and investors, along with unpredictable business results. In 2022, Senator Thom Tillis introduced the Patent Eligibility Restoration Act of 2022 with the goal of resolving the confusion surrounding Section 101, but the legislation has not yet passed.

Hideki Tomoshige, (Analyst, Center for Strategic and International Studies), FOUR ACTIONS TO STRENGTHEN THE U.S. INTELLECTUAL PROPERTY SYSTEM, Aug. 28, 2023. Retrieved May 19, 2024 from <https://www.csis.org/analysis/four-actions-strengthen-us-intellectual-property-system> Clarify Patent Validity: The Leahy-Smith America Invents Act of 2011 established administrative procedures, including "inter partes review" and "post grant review," to allow third-party challenges to patent validity before the U.S. Patent Trial and Appeal Board (PTAB). The hurdles for raising challenges at the PTAB are lower than in district court litigation, which has led to numerous petitions against patentees. In addition, repeated attacks on the same patent are possible between courts and the PTAB, preventing the patent owner from achieving quiet title. As a result, concerns have arisen that this institutional design is undermining the U.S. patent system. In 2017 and again in 2019, Senators Chris Coons (D-DE) and Tom Cotton (R-AR) introduced the Support Technology & Research for Our Nation's Growth and Economic Resilience (STRONGER) Patents Act to try to remedy these and related concerns with respect to the PTAB. A new version of this bill is expected to be introduced soon.

Tech Insights, BUILD BETTER PATENTS, Mar. 29, 2024. Retrieved May 19, 2024 from <https://www.techinsights.com/ip-services/overview/patent-strengthening> Patent Strengthening is a term we use to describe the different methods that can be applied during the prosecution to both maximize the usefulness of a patent once it grants, and to ensure your time and money are focused on your most valuable assets. At a high level, there are four opportunities for patent strengthening: Identifying potential use of the invention in commercial products; Determining market adoption; Identifying continuation opportunities, and tuning their claims to commercial products; Abandoning less valuable applications.

D. "Its" is defined.

ENCARTA DICTIONARY, 1999, p. 955. Its: Used to indicate that something belongs to or relates to something.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 864. Its: Used to refer to something that belongs to or is connected with a thing, animal, baby, etc. that has already been mentioned.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 976. Its: Belonging to, or done by it.

COLLINS ENGLISH DICTIONARY, 2006, p. 862. Its: Belonging to, or associate with, in some way.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 464. Its: Belonging to or connected with the thing or animal mentioned.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 678. Its: Belong to or pertaining to it.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 896. Its: Belonging to or associated with a thing previously mentioned or easily identified.

E. "Protection" is defined.

1. "Protection" means to keep safe from harm.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1318. Protect: To keep someone or something safe from harm, damage, or illness.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1362. Protect: To keep safe from harm or injury.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1318. Protection: When someone or something is protected.

2. "Protection" means to keep safe from attack.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 990. Protection: To defend or guard from attack, invasion, loss, insult, etc.

3. "Protection" means to shield domestic industries from overseas competition.

COLLINS ENGLISH DICTIONARY, 2006, p. 1302. Protection: The imposition of duties or quotas on imports, designed for the protection of domestic industries against overseas competition.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 990. Protection: To guard an industry from foreign competition by imposing import duties.

4. "Protection" means to restrict the importation of goods by taxing or imposing duties.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1318. Protection: To help the industry or trade of your own country by taxing or restricting foreign goods.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 1014. Protection: A system aiming to protect the industries of a country by governmental action, as by imposing duties.

5. "Protection" means to preserve from loss.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1446. Protection: The act of protecting; defense; shelter from evil; preservation from loss, injury, or annoyance.

6. "Protection" means to defend from harm.

COLLINS ENGLISH DICTIONARY, 2006, p. 1302. Protect: To defend from trouble, harm, attack, etc.

ENCARTA DICTIONARY, 1999, p. 1445. Protection: the act of preventing somebody or something from being harmed or damaged, or the state of being kept safe.

7. "Protection" means to keep safe from loss.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 686. Protect: To keep someone or something safe from injury, damage, or loss.

8. "Protection" means to shield from attack.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 1013. Protect: To shield or defend from attack, harm, or injury; guard, defend.

9. "Protection" refers to the state of being protected.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1362. Protection: The action of protecting someone or something or the state of being protected.

10. "Protection" means to guard.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1446. Protect: In economics, to guard.

- F. "Domestic" is defined.

1. "Domestic" means produced in one's own country.

COLLINS ENGLISH DICTIONARY, 2006, p. 487. Domestic: Produced in, or involving one's own country or a specific country.

BLACK'S LAW DICTIONARY, 2004, p. 522. Domestic: Of or relating to one's own country.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 248. Domestic: Relating to a person's own country.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 365. Domestic: Of or pertaining to one's own or a particular country as apart from other countries.

2. "Domestic" means relating to home or family.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 248. Domestic: Relating to the home or family.

3. "Domestic" means happening in a particular country.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 463. Domestic: Relating to or happening in one particular country and not involving any other countries.

4. "Domestic" means not foreign or international.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 500. Domestic: Existing or occurring inside a particular country; not foreign or international.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 543. Domestic: Pertaining to one's own country, not foreign.

5. "Domestic" means the internal affairs of a nation.

ENCARTA DICTIONARY, 1999, p. 531. Domestic: Relating to the internal affairs of a nation or country.

6. "Domestic" means produced at home.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 377. Domestic: Of or pertaining to one's own state or country; produced at home, not foreign.

G. "Intellectual Property" is defined.

1. "Intellectual Property" refers to an intangible asset.

COLLINS ENGLISH DICTIONARY, 2006, p. 842. Intellectual property: An intangible asset, such as a copyright or patent.

Mariyah Wakhariya, (JD Candidate) CATHOLIC UNIVERSITY JOURNAL OF LAW AND TECHNOLOGY, Spr. 2023, 189. The term "intellectual property" refers to the creations of the mind, such as inventions, literary and artistic works, designs, logos, etc. Essentially, intellectual property is a set of intangible assets that are deemed to require the same protective rights as physical property. NFTs in their various iterations are all a form of intellectual property, and as such would fall within the protection of IPR laws.

2. "Intellectual Property" refers to a creative work.

ENCARTA DICTIONARY, 1999, p. 933. Intellectual Property: Original creative work manifested in a tangible form that can be legally protected.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 644. Intellectual Property: Property that results from original creative thought, as patents, copyright material, and trademarks.

3. "Intellectual Property" refers to something that has been created.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 846. Intellectual property: Something which someone has invented or has the right to make or sell, especially something that cannot be legally copied by other people.

4. "Intellectual Property" refers to the use that we make from ideas.

Mark Bartholomew, (Prof., Law, U. of Buffalo School of Law), INTELLECTUAL PROPERTY AND THE BRAIN: HOW NEUROSCIENCE WILL RESHAPE LEGAL PROTECTION FOR CREATIONS OF THE MIND, 2022, p. 2-3. Whether we realize it or not, intellectual property – a term referring to the use or value of ideas rather than tangible items – is an ever-present force in our lives. Think of how you interact with your phone, a consumer product the average American checks over one hundred times a day. The facial recognition technology that unlocks your phone is the subject of a patent as is the phone's overall look. The songs streamed from your phone are governed by copyright law. Any aspect of your phone that is attached in the public's mind to a particular source – from the icons it displays to the Apple logo to the Samsung name – are protected from imitation by trademark law. Of course, it is not just your phone. Intellectual property law applies to much if not most of the communications we make and receive, the consumer products we buy, and the cultural artifacts we experience and share.

5. "Intellectual Property" refers to the creations of the human mind.

AMERICAN HERITAGE DICTIONARY OF BUSINESS TERMS, 2009, p. 266. Intellectual property: Creation by wit including music, drawings, photographs, films, paintings, novels, inventions, and so forth. Copyrights, trademarks, and patents provide legal protection for intellectual property.

Joy Xiang, (Prof., Law, Peking U. School of Transnational Law), BOSTON UNIVERSITY INTERNATIONAL LAW JOURNAL, Summer 2020, p. 225. The term "intellectual property" refers broadly to creations of the human mind. Intellectual property rights ("IPR") protect the interests of the creators by providing property rights over their creations. The major forms of IPR include patents, trade secrets, copyrights, and trademarks. Patents generally protect innovative technical improvements; trade secrets protect confidential information such as innovative business or technical knowledge that likely contains competitive advantages; trademarks protect the distinctive symbols identifying the source of a product or service; and copyrights protect the artistic expressions of ideas.

RANDOM HOUSE WEBSTER'S DICTIONARY OF THE LAW, 2000, p. 346. Intellectual Property: Copyrights, patents, and other rights in creations of the mind; also the creations themselves, such as a literary work, painting, or computer program.

BALLENTINE'S LAW DICTIONARY, 1969, p. 645. Intellectual property: Those property rights which result from the physical manifestations of original thought.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 876. Intellectual Property: A work or invention that is the result of creativity, such as a manuscript or a design, to which one has rights and for which one may apply for a patent, copyright, or trademark.

Sofia Vescovo, (JD Candidate), BROOKLYN LAW REVIEW, Fall 2023, 233. Intellectual property refers to intangible assets often called "creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce." Two of the most common types of intellectual property are copyrights and patents. Copyrights confer exclusive rights for "original works of authorship as soon as an author fixes the work in a tangible form of expression." The protection lasts for the author's lifetime plus an additional seventy years after the author's death.

6. "Intellectual Property" refers to four categories: copyrights, patents, trademarks, and trade secrets.

BLACK'S LAW DICTIONARY, 2004, p. 824. A commercially valuable product of the human intellect, in a concrete or abstract form, such as a copyrightable work, a protectable trademark, a patentable invention, or a trade secret.

Noelani Kirschner, (Staff Member in the public diplomacy section of the U.S. State Department), HERE'S THE REAL VALUE IN INTELLECTUAL PROPERTY RIGHTS, Apr. 20, 2023. Retrieved May 10, 2024 from <https://share.america.gov/heres-real-value-intellectual-property-rights/> While intellectual property rights cover a range of things, they are generally broken down into four categories. Copyright law protects an original idea that turns into a work of tangible art, such as a song or a poem. Patents are filed and then rights are granted for an original invention. Design patents are granted, for instance, for things such as a blueprint of a computer or some other technical equipment item. There are plant patents for agricultural innovations such as pest-resistant crops. Utility patents are for products that serve a practical purpose, like pharmaceutical products. Trademarks are for anything that helps a company distinguish its products or services. A logo – like the McDonald's Corporation's golden arches – can be trademarked, or even the sound of an advertising jingle. Trade secrets are protected as private company information that contain economic value or offer a competitive edge. Think of the Coca-Cola recipe, for example.

DICTIONARY OF BUSINESS TERMS, 2006, p. 217. Intellectual Property Rights: The ownership of the right to possess or otherwise use or dispose of products created by human ingenuity. Examples are trademarks, patents, trade names, trade secrets, and copyrights.

Jessica Brum, (Attorney), GEORGETOWN JOURNAL OF INTERNATIONAL LAW, Spr. 2019, p. 711. Intellectual property generally refers to a set of rights that protects commercially valuable human ideas. It includes copyright, patent rights, trademark, and trade secrets. The WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is the WTO agreement on intellectual property, defines intellectual property to include patents, layout designs of integrated circuits, new plant varieties, know-how, industrial designs, copyrights, and software rights, along with trademarks, trade names, and geographical indications.

7. "Intellectual Property" includes the "Right of Publicity" along with copyrights, patents, trademarks, and trade secrets.

Martin Hsia, (Patent Attorney), HAWAII BAR JOURNAL, February 2023, 4. "Intellectual Property" is a convenient shorthand term for the multiple species of laws that protect creations of the human intellect (intellectual creations) against being copied, adapted, or otherwise used by others, without permission. The major species of intellectual property laws are patents, trademarks, copyrights, trade secrets, and right of publicity laws (patent and trademark laws are sometimes referred to as industrial property laws, and copyright and closely related laws are sometimes referred to as literary and artistic property laws).

Trey Perez, (JD Candidate, St. Thomas School of Law), AMERICAN INDIAN LAW JOURNAL, Apr. 2023, 45. Black's Law Dictionary defines "intellectual property" as "a category of intangible rights protecting commercially valuable products of the human intellect...primarily trademark, copyright, and patent rights, but also including trade-secret rights, publicity rights, moral rights, and rights against unfair competition." Brand Finance, a global leader in corporate valuation, estimated the total value of global intangible property to be \$ 74 trillion in 2021. Allowing tribes greater control over such an incredibly valuable asset could be key to economic growth among non-IGRA tribes and could lead to greater diversification of income streams for tribes who currently rely solely on gaming. (ellipsis in original)

BLACK'S LAW DICTIONARY, 2004, p. 824. Intellectual property: A category of intangible rights protecting commercially valuable products of the human intellect. The category comprises primarily trademark, copyright, and patent rights, but also includes trade-secret rights, publicity rights, moral rights, and rights against unfair competition.

H. "Copyright" is defined.

1. "Copyright" refers to the exclusive right to publish, multiply, or vend creative works.

BALLENTINE'S LAW DICTIONARY, 1969, p. 272. Copyright: The exclusive privilege, by force of status, of an author or proprietor to print or otherwise multiply, publish, and vend copies of his literary, artistic, or intellectual productions, and to license their production and sale by others during the term of its existence.

COLLINS ENGLISH DICTIONARY, 2006, p. 373. Copyright: The exclusive right to produce copies and to control an original literary, musical, or artistic work, granted by law for a specified number of years.

DICTIONARY OF BUSINESS TERMS, 2006, p. 92. Copyright: The exclusive right an individual or company gets to publish specific material. It specifies how and when their works should be used and the compensation for them.

ENCARTA DICTIONARY, 1999, p. 401. Copyright: The legal right of creative artists or publishers to control the use and reproduction of their original works.

Michael Murray, (Prof. Law, U. Kentucky), HASTINGS COMMUNICATION AND ENTERTAINMENT LAW JOURNAL, Winter 2023, p. 29. Copyright is the right to own and control the duplication and use of an original, creative work of expression.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 404. Copyright: The exclusive right to the publication, production, or sale of the rights to a literary, dramatic, musical, or artistic work, or to the use of a manufacturing or merchandising label, granted by law for a definite period of years to an author, composer, artist, distributor, etc.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 288. Copyright: The exclusive statutory right of authors, composers, playwrights, artists, publishers, or distributors to publish their works for a limited time.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 376. Copyright: The exclusive legal right given to an originator or an assignee to print, publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 274. Copyright: The exclusive ownership of the right to make use of a literary, musical, or artistic work, protected by law for a specified period of time.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 3. Copyright law protects expressions of creative ideas such as songs, artwork, writing, films, software, architecture, and video games. Copyright law does not protect ideas and facts, only how those ideas and facts are expressed. Copyright protection lasts a long time, often more than 100 years.

TAKING CARE OF BUSINESS: THE DICTIONARY OF CONTEMPORARY BUSINESS TERMS, 1997, p. 74. Copyright: A form of legal protection accorded by the government to a writer against duplication, infringement, or other use of what the writer has written.

U.S. Patent and Trademark Office, TRADEMARK, PATENT, OR COPYRIGHT, May 9, 2024. Retrieved May 19, 2024 from <https://www.uspto.gov/trademarks/basics/trademark-patent-copyright> Copyright: Artistic, literary, or intellectually created works, such as novels, music, movies, software code, photographs, and paintings that are original and exist in a tangible medium, such as paper, canvas, film, or digital format.

2. "Copyright" protects the expression of ideas.

Ali Johnson, (JD Candidate), WASHINGTON LAW REVIEW, Oct. 2021, p. 1239. Copyright is a form of intellectual property law that protects original works of authorship, "including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture." Importantly, copyright protection does not cover ideas – instead, it simply protects the expression of ideas.

3. "Copyright" refers to the legal protections offered to the works of authors, artists, composers, or playwrights.

AMERICAN HERITAGE DICTIONARY OF BUSINESS TERMS, 2009, p. 116. Copyright: Legal protection given to authors, artists, composers, or playwrights for exclusive rights to distribute or to transfer the rights to distribute their work.

John Willinsky, (Prof., Graduate School of Education, Stanford U.), COPYRIGHT'S BROKEN PROMISE: HOW TO RESTORE THE LAW'S ABILITY TO PROMOTE THE PROGRESS OF SCIENCE, 2023, p. 128. The Copyright Act sets out eight categories of works under "Subject Matter of Copyright: In General": Works of authorship include the following categories: (1) literary works; (2) musical works, including any accompanying words; (3) dramatic works, including any accompanying music; (4) pantomimes and choreographic works; (5) pictorial, graphic, and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; (8) architectural works.

Michael Murray, (Prof. Law, U. Kentucky), HASTINGS COMMUNICATION AND ENTERTAINMENT LAW JOURNAL, Winter 2023, p. 31. Copyright protects works in every expressive media, and even media in which it is hard to appreciate what has been created without the aid of a machine or other device, such as in the source code of a computer program. Writings, paintings, drawings, musical compositions and musical recordings, literature, plays, poems, motion pictures, pantomimes, and computer programs are copyrightable once the author finishes them.

4. "Copyright" refers to all creative works regardless of whether those works have been filed with the U.S. Copyright Office.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 186. A creative work is protected by copyright the moment it assumes a tangible form – which in copyright circles is referred to as being "fixed in a tangible medium of expression." Contrary to popular belief, providing a copyright notice or registering the work with the U.S. Copyright Office is not necessary to obtain essential copyright protection.

5. The current duration of a "Copyright" is the life of the author plus 70 years.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 188. As a result of the Copyright Term Extension Act of 1998, most copyrights for works published after January 1, 1978, last for the life of the author plus 70 years. However, in the following circumstances, the copyright lasts between 95 and 120 years, depending on the date the work is published: The work belongs to the author's employer under work-made-for-hire principles; The work was commissioned under a work-made-for-hire agreement (and fits within one of the categories of works that qualify for work-made-for-hire treatment); The author publishes and registers the work anonymously or under a pseudonym. After copyright expires, the work goes into the public domain, meaning it becomes available for anyone's use.

6. "Copyright" refers to the legal protections offered to original works of authorship.

BLACK'S LAW DICTIONARY, 2004, p. 361. Copyright: The right to copy, specifically, a property right in an original work of authorship (including literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, and architectural works, motion pictures, and other audiovisual works; and sound recordings) fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.

RANDOM HOUSE WEBSTER'S DICTIONARY OF THE LAW, 2000, p. 108. Copyright: The exclusive right granted by federal statute to the creator of a written, musical, artistic, or similar work, to control the reproduction and exploitation of the work for a considerable period of time, usually the life of the author plus seventy years. It is not the ideas and the facts in a work that are protected, but the way in which they are expressed.

7. "Copyright" refers to the legal right to control original works.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 185. Copyright: The legal right to control all use of an original work, such as a book, play, movie, or piece of music, for a particular period of time.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 348. Copyright: The legal right to be the only producer or seller of a book, play, film, or record for a specific length of time.

8. "Copyright" provides a limited monopoly for original works.

Mariyah Wakhariya, (JD Candidate) CATHOLIC UNIVERSITY JOURNAL OF LAW AND TECHNOLOGY, Spr. 2023, 190. Copyright laws give the author of a "writing" a limited monopoly over the use/profit of their work. In the United States, the power to regulate copyright belongs exclusively to Congress, derived from Article I, [Section] 8 of the Constitution of the United States, stating "[t]he Congress shall have power to . . . promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries . . ." (ellipsis in original)

9. The three requirements for the issuance of a "Copyright" are that it be original, fixed in a tangible medium, and display some element of creativity.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 185. What is a copyright? A copyright gives the owner of a creative work the right to keep others from unauthorized use of the work. Under copyright law, a creative work (often referred to as a "work of authorship") must meet all of these three criteria to be protected: It must be original – that is, the author must have created rather than copied it; it must be fixed in a tangible (concrete) medium of expression – for example, it should be recorded or expressed on paper, audio or videotape, computer disk, clay, or canvas; It must have at least some creativity – that is, it must be produced by an exercise of human intellect. There is no hard and fast rule as to how much creativity is enough. To give an example, it must go beyond the creativity found in the telephone white pages, which involve a nondiscretionary alphabetic listing of telephone numbers rather than a creative selection of listings.

10. "Copyright" does not protect facts or ideas, but only the unique ways they are expressed.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 185. Copyright does not protect ideas or facts; it protects only the unique way in which ideas or facts are expressed. For instance, copyright might protect an author's science fiction novel about a romance between an earthling and a space alien, but the author cannot stop others from using the underlying idea of an intergalactic love affair.

11. Exceptions from "Copyright" are provided for "fair use."

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 189. Some unauthorized uses of a copyrighted work are considered fair use. The unauthorized use is excused because the work is being used for a transformative purpose such as research, scholarship, criticism, or journalism. When determining whether an unauthorized use should be excused on the basis of fair use, a court will use several factors, including the purpose and character of the use, amount and substantiality of the portion borrowed, and effect of the use on the market for the copyrighted material.

12. Certain treaties extend U.S. "Copyrights" internationally.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 190. In addition to the Berne Convention, the GATT (General Agreement on Tariffs and Trade) treaty contains a number of provisions that affect copyright protection in signatory countries. Together, the Berne Copyright Convention and the GATT treaty allow U.S. authors to enforce their copyrights in most industrialized nations and allow the nationals of those nations to enforce their copyrights in the United States.

I. "Patent" is defined.

1. "Patent" refers to the legal protection for the right to make, use, or sell a particular invention.

BALLENTINE'S LAW DICTIONARY, 1969, p. 922. Patent: The exclusive right of manufacture, sale, or use secured by statute to one who invents or discovers a new and useful device or process.

BLACK'S LAW DICTIONARY, 2004, p. 1156. Patent: The governmental grant of a right, privilege, or authority.

COLLINS ENGLISH DICTIONARY, 2006, p. 1192. Patent: A government grant to an inventor assuring him the sole right to make, use, and sell his invention for a limited period.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1205. Patent: A special document that gives you the right to make or sell a new invention or product that no one else is allowed to copy.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 924. Patent: A government protection to an inventor, securing to him for a specific time the exclusive right of manufacturing, exploiting, using and selling an invention.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 900. Patent: The exclusive right granted to an inventor to manufacture or sell an invention for a specified number of years.

TAKING CARE OF BUSINESS: THE DICTIONARY OF CONTEMPORARY BUSINESS TERMS, 1997, p. 227. Patent: The protection granted by the federal government to inventors giving them the exclusive right to produce and sell their inventions.

2. "Patent" confers a monopoly for a limited number of years for a given invention.

DICTIONARY OF BUSINESS TERMS, 2006, p. 293. Patent: An exclusive right conferred on an inventor for the use of an invention for a limited time (usually 17 years). It creates a temporary monopolistic power and is intended as a device for promoting invention.

Sean Baird, (Editor), BOSTON COLLEGE JOURNAL OF LAW & SOCIAL JUSTICE, Winter 2013, 113. A patent is a grant of property issued by a government that provides limited rights to the patent owner. A patent owner in the United States is granted monopolistic control over his or her invention for twenty years, during which time no one may make, sell, or use the patented product, absent permission from the patent holder. This exclusive right promotes innovation by enabling the patent owner to avoid pricing competition when selling the patented product. In return for monopolistic power to exclude, a patent owner must disclose the technological processes and data behind the product. Other producers use this information, saving on the cost of research and development while also expediting the regulatory process, in order to offer competitive pricing when the patent terminates.

3. There are five requirements for the issuance of a patent.

Benjamin Desch, (JD Candidate), WASHINGTON LAW REVIEW, 2023, p. 632 To qualify for a patent, an invention must meet five requirements: (1) the subject matter must be a process, machine, article of manufacture, composition of matter, or improvement of one of these categories (2) the invention must be useful (3) the invention must be novel (4) the invention must be properly disclosed and enabled and (5) the invention must be non-obvious. The non-obviousness requirement means that an invention must be more than just new it requires an invention to sufficiently advance the state of the art such that the grant of a patent monopoly would not unnecessarily stifle scientific progress. In addition, courts have determined that under the subject matter requirement, an invention cannot be directed at mere abstract ideas, natural phenomena, and laws of nature, without adding additional elements that amount to "significantly more."

4. "Patent" confers to legal protection for the right to make, use, or sell a given invention.

AMERICAN HERITAGE DICTIONARY OF BUSINESS TERMS, 2009, p. 381. Patent: A government grant giving the owner the exclusive right but temporary right to make, use, or sell the item cited in the patent.

Benjamin Desch, (JD Candidate), WASHINGTON LAW REVIEW, 2023, p. 630. On its face, a patent is a negative right – the right to exclude others from something – rather than an affirmative right to take a particular action. In practice, however, a patent typically functions as a temporary government-granted monopoly that enables inventors (and investors) to recoup their effort and investment. In exchange for a patent, an inventor agrees to disclose their invention to the public in sufficient detail such that a person of ordinary skill in the field could reproduce it. Thus, society is granted the knowledge of the invention and the inventor is rewarded with a temporary commercial benefit. Upon expiration of the patent term, the public gains unrestricted use of the patented technology. In the United States, the typical patent term is twenty years.

BLACK'S LAW DICTIONARY, 2004, p. 1156. Patent: The right to exclude others from making, using, marketing, selling, offering for sale, or importing an invention for a specified period (20 years from the date of filing), granted by the federal government to the inventor if the device or process is novel, useful, and nonobvious.

Jorge Contreras, (Prof., Law, U. Utah College of Law), UTAH LAW REVIEW, 2021, p. 843. A patent confers a twenty-year period during which its owner has the exclusive right to make, use, sell, and import the patented invention. This grant of exclusivity gives the patent owner the ability to exploit the market for the patented invention to the exclusion of others during the patent term, and thus to charge prices for that invention that are not constrained by market competition. At a basic level, patents thus afford two principal and related benefits to their owners: the ability to operate within a particular market without competition, and the ability to charge supra-competitive prices.

Matthew Angelo et al., (JD Candidate), AMERICAN CRIMINAL LAW REVIEW, Summer 2020, 1011. A patent is a government-issued document granting its holder the exclusive right to make, use, market, sell, offer to sell, or import an invention or design for a specific period of time if the device or process is novel, useful, and nonobvious.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1246. Patent: A government authority to an individual or organization conferring a right or title, esp. the sole right to make, use, or sell some invention.

RANDOM HOUSE WEBSTER'S DICTIONARY OF THE LAW, 2000, p. 322. Patent: The exclusive right to exploit an invention for a number of years, granted by the federal government to the inventor if the inventor applies for it and the invention qualifies.

5. "Patent" confers a temporary monopoly power for a given invention.

Todd Kowalski et al., (Attorney), AMERICAN CRIMINAL LAW JOURNAL, Summer 2023, 1040. A patent is a government-issued document granting its holder the exclusive right to make, use, market, sell, offer to sell, or import an invention or design for a specific period of time if the device or process is novel, useful, and nonobvious.

ENCARTA DICTIONARY, 1999, p. 1321. Patent: An exclusive right officially granted by a government to an inventor to make or sell an invention.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 9. What is a patent? A patent is a grant by the U.S. Patent and Trademark Office (USPTO) that allows the patent owner to maintain a monopoly for a limited time on the use and development of an invention.

6. "Patent" provides government protection for an invention.

Lauren Luna, (JD), UNIVERSITY OF SOUTH FLORIDA LAW REVIEW, 2019, 350. In the simplest definition, a patent is a property right. It is "an official document granted by a nation that conveys certain legal rights." Patents are a subsidiary of a much larger regime called intellectual property law, a field that protects the "creations of the mind." A granted patent provides its owner with exclusive rights including the ability to prevent others from making, using, selling, or offering the invention for sale in, or importing it into, the country that granted the patent.

7. The number of years for “Patent” protection varies by the type of patent.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 12. The most common reason for a patent to come to an end is that the statutory period during which it is in force expires. For utility and plant patents, the statutory period is 20 years after the application date. Design patents last for 15 years from issuance, or, if filed before May 13, 2015, 14 years from issuance.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 627. Patent: The legal right to be the only one who can make, use, or sell an invention for a particular number of years.

8. The three types of “Patents” under U.S. law are utility patents, design patents, and plant patents.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, pp. 2-3. Patent law establishes three types of patents: Utility patents (the most common) are awarded for new processes, machines, manufactures, compositions of matter, or new uses of any of the above. The utility patent owner has the exclusive right to make, use, and sell the invention for a limited term – it expires 20 years after the date the application was filed. Design patents are awarded to new nonfunctional, ornamental, or aesthetic design elements of an invention or product. A design patent lasts 15 years from issuance, if it was filed on or after May 13, 2015; if filed before that date, it lasts 14 years from issuance. Plant patents are granted for new asexually reproducible plants (plants reproducible by grafting or cloning). A plant patent expires 20 years from the date the patent was filed.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 9. There are three types of patents: utility patents, design patents, and plant patents. Commonly, when people refer to a patent, they mean a utility patent, which allows the creator of a useful, novel, nonobvious invention to stop others from making, using, or selling that invention for approximately 17 to 18 years.

9. Utility patents are explained.

Martin Hsia, (Patent Attorney), HAWAII BAR JOURNAL, February 2023, 4. A utility patent is a right granted by the federal government for 20 years from the date of application (subject to payment of maintenance fees every four years) to exclude others from making, using, selling, offering to sell, or importing, inventions that fall within the claims of the patent. 35 U.S.C. § 154.

10. Design patents are explained.

Martin Hsia, (Patent Attorney), HAWAII BAR JOURNAL, February 2023, 4. A design patent is a right granted by the federal government for 15 years to exclude others from making, using or selling, offering to sell, or importing, a new original and ornamental design for an article of manufacture. 35 U.S.C. § 171(a). Put simply, a design patent protects how a manufactured article looks. The drawings of the design patent ARE the design patent, because the design patent only protects what is shown in the drawings.

11. Plant patents are explained.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, pp. 130-131. Since 1930, the United States has been granting plant patents under the Plant Patent Act to any person who first appreciates the distinctive qualities of a plant and reproduces it asexually. Asexual reproduction means reproducing the plant by a means other than seeds, usually by grafting or cloning the plant tissue. If a plant cannot be duplicated by asexual reproduction, it cannot be the subject of a plant patent. In addition, the patented plant must also be novel and distinctive. Generally, this means that the plant must have at least one significant distinguishing characteristic to establish it as a distinct variety. For example, a rose may be novel and distinctive if it is nearly thornless and has a unique two-tone color scheme. Tuber-propagated plants (such as potatoes) and plants found in an uncultivated state cannot receive a plant patent. There is a limit on the extent of plant patent rights. Generally, a plant patent can be infringed only when a plant has been asexually reproduced from the actual plant protected by the plant patent. In other words, the infringing plant must have more than similar characteristics – it must have the same genetics as the patented plant. A human-made plant can also be the subject of a utility patent. These plants can be reproduced either sexually (by seeds) or asexually.

12. “Patents” can include drugs, mechanical processes or machinery.

U.S. Patent and Trademark Office, TRADEMARK, PATENT, OR COPYRIGHT, May 9, 2024. Retrieved May 19, 2024 from <https://www.uspto.gov/trademarks/basics/trademark-patent-copyright> Patent: Technical inventions, such as chemical compositions like pharmaceutical drugs, mechanical processes like complex machinery, or machine designs that are new, unique, and usable in some type of industry.

13. “Patents” provide an agreement to open an invention for public examination in exchange for the legal protection of that invention.

WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1313. Patent: A document open to public examination and granting a certain right or privilege; especially a document granting the monopoly right to produce, use, sell, or get profit from an invention, process, etc. for a certain number of years.

J. "Trademark" is defined.

1. "Trademark" refers to the legal protection for words, phrases, or designs used in commerce. (82-94)

BALLENTINE'S LAW DICTIONARY, 1969, p. 1288. Trademark: A sign, device, or mark by which the articles produced or dealt in by a particular organization are distinguished or distinguishable from those produced or dealt in by others.

Celena Dyal, (JD Candidate, U. Maryland School of Law), JOURNAL OF BUSINESS AND TECHNOLOGY LAW, 2021, p. 181. A trademark is a word, name, symbol or device, or other designation, or a combination of such designations, that is distinctive of a person's goods or services and that is used in a manner that identifies those goods or services and distinguishes them from the goods or services of others. A service mark is a trademark that is used in connection with services.

COLLINS ENGLISH DICTIONARY, 2006, p. 1706. The name or other symbol used to identify the good produced by a particular manufacturer or distributed by a particular dealer and to distinguish them from products associated with competing manufacturers or dealers.

DICTIONARY OF BUSINESS TERMS, 2006, p. 393. Trademark: An exclusive right of a company. It is a distinctive name or symbol that legally identifies a company or its products and services, and sometimes prevents others from using identical or similar marks.

Katie Brown, (Prof., Sports Management, Texas Tech U.), MARQUETTE SPORTS LAW REVIEW, Spr. 2022, p. 445. In marketing, a trademark is defined as a name, slogan, or other identifier used to distinguish goods and services from those owned by competitors. "From a legal perspective, a trademark is a brand or part of a brand that is given protection because it is capable of exclusive appropriation." In other words, brands and their trademarks may be the subject of unauthorized use by competitors.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 930. Trademark: A symbol, name, design, or phrase on a product that shows it is made by a particular company.

NEW OXFORD AMERICAN DICTIONARY, 2005, p. 1785. Trademark: A symbol, word, or words legally registered or established by use as representing a company or product.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 1294. Trademark: Any name, symbol, figure, letter, word, or mark adopted and used by a manufacturer or merchant to distinguish a product or products from ones manufactured or sold by others; a trademark must be registered with a government patent office to assure its exclusive use by its owner.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 3. Trademark law protects marketing signifiers such as the name of a product or service or the symbols, logos, shapes, designs, sounds, or smells used to identify it. This protection can last as long as the company continuously uses the trademark in commerce – for example, many trademarks, such as Coca-Cola and General Mills, have been protected for over a century.

Spencer Keller, (Editor), TEXAS A&M U. LAW REVIEW, Fall 2020, p. 214. A trademark is a "word, phrase, symbol, and/or design that identifies and distinguishes the source of the goods of one party from those of others." Trademarks do not have a finite protection period, as they remain in effect as long as the owner uses the mark in association with goods and services.

Thakur, Simran (JD Candidate), U. OF ILLINOIS CHICAGO LAW REVIEW, Winter 2024, p. 331. Generally, a trademark can be "any word, phrase, symbol, design, or combination of these things" that function to identify and distinguish a good or service.

Timothy Murphy, (Prof., Law, U. of Idaho College of Law), FORDHAM INTELLECTUAL PROPERTY MEDIA & ENTERTAINMENT LAW JOURNAL, Summer 2020, p. 1076. Trademarks protect "any word, name, symbol, or device, or any combination thereof . . . used by a person . . . to identify and distinguish" their goods or services. For protection under the federal trademark regime system, the trademark must be used "in commerce." A trademark owner can prevent others from using in commerce any mark that is likely to cause consumer confusion with respect to the trademark. If a trademark owner can establish infringement, the trademark owner can obtain an injunction and/or damages. (ellipsis in original)

U.S. Patent and Trademark Office, TRADEMARK, PATENT, OR COPYRIGHT, May 9, 2024. Retrieved May 19, 2024 from <https://www.uspto.gov/trademarks/basics/trademark-patent-copyright> Trademark: A word, phrase, design, or a combination that identifies your goods or services, distinguishes them from the goods or services of others, and indicates the source of your goods or services.

AMERICAN HERITAGE DICTIONARY OF BUSINESS TERMS, 2009, p. 548. Trademark: A distinctive proprietary emblem, insignia, or name that identifies a particular product or service. A trademark is an intangible asset that may be protected from use by others.

BLACK'S LAW DICTIONARY, 2004, p. 1530. Trademark: A word phrase, logo, or other graphic symbol used by a manufacturer or seller to distinguish its product or products from those of others. The main purpose of a trademark is to designate the source or goods or services. In effect, the trademark is the commercial substitute for one's signature. To receive federal protection, a trademark must be distinctive rather than merely descriptive or generic; (1) affixed to a product that is actually sold in the marketplace; and (3) registered with the U.S. Patent and Trademark Office. In its broadest sense, the term trademark includes a servicemark.

Daniel Foster, (Editor), JOURNAL OF BUSINESS ENTREPRENEURSHIP & LAW, Fall/Spring 2023, p. 143. A trademark can come in a variety of forms; it can be a word or name, such as "Nike"; a symbol, such as Nike's swoosh; a slogan, such as "just do it"; or even a number, color, shape, sound, or smell. Trademarks empower companies and individuals to protect their respective intellectual property and act as a sort of badge to help customers, fans, and bystanders recognize a person or brand.

ENCARTA DICTIONARY, 1999, p. 1887. Trademark: A name or symbol used to show that a product is made by a particular company and legally registered so that no other manufacturer can use it.

LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, p. 1762. Trademark: A special name, sign, or word that is marked on a product to show that is made by a particular company that cannot be used by another company.

Matthew Angelo et al., (JD Candidate), AMERICAN CRIMINAL LAW REVIEW, Summer 2020, p. 992. A trademark includes "any word, name, symbol, or device, or any combinations thereof" that is used to identify and distinguish the source of goods. A valid trademark can be one of the most valuable assets of a company.

National Inventors Hall of Fame, GUIDE TO INTELLECTUAL PROPERTY: WHAT IS A TRADEMARK?, Feb. 21, 2024. Retrieved May 19, 2024 from <https://www.invent.org/blog/intellectual-property/trademark-definition> While trademarks, copyrights and patents are all designed to protect the things we create, each one protects a different type of IP. A trademark most often protects IP associated with companies, such as a word, phrase, symbol or design used to identify and promote products or services. Companies may also use a service mark, which protects their services in the same way trademarks protect their goods.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 1330. Trademark: A name, symbol, design, device, or word, or any combination thereof, used by a merchant or manufacturer to identify his goods and distinguish them from those made or sold by others.

RANDOM HOUSE WEBSTER'S DICTIONARY OF THE LAW, 2000, p. 432. Trademark: A name, symbol, or other mark used by a company to identify its products and distinguish them from goods produced or sold by others.

96. Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 383. A trademark is a distinctive word, phrase, logo, graphic symbol, or other device used to identify the source of a product or service and to distinguish it from any competitors. Some examples of trademarks are Tesla for cars, Frito-Lay for food products, and iTunes for music services. A trademark can be more than just a brand name or logo. It can include other nonfunctional but distinctive aspects of a product or service that tend to promote and distinguish it in the marketplace, such as shapes, letters, numbers, sounds, smells, or colors. Titles, character names, or other distinctive features of movies, television, and radio programs can also serve as trademarks when used to promote a product or service.

97. Sloane Kirstyn Dreyer, (JD Candidate), COLORADO TECHNOLOGY LAW JOURNAL, 2022, p. 347. A trademark is a word, phrase, symbol, and/or design that identifies and distinguishes the source of the goods of one party from those of others. A service mark is a word, phrase, symbol, and/or design that identifies and distinguishes the source of a service rather than goods. Some examples include brand names, slogans, and logos.

98. TAKING CARE OF BUSINESS: THE DICTIONARY OF CONTEMPORARY BUSINESS TERMS, 1997, p. 305. Trademark: A distinctive identification of a manufactured product or of a service.

99. Todd Kowalski et al., (Attorney), AMERICAN CRIMINAL LAW JOURNAL, Summer 2023, 1020. A trademark includes "any word, name, symbol, or device, or any combinations thereof" that is used to identify and distinguish the source of goods. A valid trademark can be one of the most valuable assets of a company.

2. “Trademarks” in U.S. law have the protections described in the Lanham Act.

Quynh La, (JD Candidate), WASHINGTON LAW REVIEW, June 2021, p. 672. Under the Lanham Act, a trademark is a "word, name, symbol, or device" – or any combination of those – that identifies the source of goods or services and distinguishes the goods or services from those of another. Though the Lanham Act created a federal trademark registration system, it does not require registration for trademark owners to receive protection for their marks. Instead, to achieve ownership – and the protections associated with ownership – a trademark must meet two requirements. First, the trademark must be used in commerce as a source identifier. Second, the trademark must be distinctive. As long as a trademark meets these requirements, it receives protection under the U.S. trademark law.

Matthew Bodie, (Prof., Law, St. Louis U. School of Law), SOUTHERN CALIFORNIA LAW REVIEW POSTSCRIPT, 2021, p. 28. The Lanham Act defines a trademark to include "any word, name, symbol, or device . . . [used by individuals, firms, governmental entities, or corporations] to identify and distinguish [their] goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods . . ." Similarly, the Act defines service marks as such words, names, or symbols that "identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services . . ." K. "In" is defined.

5. “Trademarks” in U.S. law are protected under the Lanham Act.

Celena Dyal, (JD Candidate, U. Maryland School of Law), JOURNAL OF BUSINESS AND TECHNOLOGY LAW, 2021, p. 181. Trademark law is governed by the Lanham Act, codified at 15 U.S.C. § 1051. It states that a "trademark includes any work, name, symbol, or device, or any combination thereof: (1) used by a person, or (2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this chapter, to identify and distinguish his or her goods from those manufactured or sold by others and to indicate a source of the goods, even if that source is unknown." Thus, under the Lanham Act, a trademark must be: (1) used in commerce; (2) registered with the USPTO to gain federal protection; and (3) must be distinctive. The Lanham Act also states that the purpose of trademarks are to serve as source identifier and allow people to protect their marks, whether the mark is already in use or is intended to be used in a market. Thus, trademarks are used to distinguish products from goods manufactured or sold by others and to indicate their source, which can also indicate quality. Additionally, trademark protection can extend to slogans as long as it immediately conjures up an association with the trademark owner and the affiliated product.

Jennifer Danker (JD Candidate, U. of Georgia School of Law), JOURNAL OF INTELLECTUAL PROPERTY LAW, Spr. 2023, p. 328. The Lanham Act provides that a trademark is any single or combination of a "word, name, symbol, or device" which is "used by a person" in commerce to identify and differentiate providers of goods and services from one another. Although the Act lays out an avenue for federal registration of a mark, protection is still available to unregistered marks that would qualify for protection under the registration requirements.

6. “Trademarks” include four categories: general, service marks, certification marks, and trade dress.

Vina Nguyen, (JD Candidate, Cumberland School of Law), AMERICAN JOURNAL OF TRIAL ADVOCACY, Fall 2021, p. 191. A trademark is a symbol that helps businesses and consumers identify a particular product or service. The term "trademark" includes general trademarks, service marks, certification marks, and trade dress.

7. “Trademarks” refer to a distinguishing symbol.

WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 1934. Trademark: A distinguishing symbol, design, word, etc. used by a manufacturer or dealer on his goods, labels, etc. to distinguish them from those of competitors, and usually registered and protected by law.

World Intellectual Property Organization, WHAT IS A TRADEMARK?, May 13, 2024. Retrieved May 19, 2024 from <https://www.wipo.int/trademarks/en/> A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights.

8. The “Trademark” category of “trade dress” is explained.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 512. Trade dress consists of all the various elements that are used to promote a product or service. For a product, trade dress may be the packaging, the attendant displays, and even the configuration of the product itself. For a service, it may be the decor or environment in which a service is provided – for example, the distinctive decor of the Hard Rock Cafe restaurant chain. As with other types of trademarks, trade dress can be registered with the U.S. Patent and Trademark Office (USPTO) and receive protection from the federal courts. To receive protection, both of the following must be true: The trade dress must be inherently distinctive, unless it has acquired secondary meaning; The junior use must cause a likelihood of consumer confusion. For trade dress to be considered inherently distinctive, one court has required that it “be unusual and memorable, conceptually separable from the product, and likely to serve primarily as a designator of origin of the product.”

9. “Trademarks” can include a shape.

Richard Stim, (Intellectual Property Attorney), PATENT, COPYRIGHT, & TRADEMARK: AN INTELLECTUAL PROPERTY DESK REFERENCE, 2022, p. 383. Trademark law protects more than names and logos. The law also offers some protection to distinctive shapes (the Coca-Cola bottle) or packaging (the choice of blue on the Tiffany box). Likewise, a service may be identified by its distinctive decor (Hard Rock Cafe, Old Navy clothing store). Collectively, these types of identifying features are commonly termed “trade dress.” Functional aspects of trade dress cannot be protected under trademark law.

10. “Trademarks” are the newest family among the categories of intellectual property.

Mark Roesler & Garrett Hutchinson, (Attorneys), WHAT’S IN A NAME, LIKENESS, AND IMAGE? THE CASE FOR A FEDERAL RIGHT OF PUBLICITY LAW, SEPT. 16, 2020. Retrieved May 4, 2024 from https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2020-21/september-october/what-s-in-a-name-likeness-image-case-for-federal-right-of-publicity-law/ One of the youngest members of the small family of intellectual property rights, the right of publicity was first conceptualized in the century before last and was first formally acknowledged in American common law in the 1950s.

K. “In” is defined.

1. In means throughout.

WORDS AND PHRASES PERMANENT EDITION, 2008. Vol. 20a, p. 207. Colo. 1887. In the Act of 1861 providing that justices of the peace shall have jurisdiction “in” their respective counties to hear and determine all complaints, the word “in” should be construed to mean “throughout” such counties. Reynolds v. Larkin, 14, p. 114, 117, 10 Colo. 126.

2. In means within.

a. In means within limits.

Merriam-Webster, 2020. Retrieved May 22, 2020 from <https://www.merriam-webster.com/dictionary/in> Definition of in (Entry 1 of 11) 1a—used as a function word to indicate inclusion, location, or position within limits in the lake wounded in the leg in the summer

b. In means located inside or within.

Merriam-Webster, 2020. Retrieved May 22, 2020 from <https://www.merriam-webster.com/dictionary/in> Definition of in (Entry 3 of 11) 1a: that is located inside or within the in part

c. In means within or into.

Merriam-Webster, 2020. Retrieved May 22, 2020 from <https://www.merriam-webster.com/dictionary/in> Definition of in- (Entry 9 of 11) 1: in : within : into : toward : on —usually il- before l illuviation

d. In means inside a place or area.

Cambridge Dictionary, 2020. Retrieved May 22, 2020 from <https://dictionary.cambridge.org/us/dictionary/english/in> in preposition US /?n/ UK /?n/ in preposition (INSIDE) A1 inside a container, place, or area, or surrounded or closed off by something: Is Mark still in bed?

e. In means within an object or area.

Cambridge Dictionary, 2020. Retrieved May 22, 2020 from <https://dictionary.cambridge.org/us/dictionary/english/in> in preposition, adverb [not gradable] US /?n/ in preposition, adverb [not gradable] (WITHIN) positioned inside or within the limits of something, or contained, surrounded, or enclosed by something: There’s a cup in the cabinet.

Cambridge Dictionary, 2020. Retrieved May 22, 2020 from <https://dictionary.cambridge.org/us/dictionary/english/in> in adverb (INSIDE) within an object, area, or substance: We’ve been shut in all day. UK Has the soup got any salt in?

3. In means forming a part of something.

Cambridge Dictionary, 2020. Retrieved May 22, 2020 from <https://dictionary.cambridge.org/us/dictionary/english/in> in preposition (PART) A2 forming a part of something: He used to be the lead singer in a rock band.

L. “And/or” means either.

Merriam-Webster, 2022. Retrieved May 30, 2023 from <https://www.merriam-webster.com/dictionary/and%2For>, Definition of and/or —used as a function word to indicate that two words or expressions are to be taken together or individually

BALLENTINE’S LAW DICTIONARY, 1969, p. 73. And/or: In statutes, however, the use of the expression “and/or” has been considered to have a significance, the view being that the intention of the legislature in using the expression is that the word “and” and the word “or” are to be construed as used interchangeably.

COLLINS ENGLISH DICTIONARY, 2006, p. 59. And/or: Used to join terms when either one or the other or both is indicated.

NEW INTERNATIONAL WEBSTER'S COMPREHENSIVE DICTIONARY OF THE ENGLISH LANGUAGE, 2004, p. 54. And/or: Either or, according to the meaning intended.

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, p. 68. And/or: Either "and" or "or" depending on what applies.

CAMBRIDGE DICTIONARY OF AMERICAN ENGLISH, 2008, p. 27. And/or: Use to refer to both things or either of the things mentioned.

ENCARTA DICTIONARY, 1999, p. 62. And/or: A short way of saying that either or both of two options may be valid.

RANDOM HOUSE WEBSTER'S COLLEGE DICTIONARY, 2005, p. 46. And/or: Used to imply that either or both of the things mentioned may be affected or involved.

BALLENTINE'S LAW DICTIONARY, 1969, p. 73. And/or: A concocted ambiguity. Something of a monstrosity in the English language used by draftsmen out of an over-abundance of caution. So indefinite as to render an administrative order inoperative or unenforceable for lack of certainty.