DOWNLOAD PDF COPYRIGHT AND INTELLECTUAL PROPERTY

Chapter 1 : Examples of Intellectual Property | Wells Fargo

You cannot compare copyright with intellectual property; copyright is a form of intellectual property. Defending a copyright requires different expertise from defending a trademark. If you require legal advice on a copyright issue, make sure the attorney you select understands your particular needs.

The Statute of Anne came into force in The Statute of Monopolies and the British Statute of Anne are seen as the origins of patent law and copyright respectively, [8] firmly establishing the concept of intellectual property. The first known use of the term intellectual property dates to , when a piece published in the Monthly Review used the phrase. The organization subsequently relocated to Geneva in , and was succeeded in with the establishment of the World Intellectual Property Organization WIPO by treaty as an agency of the United Nations. According to legal scholar Mark Lemley , it was only at this point that the term really began to be used in the United States which had not been a party to the Berne Convention , [4] and it did not enter popular usage there until passage of the Bayh-Dole Act in Section 1 of the French law of stated, "All new discoveries are the property of the author; to assure the inventor the property and temporary enjoyment of his discovery, there shall be delivered to him a patent for five, ten or fifteen years. Until recently, the purpose of intellectual property law was to give as little protection as possible in order to encourage innovation. Historically, therefore, they were granted only when they were necessary to encourage invention, limited in time and scope. Morin argues that "the emerging discourse of the global IP regime advocates for greater policy flexibility and greater access to knowledge, especially for developing countries. There are also more specialized or derived varieties of sui generis exclusive rights, such as circuit design rights called mask work rights in the US and supplementary protection certificates for pharmaceutical products after expiry of a patent protecting them and database rights in European law. The term "industrial property" is sometimes used to refer to a large subset of intellectual property rights including patents, trademarks, industrial designs, utility models, service marks, trade names, and geographical indications. Patent A patent is a form of right granted by the government to an inventor or their successor-in-title, giving the owner the right to exclude others from making, using, selling, offering to sell, and importing an invention for a limited period of time, in exchange for the public disclosure of the invention. An invention is a solution to a specific technological problem, which may be a product or a process and generally has to fulfill three main requirements: Copyright A copyright gives the creator of an original work exclusive rights to it, usually for a limited time. Copyright may apply to a wide range of creative, intellectual, or artistic forms, or "works". Industrial design right An industrial design right sometimes called "design right" or design patent protects the visual design of objects that are not purely utilitarian. An industrial design consists of the creation of a shape, configuration or composition of pattern or color, or combination of pattern and color in three-dimensional form containing aesthetic value. An industrial design can be a two- or three-dimensional pattern used to produce a product, industrial commodity or handicraft. Generally speaking, it is what makes a product look appealing, and as such, it increases the commercial value of goods. The variety must amongst others be novel and distinct and for registration the evaluation of propagating material of the variety is considered. Trademark A trademark is a recognizable sign , design or expression which distinguishes products or services of a particular trader from the similar products or services of other traders. Trade dress Trade dress is a legal term of art that generally refers to characteristics of the visual and aesthetic appearance of a product or its packaging or even the design of a building that signify the source of the product to consumers. Trade secret A trade secret is a formula , practice, process, design , instrument, pattern , or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors and customers. There is no formal government protection granted; each business must take measures to guard its own trade secrets e. Object of intellectual property law[edit] The main purpose of intellectual property law is to encourage the creation of a wide variety of intellectual goods for consumers. Because they can then profit from them, this gives economic incentive for their creation. Unlike traditional property, intellectual property is indivisible â€” an unlimited number of people can "consume" an intellectual good without it being depleted. Additionally,

investments in intellectual goods suffer from problems of appropriation â€” while a landowner can surround their land with a robust fence and hire armed guards to protect it, a producer of information or an intellectual good can usually do very little to stop their first buyer from replicating it and selling it at a lower price. Balancing rights so that they are strong enough to encourage the creation of information and intellectual goods but not so strong that they prevent their wide use is the primary focus of modern intellectual property law. Some commentators have noted that the objective of intellectual property legislators and those who support its implementation appears to be "absolute protection". The thinking is that creators will not have sufficient incentive to invent unless they are legally entitled to capture the full social value of their inventions". Other recent developments in intellectual property law, such as the America Invents Act , stress international harmonization. Recently there has also been much debate over the desirability of using intellectual property rights to protect cultural heritage, including intangible ones, as well as over risks of commodification derived from this possibility. Financial incentive[edit] These exclusive rights allow owners of intellectual property to benefit from the property they have created, providing a financial incentive for the creation of an investment in intellectual property, and, in case of patents, pay associated research and development costs. The value of intellectual property is considered similarly high in other developed nations, such as those in the European Union. One is to give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations. The second is to promote, as a deliberate act of Government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development. The arguments that justify intellectual property fall into three major categories. Personality theorists believe intellectual property is an extension of an individual. Utilitarians believe that intellectual property stimulates social progress and pushes people to further innovation. Lockeans argue that intellectual property is justified based on deservedness and hard work. Appropriating these products is viewed as unjust. They argue that we own our bodies which are the laborers, this right of ownership extends to what we create. Thus, intellectual property ensures this right when it comes to production. Innovation and invention in 19th century America has been attributed to the development of the patent system. Systems of protection such as Intellectual property optimize social utility. Intellectual property protects these moral claims that have to do with personality. Lysander Spooner argues "that a man has a natural and absolute rightâ€”and if a natural and absolute, then necessarily a perpetual, rightâ€”of property, in the ideas, of which he is the discoverer or creator; that his right of property, in ideas, is intrinsically the same as, and stands on identically the same grounds with, his right of property in material things; that no distinction, of principle, exists between the two cases". The Unknown Ideal that the protection of intellectual property is essentially a moral issue. The belief is that the human mind itself is the source of wealth and survival and that all property at its base is intellectual property. To violate intellectual property is therefore no different morally than violating other property rights which compromises the very processes of survival and therefore constitutes an immoral act. Intellectual property infringement Violation of intellectual property rights, called "infringement" with respect to patents, copyright, and trademarks, and "misappropriation" with respect to trade secrets, may be a breach of civil law or criminal law, depending on the type of intellectual property involved, jurisdiction, and the nature of the action. Patent infringement Patent infringement typically is caused by using or selling a patented invention without permission from the patent holder. The scope of the patented invention or the extent of protection [59] is defined in the claims of the granted patent. There is safe harbor in many jurisdictions to use a patented invention for research. This safe harbor does not exist in the US unless the research is done for purely philosophical purposes, or in order to gather data in order to prepare an application for regulatory approval of a drug. It is often called "piracy". Examples of such doctrines are the fair use and fair dealing doctrine. Trademark infringement Trademark infringement occurs when one party uses a trademark that is identical or confusingly similar to a trademark owned by another party, in relation to products or services which are identical or similar to the products or services of the other party. In many countries, a trademark receives protection without registration, but registering a trademark provides legal advantages for enforcement. Infringement can be addressed by civil litigation and, in several jurisdictions, under criminal law. In the United States, trade secrets are protected under state law, and states have nearly

universally adopted the Uniform Trade Secrets Act. This law contains two provisions criminalizing two sorts of activity. The first, 18 U. The second, 18 U. The statutory penalties are different for the two offenses. In Commonwealth common law jurisdictions, confidentiality and trade secrets are regarded as an equitable right rather than a property right but penalties for theft are roughly the same as in the United States.

Chapter 2 : What is Intellectual Property?

Yahoo responds to effective and complete notices of intellectual property violations that provide specific information for us to identify and locate the allegedly infringing materials. In appropriate instances, we will remove allegedly infringing materials.

To this end, it is important to explain why copyright is not the same as intellectual property. According to Goldstein, Latman once told a group of intellectual property specialists that most people -â€" even at times judges â€"- often do not know the difference between copyrights, patents and trademarks. Copyright is but one of the legal regimes that fall under the umbrella of intellectual property. Opinions differ about how many legal regimes fall under the category of intellectual property. Generally speaking, most people will agree that copyright, trademark, and patent law fall under the umbrella of intellectual property, mostly decided under federal law. As a general premise, I usually add licensing law and trade secret law under the intellectual property umbrella. Licenses and trade secrets are decided under state law. What gets included as a form of intellectual property umbrella likely will vary according to whom you ask: There is an important intersection between copyright and licensing that is relevant to much of what we do today online, hence the gray background that spans the copyright and licensing circles in the image above. We will return to this issue in a future post. Below are brief definitions for the forms of intellectual property besides copyright: Patent law protects original ideas, methods, processes, and machines that are unique, useful, and not obvious. Patent law is governed exclusively by federal law. Trademark law protects symbols, drawings, words or names that are used to distinguish one business from another business. Trademark law may be governed by federal or state law, but today federal law provides the bulk of trademark protections. The law of trade secrets protects formulas, devices, or patterns that one business uses to give it a competitive advantage over another business. Trade secrets are governed mostly by state law. Information licenses grant access to information under certain conditions. Like trade secrets, information licensing law is governed exclusively by state law, usually as a form of contract. According to longstanding doctrine, as well as a provision of the Code of Federal Regulations CFR , short phrases like titles, names or slogans are ineligible to receive copyright protection. Therefore, a title or short term like The Sopranos cannot receive copyright protection. That same title, however, may be eligible for trademark protection. While this publication focuses exclusively on the form of intellectual property called copyright, one should realize that other forms of intellectual property may be relevant to a particular business, creative, or legal scenario.

Chapter 3 : Copyright in General (FAQ) | U.S. Copyright Office

Brief answers to questions concerning copyright in general.

Despite this, the current system of intellectual property can be used for good, and has by many small time content creators. Given the importance of this topic, addressing some misconceptions would be helpful. The Battlefield of Intellectual Property The framework of intellectual property IP , as it currently exists in the legal system, can be described as a fait accompliâ€"a situation that is unfair but has to be dealt with. If you create content, you either protect it using existing intellectual property laws, or you run the risk of being defrauded by someone who uses the system to their advantage. This is partially the reason why IP controversies are akin to a battlefield. Creating an original work is a precious thing. This has happened many times over the years. Or worse, it will be misused and smeared to such an extent, no one will be interested in it. Why does it have to be this way? Similarly, if no one ever engaged in violence, particularly the government against its own people, then the 2nd amendment may not be needed either. For information, to a slavery system dependent on occult or hidden knowledge, is a deadly threat. A Language of Life, 3rd Edition: Life-Changing Tools for Healthy Relationships Nonviolent Communication Guides In essence, the world of ideas and content creation has become a war zone, where only those who learn how to fight strategically can get ahead. By learning the law, which are the rules for how the universe works, we can work together more efficiently and wisely to overturn the powers that be. In order to understand this, one needs to comprehend how intellectual property rights are managed in the existing system; that is, how does one actually claim to own an idea? The way the current IP system works is based on first claim status. The evidence needed to prove that IP is, in fact, the property of the one filing it is a testimonial, meaning, you claim you are the owner. The owner can be an individual. The owner can also be a partnership, corporation or association. The applicant must specify what type of entity it is individual, corporation, etc. The applicant is not required to have U. The application must be based on actual use or a real intent to use the trademark in commerce. A filer merely needs to demonstrate an intention to use the right secured by a patent or trademark in commerce, for some business purpose. That said, it is possible to cancel a trademark or patent if it is discovered later that it was used by another in commerce beforehand. But doing so is a massive challenge and monetary effort, which is one reason why the system can be taken advantage of. It presents a serious challenge to any content creator. This happens more than you might think. Countries steal IP from each other frequently. A content creator produced volumes of written materials, posting them online across over a dozen websites. They believed the information should be given to the world for free, using an open source model. The information is of central importance to improving the quality of life of all things living on the earth. They began distributing this material in In , a former member of the organization decided to trademark the brand name with the USPTO, claiming they were the original owner. The USPTO granted the trademark, which was made under false pretenses, and the false owner began sending cease and desist orders to the original content creator. They filed an opposition themselves with all the necessary proofs of use in commerce prior to the false owners stated claims of use. In effect, the USPTO ignored the fraud of the false owner by citing a technical reason for not taking action to restore the IP rights to the original owner. The opposition filing period expired, requiring the original owner to contact an attorney. The original owner, lacking the funds to fight the false trademark, abandoned their IP and all their dreams of making the world a better place. The false owner continues to hold the trademark to this day, doing nothing with it. It is an almost insurmountable challenge trying to defend your IP once someone has stolen it. Despite that, it does serve a valid purpose, no matter how broken it might be. There are strategic realities one has to deal with as a content creator. You either play the game of IP or you run the risk of having your content stolen. How Are Trademarks Enforced? The right holder, per the legal powers given by the USPTO, or local laws, can only defend their trademark if harm has been done to the use of that right in commerce. In other words, unless your use of the word constitutes damage to a business, then you can use it without worry. The same is true for copyright. Although copyright deals with entire texts or works rather than with branding and logosâ€"the point stands: The Coca Cola Company now has a right to defend their brand by issuing cease and

desist orders. If you still keep using the phrase in your business, the company can sue you for damages and compel a judicial body to issue an order to legally stop you from using the phrase. Plagiarism is reproducing a work either by direct copying or use of ideas by passing them off as your own. For example, the phenomenon of simultaneous or multiple discovery , is when two or more people invent or discover the same thing completely independently of each other. If you decided to draw a butterfly and five other people did too because there was a seasonal migration of butterflies moving through the area, and all the images looked essentially the same, who has the right to trademark their image? In another example, consider the nature of scientific discovery or the search for truth. If the truth is one, then it stands to reason each individual has a unique perspective on that one truth. If four people decide, at the same time, they want to research how a certain protein is encoded in the genome of a fruit fly, and make that discovery all at the same time, who made it first? Lastly, consider a person who wants to tell a story of their experiences. It just so happened that two other people had the same idea at the same time. All three of them see the same sites, write about the same history, and have similar experiences with the locals. One writer publishes their book before the other two. Then, the other writers publish their works. The first writer, upon discovering the other two books, might think that their story was plagiarized, when in fact, they were completely original works, just similar in subject matter. Clearly, things can get very complicated depending on the situation at hand. This is part of the difficulty involved in IP litigation. A person has a sacred right to defend their reputation. If you defame that by making a false accusation, this constitutes serious damage that you are liable for, legally and karmically. Any damage would ideally need to be corrected by citing you were wrong and attempting to restore status in those you campaigned to. The ufology communityâ€”wherein all manner of fantastic encounters with extraterrestrials, UFOs, time travel, and secret government programs are frequently discussedâ€”there is a lot of IP theft on the part of Hollywood. People have been curious about UFOs since the s. If one examines the accounts of various experiencers as compared to movies released, it seems that many of the big films featuring aliens were drawing from allegedly real experiences. The situation has gotten worse in recent years, as interest in aliens, secret government projects, and UFOs has exploded, evidenced by the massively popular History Channel series Ancient Aliens. Content creation on the internet gave rise to a whole new landscape of IP theft potential. In many cases, media is created without any legal protections or it is owned by the provider, like YouTube or Facebook. Buy Book Political Corruption: Concepts and Contexts Is there a Spiritual Solution? Some things can be starved of energy as a means of creating change. But some things cannot. Some things can only be reformed from within or replaced by a better system. Changing large-scale systems that meet the needs of people should be done carefully. For example, if you want to reform how food is distributed to supermarkets, coming up with a viable replacement first would be better than destroying the system without any plan for replacing it. The fact is, intellectual property and defending it is a real need. In this sense, one could argue the spiritual solution is to come up with a system that is better, and more just, than the existing one. Then one could work to bring that better system online as the old one is dismantled. What would be required to do this? Knowledge of the realities and factors at play. Namely, one needs to understand jurisprudence the philosophy of law and the needs of the people as they interact in business. Once a solution has been identified in consciousness, it takes people power to make it a reality. Setting aside differences and working together so as to change the system is likely the best option. This is especially true for the legal system and government because it is supported by the will of the people. Of course, how many people exercise that power and know how to do so wisely, ethically, and with knowledge of the law? Concepts and Contexts Conclusion The open source model works well for some things. But in other cases, one needs to protect information. But we have plenty of tools to deal with these challenges. History shows us what people can do when they work together. During times of hardship, the mutual burdens we suffer give us common ground. These shared burdens give us an avenue for empathy and compassion that can ultimately lead to a better way of life for all. Yet in order to make steps forward, we often need to be strategic, we have to get our hands dirty to a certain extent. Being receptive to the truth invariably gives rise to solutions that make things better. Receptivity to the reality of IP gives us the tools we need to protect information while also highlighting the opportunity to create a better system.

Chapter 4 : Copyright and Intellectual Property Policy | Betterment

A trademark can be a name, word, slogan, design, symbol or other unique device that identifies a product or organisation. Trademarks are registered at a national or territory level with an appointed government body and may take anywhere between 6 and 18 months to be processed.

Background[edit] Copyright came about with the invention of the printing press and with wider literacy. Copyright laws allow products of creative human activities, such as literary and artistic production, to be preferentially exploited and thus incentivized. Different cultural attitudes, social organizations, economic models and legal frameworks are seen to account for why copyright emerged in Europe and not, for example, in Asia. In the Middle Ages in Europe, there was generally a lack of any concept of literary property due to the general relations of production, the specific organization of literary production and the role of culture in society. The latter refers to the tendency of oral societies, such as that of Europe in the medieval period, to view knowledge as the product and expression of the collective, rather than to see it as individual property. However, with copyright laws, intellectual production comes to be seen as a product of an individual, with attendant rights. The most significant point is that patent and copyright laws support the expansion of the range of creative human activities that can be commodified. Often seen as the first real copyright law, the British Statute of Anne gave the publishers rights for a fixed period, after which the copyright expired. Books, and other Writings, without the Consent of the Authors A right to profit from the work has been the philosophical underpinning for much legislation extending the duration of copyright, to the life of the creator and beyond, to their heirs. International copyright agreements and List of parties to international copyright agreements The Pirate Publisherâ€”An International Burlesque that has the Longest Run on Record, from Puck , , satirizes the then-existing situation where a publisher could profit by simply stealing newly published works from one country, and publishing them in another, and vice versa. The Berne Convention first established recognition of copyrights among sovereign nations , rather than merely bilaterally. Under the Berne Convention, copyrights for creative works do not have to be asserted or declared, as they are automatically in force at creation: The Berne Convention also resulted in foreign authors being treated equivalently to domestic authors, in any country signed onto the Convention. Specially, for educational and scientific research purposes, the Berne Convention provides the developing countries issue compulsory licenses for the translation or reproduction of copyrighted works within the limits prescribed by the Convention. This was a special provision that had been added at the time of revision of the Convention, because of the strong demands of the developing countries. The United States did not sign the Berne Convention until In , this organization was succeeded by the founding of the World Intellectual Property Organization , which launched the WIPO Performances and Phonograms Treaty and the WIPO Copyright Treaty , which enacted greater restrictions on the use of technology to copy works in the nations that ratified it. Copyright laws are standardized somewhat through these international conventions such as the Berne Convention and Universal Copyright Convention. These multilateral treaties have been ratified by nearly all countries, and international organizations such as the European Union or World Trade Organization require their member states to comply with them. Ownership[edit] The original holder of the copyright may be the employer of the author rather than the author himself if the work is a " work for hire ". Typically, the first owner of a copyright is the person who created the work i. Copyright may apply to a wide range of creative, intellectual, or artistic forms, or "works". Specifics vary by jurisdiction , but these can include poems , theses , fictional characters plays and other literary works , motion pictures , choreography , musical compositions , sound recordings , paintings , drawings , sculptures , photographs , computer software , radio and television broadcasts , and industrial designs. Graphic designs and industrial designs may have separate or overlapping laws applied to them in some jurisdictions. Threshold of originality Typically, a work must meet minimal standards of originality in order to qualify for copyright, and the copyright expires after a set period of time some jurisdictions may allow this to be extended. Different countries impose different tests, although generally the requirements are low; in the United Kingdom there has to be some "skill, labour, and judgment"

that has gone into it. However, single words or a short string of words can sometimes be registered as a trademark instead. Copyright law recognizes the right of an author based on whether the work actually is an original creation , rather than based on whether it is unique ; two authors may own copyright on two substantially identical works, if it is determined that the duplication was coincidental, and neither was copied from the other. In all countries where the Berne Convention standards apply, copyright is automatic, and need not be obtained through official registration with any government office. Once an idea has been reduced to tangible form, for example by securing it in a fixed medium such as a drawing, sheet music, photograph, a videotape, or a computer file , the copyright holder is entitled to enforce his or her exclusive rights. It proposes that the creator send the work to himself in a sealed envelope by registered mail, using the postmark to establish the date. This technique has not been recognized in any published opinions of the United States courts. The United States Copyright Office says the technique is not a substitute for actual registration. Article 2, Section 2 of the Berne Convention states: For instance, Spain, France, and Australia do not require fixation for copyright protection. The United States and Canada, on the other hand, require that most works must be "fixed in a tangible medium of expression" to obtain copyright protection. In addition, the phrase All rights reserved was once required to assert copyright, but that phrase is now legally obsolete. Almost everything on the Internet has some sort of copyright attached to it. Whether these things are watermarked, signed, or have any other sort of indication of the copyright is a different story however. As a result, the use of copyright notices has become optional to claim copyright, because the Berne Convention makes copyright automatic. While central registries are kept in some countries which aid in proving claims of ownership, registering does not necessarily prove ownership, nor does the fact of copying even without permission necessarily prove that copyright was infringed. Criminal sanctions are generally aimed at serious counterfeiting activity, but are now becoming more commonplace as copyright collectives such as the RIAA are increasingly targeting the file sharing home Internet user. Thus far, however, most such cases against file sharers have been settled out of court. Legal aspects of file sharing In most jurisdictions the copyright holder must bear the cost of enforcing copyright. This will usually involve engaging legal representation, administrative or court costs. In light of this, many copyright disputes are settled by a direct approach to the infringing party in order to settle the dispute out of court. Copyright infringement For a work to be considered to infringe upon copyright, its use must have occurred in a nation that has domestic copyright laws or adheres to a bilateral treaty or established international convention such as the Berne Convention or WIPO Copyright Treaty. Improper use of materials outside of legislation is deemed "unauthorized edition", not copyright infringement. However, infringement upon books and other text works remains common, especially for educational reasons. Statistics regarding the effects of copyright infringement are difficult to determine. Studies have attempted to determine whether there is a monetary loss for industries affected by copyright infringement by predicting what portion of pirated works would have been formally purchased if they had not been freely available.

Chapter 5 : Intellectual property: Copyright - blog.quintoapp.com

Intellectual property (IP) is a category of property that includes intangible creations of the human intellect, and primarily encompasses copyrights, patents, and trademarks.

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. Constitution I say to you that the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone. What was the first legal conflict on the Internet? If you paid attention to the headlines, what might come to mind is censorship and the Communications Decency Act. However, outside the criminal charges brought in relationship to the Morris Worm , the first great legal conflicts on the Internet dealt with Intellectual Property IP , not censorship. While effective and decisive Congressional action responsive to other legal concerns might be lacking see Gambling , Congressional action to protect copyright holders has been consistently swift and direct. The beginning was in with the Scientology litigations. Feeling overwhelmed by the new digital world, it led copyright owners to push for a radical revision of copyright law: It created a conflict between traditional content creators and new radio stations, webcasters , who defied "scarce radio spectrum" and anemic top forty programming, to bring true alternative programming to unique audiences anywhere at any time. Finally, it created a tension for digital rights management , with the broadband infrastructure vendors screaming that killer content was needed to drive broadband deployment and content owners screaming that content would not be released until there was some assurance that the gigantic copying machine known as the Internet, also known as such peer-to-peer applications as Napster, was tamed and controlled. Intellectual property is protected by patents on inventions; copyrights on music, videos, patterns and other forms of expression; trade secrets for methods or formulas having economic value and used commercially. Observations of efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods, GAO April 12, According to experts and literature GAO reviewed, counterfeiting and piracy have produced a wide range of effects on consumers, industry, government, and the economy as a whole, depending on the type of infringements involved and other factors. Consumers are particularly likely to experience negative effects when they purchase counterfeit products they believe are genuine, such as pharmaceuticals. Negative effects on U. Some experts and literature also identified some potential positive effects of counterfeiting and piracy. Some consumers may knowingly purchase counterfeits that are less expensive than the genuine goods and experience positive effects consumer surplus , although the longer-term impact is unclear due to reduced incentives for research and development, among other factors. Three widely cited U. Generally, the illicit nature of counterfeiting and piracy makes estimating the economic impact of IP infringements extremely difficult, so assumptions must be used to offset the lack of data. Efforts to estimate losses involve assumptions such as the rate at which consumers would substitute counterfeit for legitimate products, which can have enormous impacts on the resulting estimates. Because of the significant differences in types of counterfeited and pirated goods and industries involved, no single method can be used to develop estimates. Each method has limitations, and most experts observed that it is difficult, if not impossible, to quantify the economy-wide impacts. Nonetheless, research in specific industries suggest that the problem is sizeable, which is of particular concern as many U.

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Chapter 6 : Copyright & Intellectual Property | Berkshire Community College

Overview of Intellectual Property Laws A wide body of federal and state laws protects creative property such as writing, music, drawings, paintings, photography, and films. Collectively, this body of law is called "intellectual property" law, which includes copyright, trademark, and patent laws, each applicable in various situations and.

Intellectual property is the area of law that deals with protecting the rights of those who create original works. It covers everything from original plays and novels to inventions and company identification marks. The purpose of intellectual property laws are to encourage new technologies, artistic expressions and inventions while promoting economic growth. When individuals know that their creative work will be protected and that they can benefit from their labor, they are more likely to continue to produce things that create jobs, develop new technology, make processes more efficient, and create beauty in the world around us. There are three main mechanisms for protecting intellectual property in the United States: Copyrights Copyrights protect the expressive arts. They give owners exclusive rights to reproduce their work, publicly display or perform their work, and create derivative works. Additionally, owners are given economic rights to financially benefit from their work and prohibit others from doing so without their permission. Patents Patents protect an invention from being made, sold or used by others for a certain period of time. There are three different types of patents in the United States: Utility Patents - these patents protect inventions that have a specific function, including things like chemicals, machines, and technology. Design Patents - these patents protect the unique way a manufactured object appears. Plant Patents - these patents protect plant varieties that are asexually reproduced, including hybrids. Inventors may not assume that their creation is patented unless they apply and are approved for a patent by the US Patent and Trademark Office. This process can be complex and time consuming. Trademarks Trademarks protect the names and identifying marks of products and companies. The purpose of trademarks is to make it easy for consumers to distinguish competitors from each other. Trademarks are automatically assumed once a business begins using a certain mark to identify its company, and may use the symbol TM without filing their symbol or name with the government. There are strict laws in place to protect intellectual property rights. When intellectual property rights are violated, it is important to hire an intellectual property lawyer. An experienced attorney can help you sue for damages that include lost royalties. If your case is successful, the person who violated your intellectual property rights may be required to pay for all of your legal fees in addition to compensating you for using your work without your permission.

Chapter 7 : Intellectual property - Wikipedia

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Books Databases How you can protect them: Like trademarks, you have some rights to your original work without registering the copyright at the U. However, registering can give you more leverage if you ever need to take an infringer to court. For instance, if an employee writes an article or takes a photo within the scope of his employment, the employer is the copyright owner automatically. However, an independent contractor who writes an article or takes a photo will be the copyright owner of that asset unless he transfers the copyright through a written assignment agreement. A copyright empowers you to profit from your creative assets. You can sell your copyrighted assets and lease them in exchange for license fees and royalties. A new copyright owned by an individual typically lasts 70 years after the death of the copyright owner. A copyright owned by a corporation or other legal entity will last 95 years from the first date the work is used with the public. You can file to register a copyright with the United States Copyright Office. Patents Patents are granted for new, useful inventions, and they will give you the right to prevent others from making, using, or selling your invention. For tangible inventions, such as machines, devices, and composite materials, as well as new and useful processes Design patents: For the ornamental designs on manufactured products Plant patents: For new varieties of plants How you can protect them: Patent applications can be filed with the USPTO in the United States, and internationally in the patent offices of the applicable country or region. Utility and plant patents have a term of 20 years, while design patents have a term of 15 years. They require a nonrefundable filing fee, along with issue, service, and maintenance fees. This can add up to thousands of dollars, but some small businesses qualify for discounts. Before submitting your patent application, you can but are not required to use the USPTO database to search existing patents and published patent applications see if your concept has comparatively novel features. A patent lawyer can also help you do a more thorough search to determine the availability of patent protection for your concept. The patent lawyer can also help you investigate whether any third parties have patents that could prevent you from bringing your product or service to market. Trade secrets A trade secret is a piece of confidential business information whose secrecy gives you an advantage over your competitors. Formulas, patterns, techniques, or processes that are not known or readily attainable by others. How you can protect them: Though trade secrets cannot be registered, they are protected by staying secret. You can take legal action against those who misappropriate your trade secrets, but you must be able to prove the secret was obtained through illegal means. Including intellectual property in your business plan Intellectual property rights can help you establish your brand identity, profit off your unique assets, and prevent others from using your creations.

Chapter 8 : Intellectual Property | AllLaw

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So why are Google, Apple, and Microsoft spending billions on it? Shutterstock Images How important is intellectual property protection to your startup? Not too long ago, defensible IP was one of the top things venture capitalists wanted to see in a startup. But the success of several high-profile tech startups, such as Twitter and Facebook, that are relatively weak on patentable intellectual property, has caused many to rethink that assumption. After all, creating and maintaining a robust IP portfolio is expensive. And the lean startup model is all about getting to market fast with the minimum viable product. Launch first, patent laterâ€¦ if at all. But every startup â€" lean or not â€" needs to plan for success. If your startup starts to scale quickly, a strong IP portfolio will be vitally important to your ability to play the long game. So what should startups do to protect their IP assets? Patent what is important to others, not just you Make time to get smart on intellectual property. Investing a day or two early on will save headaches later. Reduce costs by doing your own IP searches first. Start with a Google patent search at google. Save money by working with a patent attorney from a different geography. Invest in well-written non-disclosure agreements NDAs. Make sure your employment agreements, licenses, sales contracts and technology transfer agreements all protect your intellectual property too, right from the get-go. File as fast as you can. A patent application holds your place in line. You will have 12 months from that initial submission to expand upon your filing. And remember, US patents can take more than five years to issue. Investigate international patents if key competitors are outside the US. A US patent will not protect you against competitors in Europe, never mind China. Think hard about the future. From your vantage point, what does the future look like? Use this information to devise your patent strategy, and to figure out which of your work needs to be legally protected. From there, your patent applications should flow. As President Lincoln once remarked, the patent system adds "the fuel of interest to the fire of genius. If you make it easy for others to steal your ideas, you can ultimately end up washing away your own path to success. Apr 19, More from Inc.

Chapter 9 : The Difference Between Copyright & Intellectual Property | Core Copyright

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

The information presented here is general information offered as a general outline. It is not intended as legal advice, which should only be provided through an attorney and in relation to a specific situation. The copyright law of the United States Title 17, United States Code governs the fair use and making of photocopies or other reproductions of copyrighted materials. The General Guidelines can be found here. Libraries and archives are authorized under certain conditions which are specified in the law, to provide a photocopy or other reproduction for their patrons. Such conditions include research purposes, whereby photocopying is not to be "used for any purpose other than private study, scholarship, or research. According to Copyright Law: Section contains a list of the various purposes for which the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. Section also sets out four factors to be considered in determining whether or not a particular use is fair: The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes. The nature of the copyrighted work. The amount and substantiality of the portion used in relation to the copyrighted work as a whole. The effect of the use upon the potential market for, or value of, the copyrighted work. A single copy may be made of any of the following by a teacher for his or her scholarly research or use in teaching or preparing to teach a class: A chapter of a book. An article from a periodical magazine, journal or newspaper. A short story, short essay or short poem, whether or not it is from a collective work. A chart, graph, diagram, cartoon or picture from a book, periodical or newspaper. Multiple copies may be made by or for the teacher giving the course, for the classroom use or discussion, provided that: Copying meets the test of brevity and spontaneity as defined below; AND Meets the cumulative effect test defined below. Each copy should include a notice of copyright. For the purpose of this notice, the American Library Association has recommended the following wording: Code The following guidelines limiting educational use also apply: Brevity The copying meets the tests of brevity described in the following guidelines: With respect to poetry: A complete poem, if it is less than words and if it is printed on not more than two pages, or, for a longer poem, you may make an excerpt of not more than words. This limitation may be exceeded to complete a line. With respect to prose: However, you may copy words. This limitation may be exceeded to complete a paragraph. With respect to illustrations: With respect to "special" works: Such "special works" may not be reproduced in their entirety. The copying is at the instance and inspiration of the individual teacher, AND The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission. Cumulative Effect The copying meets the cumulative effect tests described in the following suggested guidelines: The copying of the material must be for only one course for which the copies are made. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term. Cumulative effect prohibits more than nine instances of such multiple copying for one course during a class term. Because the guidelines are not clear as to the meaning of the word "course," the following interpretation is suggested: Multi-section courses taught by same faculty member should be treated as one course. Multi-section courses taught by different faculty members should be treated as a separate course. It is suggested that a course be considered to be terminated at the end of each grading period. Multiple copies of articles by the same author should not be copied, nor more than three from the collective work or periodical volume during one class term. Be repeated with respect to the same item by the same teacher from term to term. Cornell University has come up with this check list that you may find helpful.