

## IP Enforcement and Litigation

**Abatement:** A legal remedy that allows a defendant to stop an ongoing infringement by the plaintiff. For example, if a patent owner is using a trademark that infringes on another party's rights, the trademark owner may seek abatement to stop the infringement.

**Adverse Possession:** A legal principle that allows a person to gain ownership of property through continuous, open, and notorious possession of the property for a certain period of time, despite not having legal title to the property.

**Anti-circumvention:** A provision of copyright law that prohibits the circumvention of technological measures that are used to protect copyrighted works. This includes the manufacture, sale, or distribution of devices or services that are primarily designed or produced for the purpose of circumventing such measures.

**Cease and Desist:** A formal letter or notice sent by a party to another party, typically an infringer, demanding that they stop (cease) a particular activity (such as using a trademark or selling a product that infringes on a patent) and not to resume it in the future (desist).

**Counterfeiting:** The act of manufacturing, distributing, or selling a product that is a copy of a legally protected product, with the intent to deceive or mislead consumers into believing that the copy is the genuine product.

**Damages:** A legal remedy that allows a plaintiff to recover monetary compensation for harm caused by an infringement. There are two types of damages: actual damages, which are the actual losses suffered by the plaintiff as a result of the infringement, and statutory damages, which are damages set by law and awarded as a matter of right, without the need to prove actual losses.

**Declaratory Judgment:** A legal action brought by a party seeking a court's determination of their rights or obligations in a dispute, without the need for an actual controversy or injury.

**Discovery:** The pre-trial process in which parties exchange information and evidence relevant to the case. This can include the production of documents, depositions of witnesses, and requests for admissions.

**Domain Name:** A unique name that identifies a website or webpage on the internet. Domain names are typically made up of a combination of letters and numbers, and are used to access a specific website by typing the domain name into a web browser.

**E-Discovery:** The electronic version of the discovery process, in which parties exchange electronically stored information (ESI) relevant to the case. This can include emails, text messages, social media posts, and other digital communications.

**Fair Use:** A legal doctrine that allows the limited use of copyrighted material without obtaining permission

from the copyright owner, for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research.

**False Advertising:** The act of making false or misleading statements about a product or service in order to deceive or mislead consumers. False advertising can be a violation of both state and federal laws, and can result in both civil and criminal penalties.

**Federal Register:** The official journal of the federal government, in which regulations, proposed rules, and other federal notices are published.

**Foreign Filing License:** A legal document issued by the U.S. Patent and Trademark Office (USPTO) that authorizes a U.S. inventor to file a patent application in a foreign country.

**Infringement:** The unauthorized use or violation of a legally protected right, such as a patent, trademark, or copyright.

**Injunction:** A court order that requires a party to do or refrain from doing a specific act. In the context of intellectual property, an injunction is often used to stop an infringing activity, such as the manufacture, sale, or distribution of a product that infringes on a patent or trademark.

**International Trade Commission (ITC):** An independent federal agency that investigates and adjudicates cases involving imports that infringe on U.S. intellectual property rights.

**Lanham Act:** The federal law that governs trademarks, service marks, and unfair competition. The Lanham Act sets forth the requirements for registering a trademark, and provides remedies for trademark infringement.

**License:** A legal agreement that grants permission to use a legally protected right, such as a patent, trademark, or copyright, in exchange for compensation.

**Litigation:** A legal dispute that is resolved through the court system. Intellectual property litigation typically involves disputes over patents, trademarks, or copyrights.

**Markman Hearing:** A court hearing in which a judge interprets the meaning of a patent's claims and construes the terms used in the claims. The Markman hearing is an important step in patent litigation, as it can determine the scope of the patent and the potential for infringement.

**Patent:** A legal right that grants an inventor the exclusive right to make, use, and sell an invention for a certain period of time.

**Patent Cooperation Treaty (PCT):** An international treaty that simplifies and streamlines the process of filing patent applications in multiple countries.

**Preliminary Injunction:** A court order that requires a party to do or refrain from doing a specific act, pending the outcome of a legal dispute. A preliminary injunction is typically sought at the beginning of a lawsuit, before a final decision has been reached.

**Registered Trademark:** A trademark that has been registered with the USPTO. A registered trademark is indicated by the ® symbol, and provides the owner with exclusive rights to use the trademark in connection with the goods or services for which it is registered.

**Right of Publicity:** A legal right that allows an individual to control the commercial use of their name, likeness, or other identifying characteristics.

**Statute of Limitations:** A legal time limit within which a plaintiff must bring a lawsuit, or risk losing the right to do so.

**Trademark:** A word, phrase, symbol, or design that identifies and distinguishes the goods or services of one party from those of others.

**Trade Secret:** A type of intellectual property that consists of confidential information that provides a competitive advantage to a business.

**Unfair Competition:** The use of false or misleading practices, such as false advertising or trademark infringement, that harm the business interests of another party.

**Utility Patent:** A type of patent that covers new and useful processes, machines, manufactures, or compositions of matter.

**Willful Infringement:** The intentional and deliberate violation of a legally protected right, such as a patent, trademark, or copyright. Willful infringement can result in enhanced damages, such as treble damages or attorneys' fees, for the plaintiff.

**Work Made for Hire:** A legal principle that determines who owns the copyright in a work that is created by an employee in the course of their employment, or by an independent contractor under a written agreement specifying that the work is a work made for hire. In these cases, the employer or the person who commissioned the work is considered the author and owner of the copyright.