

Intellectual Property Law Fundamentals

Abandonment – The voluntary relinquishment of rights in an intellectual property asset, typically by failing to use a trademark for three consecutive years. Related terms: non-use, loss of rights. Example: A company stops using its logo, leading to abandonment. Challenges include proving intent and distinguishing from temporary non-use.

Acquisition – The process of obtaining ownership or control over IP through purchase, licensing, or assignment. Related terms: assignment, transfer. Practical application: A firm buys a patent portfolio to bolster its R&D pipeline. Issues arise with due-diligence and valuation accuracy.

Affirmative Defense – A legal argument that, if proven, defeats or mitigates liability even though the plaintiff's claim is valid. Related terms: fair use, prior use. Example: In a copyright infringement suit, the defendant asserts "fair use" as an affirmative defense. The challenge is meeting the statutory factors.

Amendment – A formal change to a pending IP application, such as a patent claim amendment to overcome examiner objections. Related terms: office action, response. Practical use: Applicants file amendments to narrow claim scope. Over-amending may limit protection breadth.

Amortization – The systematic allocation of the cost of an intangible asset, including IP, over its useful life for accounting purposes. Related terms: intangible asset, depreciation. Example: A company amortizes a purchased trademark over ten years. Challenges involve estimating useful life and impairment testing.

Antecedent – Prior art or earlier rights that predate a claimed invention or trademark, potentially invalidating the later claim. Related terms: prior art, novelty. Example: A published article describing a technology before a patent filing serves as antecedent. Determining relevance can be complex.

Anti-Counterfeiting – Measures and legal tools designed to prevent the manufacture and distribution of counterfeit goods. Related terms: customs enforcement, brand protection. Practical application: Use of holograms and legal injunctions to stop counterfeit apparel. Challenges include cross-border enforcement.

Application – The formal request filed with a patent or trademark office to obtain protection. Related terms: specification, filing. Example: An inventor submits a utility patent application. Errors in the application can lead to rejections or narrowed claims.

Assignment – A transfer of ownership of IP rights from one party to another, typically in writing. Related terms: assignment agreement, conveyance. Practical use: A startup assigns its patents to an investor as part of a financing round. Issues include ensuring proper notice to registries.

Attorney-Client Privilege – The confidentiality protection that prevents disclosure of communications between a lawyer and client, including IP strategy discussions. Related terms: confidentiality, work product. Example: Drafting a patent strategy memorandum is privileged. Challenges arise when privilege is waived

inadvertently.

Automation – The use of software tools to streamline IP management tasks such as docketing, monitoring, and analytics. Related terms: IP management software, AI. Practical application: Automated alerts for trademark renewal deadlines. Risks include over-reliance on inaccurate data.

Background Search – A comprehensive investigation of existing IP rights, literature, and databases to assess freedom-to-operate. Related terms: freedom-to-operate, due diligence. Example: Conducting a patent landscape search before launching a new product. Challenges include incomplete data and interpreting claim scope.

Beneficiary – A person or entity that receives rights or benefits under an IP trust or licensing arrangement. Related terms: trust, licensor. Practical use: An author designates a charity as beneficiary of royalty streams. Legal complexities involve tax implications.

Best-Practice – Established, widely accepted methods for managing IP effectively. Related terms: policy, compliance. Example: Maintaining a centralized IP portfolio database is a best-practice. Adoption may be hindered by organizational silos.

Brand – The overall perception and identity associated with a company's products or services, often protected through trademarks. Related terms: trademark, goodwill. Practical application: Registering a logo to protect brand equity. Challenges include protecting the brand internationally.

Broadening – The act of expanding the scope of claims in a patent application, usually during prosecution. Related terms: claim amendment, scope. Example: Adding dependent claims to capture additional embodiments. Risks include rejection for lack of novelty.

Broadening Amendment – A specific amendment that seeks to widen claim coverage, often limited by patent office rules. Related terms: restriction, claim set. Practical use: Responding to a restriction requirement by adding broader claims. May be barred if the amendment introduces new matter.

Burden of Proof – The responsibility to establish facts in an IP dispute, often resting on the plaintiff in infringement cases. Related terms: preponderance, clear and convincing. Example: A rights holder must prove the accused product falls within the patent's claims. Shifting the burden can be strategic.

Business Method Patent – A patent that protects a particular way of conducting business, often involving software or data processing. Related terms: utility patent, software patent. Example: A patented online payment system. Challenges include heightened scrutiny under patent eligibility doctrines.

Cachet – The distinctive prestige or reputation attached to a brand, contributing to trademark value. Related terms: brand equity, goodwill. Practical implication: High-cachet trademarks command higher licensing fees. Protecting cachet requires vigilant enforcement.

Capitalization – The accounting treatment of recognizing an IP asset on the balance sheet rather than expensing it. Related terms: intangible asset, amortization. Example: Capitalizing a purchased patent. Determining whether to capitalize can affect financial ratios.

Case Law – Judicial decisions that interpret statutes and set precedent in IP matters. Related terms: precedent, jurisprudence. Practical use: Lawyers cite case law to support arguments on fair use. The challenge lies in tracking evolving decisions.

Cease-and-Desist – A formal notice demanding that a party stop infringing activities, often a precursor to litigation. Related terms: letter, injunction. Example: A trademark owner sends a cease-and-desist to a competitor using a confusingly similar mark. Effectiveness varies by jurisdiction.

Certificate of Registration – Official document confirming that a trademark or design has been registered. Related terms: registration, certificate. Practical use: Evidence of ownership in enforcement actions. Loss or damage of the certificate may complicate proof of rights.

Certification – A process by which a product or service meets defined standards, sometimes protected by IP such as a trademark. Related terms: standards, mark. Example: “Organic” certification uses a trademarked label. Challenges include preventing misuse of the certified mark.

Chain of Title – The chronological sequence of ownership transfers for an IP asset. Related terms: title, provenance. Practical use: Verifying chain of title before acquiring a patent portfolio. Gaps can create enforceability issues.

Change of Name – Updating the registrant’s name on an IP record, often due to corporate restructuring. Related terms: record amendment, assignment. Example: A merger requires updating trademark ownership. Failure to update can lead to loss of rights.

Chilling Effect – The deterrent impact on lawful expression caused by overly aggressive IP enforcement. Related terms: free speech, overreach. Example: Threats of litigation may suppress legitimate parody. Courts balance IP rights against First Amendment concerns.

Circumvention – The act of bypassing technological protection measures, prohibited under anti-circumvention provisions. Related terms: DMCA, TPM. Practical application: Distributing tools that break DRM is illegal. Enforcement varies across jurisdictions.

Clearance – The process of ensuring that a proposed mark, design, or invention does not infringe existing rights. Related terms: search, risk assessment. Example: Conducting a trademark clearance before launch. Incomplete clearance can result in costly rebranding.

Collective Mark – A trademark used by members of an association to indicate common origin or standards. Related terms: association mark, certification mark. Practical use: “Fair Trade” is a collective mark. Challenges include monitoring member compliance.

Commercialization – The process of bringing an IP-protected product or service to market. Related terms: licensing, exploitation. Example: Licensing a patented technology to a manufacturer. Risks involve market acceptance and enforcement of rights.

Compulsory License – A government-granted permission to use a patented invention without the owner’s consent, typically under specific conditions. Related terms: statutory license, public interest. Example: A

country issues a compulsory license for a life-saving drug. The patent holder may receive reasonable royalties but loses exclusive control.

Confidentiality Agreement – A contract that obligates parties to keep disclosed information secret, often used in IP negotiations. Related terms: NDA, non-disclosure. Practical use: Sharing invention details with a potential investor. Breach may lead to loss of trade-secret protection.

Contributory Infringement – Liability for providing components or services that facilitate another's infringement. Related terms: induced infringement, secondary liability. Example: Supplying a key part of a patented device can trigger contributory infringement. Proving intent and knowledge is challenging.

Copyright – A statutory right protecting original works of authorship fixed in a tangible medium. Related terms: exclusive rights, public domain. Practical application: Protecting software code, music, and literature. Challenges include determining originality and dealing with digital piracy.

Copyright Notice – The symbol ©, the year of first publication, and the name of the copyright holder, used to signal protection. Related terms: notice, registration. Example: "© 2024 Jane Doe". Though not required for protection, it deters infringement and may affect statutory damages.

Creative Commons – A suite of licenses that allow creators to share works under specified conditions. Related terms: open license, public domain. Practical use: An author releases a book under CC-BY-NC. Challenges involve understanding the scope of each license.

Counterfeit – An unauthorized copy of a protected product, typically bearing a false mark to deceive consumers. Related terms: piracy, infringement. Example: Fake designer handbags. Enforcement often requires coordination with customs and law enforcement.

Court of Appeals – An intermediate appellate court that reviews lower court decisions for legal error. Related terms: appellate review, precedent. Example: An IP case escalates to a federal circuit court. The appellate standard of review may limit reconsideration of factual findings.

Creative Work – Any original expression fixed in a medium, eligible for copyright protection. Related terms: author, derivative work. Practical example: A film script is a creative work. Determining authorship can be complex in collaborative projects.

Creditor's Lien – A legal claim on an asset, including IP, to secure payment of a debt. Related terms: security interest, foreclosure. Example: A bank holds a lien on a patent as collateral. Enforcement may require court approval.

Cumulative Infringement – The aggregation of multiple acts of infringement that together constitute a single violation. Related terms: continuous infringement, damages. Example: Repeated sales of infringing products. Calculating damages may involve cumulative royalty rates.

Customs Enforcement – The use of border authorities to intercept infringing goods entering or leaving a country. Related terms: recordation, seizure. Practical use: Filing a recordation request to enable customs to stop counterfeit imports. Coordination across jurisdictions can be difficult.

Defamation – A false statement that harms a person’s reputation; while not an IP right, it can intersect with trademark law. Related terms: libel, slander. Example: Publishing false claims about a brand may lead to defamation and trademark claims. Legal standards differ by jurisdiction.

Defensive Publication – Publishing an invention to create prior art and prevent others from obtaining a patent on the same subject. Related terms: prior art, open source. Practical use: A researcher publishes a paper to block patenting. The downside is loss of exclusive rights.

Design Patent – A form of protection for the ornamental appearance of a functional item. Related terms: design registration, ornamental. Example: Protecting the shape of a smartphone case. Enforcement can be limited to visual similarity.

Design Registration – The process of registering a design with a national office to obtain exclusive rights. Related terms: design patent, industrial design. Practical use: Registering a fashion pattern. Challenges include proving originality and non-functionality.

Doctrine of Equivalents – A legal principle allowing a court to find infringement when a product or process performs substantially the same function in substantially the same way to achieve the same result, even if not literally within the claim language. Related terms: literal infringement, claim scope. Example: A competitor’s device uses a different component but achieves the same result. Application varies by jurisdiction and may be limited by prosecution history estoppel.

Doctrine of First Sale – The principle that once a copyrighted work is lawfully sold, the purchaser may resell it without the copyright holder’s permission. Related terms: exhaustion, resale. Example: A used-book store selling a previously purchased novel. Limitations arise with digital goods and licensing agreements.

Doctrine of Laches – An equitable defense asserting that a plaintiff’s unreasonable delay in asserting a right has prejudiced the defendant. Related terms: delay, prejudice. Example: A trademark owner waits ten years before suing for infringement; the defendant may invoke laches. Proving prejudice can be challenging.

Domain Name – An Internet address that can be protected under trademark law if it is confusingly similar to a protected mark. Related terms: cybersquatting, DNS. Practical use: Registering “brandname.com” to prevent misuse. Disputes often go through the UDRP process.

Domain Name Dispute – A conflict over ownership or use of a domain name that may infringe trademark rights. Related terms: UDRP, cybersquatting. Example: Filing a complaint under the Uniform Domain-Name Dispute-Resolution Policy. Challenges include jurisdiction and proving bad-faith registration.

Due Diligence – The comprehensive investigation of an IP asset’s legal status, ownership, and validity before a transaction. Related terms: risk assessment, audit. Practical use: Conducting IP due diligence before a merger. Incomplete due diligence can expose buyers to hidden liabilities.

Economic Rights – The bundle of rights that allow a copyright holder to earn money from the work, such as reproduction, distribution, and public performance. Related terms: moral rights, exclusive rights. Example: Collecting royalties from streaming services. Enforcement varies by jurisdiction.

Enforcement – The set of actions taken to protect and assert IP rights against infringement. Related terms: litigation, cease-and-desist. Practical application: Sending warning letters, filing lawsuits, and seeking injunctions. Resource constraints often limit enforcement strategies.

Entitlement – The legal right to receive benefits, such as royalties, under an IP contract. Related terms: royalty, licensee. Example: An author entitled to a share of book sales. Disputes may arise over accounting transparency.

Equitable Remedy – A non-monetary court order, such as an injunction or specific performance, used in IP cases. Related terms: injunction, specific performance. Example: A court orders a competitor to stop using a patented process. Obtaining equitable relief often requires showing irreparable harm.

Estoppel – A doctrine preventing a party from asserting a claim inconsistent with its prior conduct or statements. Related terms: prosecution history, waiver. Example: A patentee narrows claims during prosecution and later cannot claim broader scope. Strategic claim drafting can avoid estoppel.

Exhaustion – The principle that the first authorized sale of a patented product terminates the patentee's control over that item. Related terms: first sale, resale. Example: A purchaser can resell a patented device without infringement. International exhaustion rules differ.

Expert Witness – An individual with specialized knowledge who provides testimony in IP litigation. Related terms: perjury, testimony. Practical use: A patent expert explains claim construction to the court. Credibility and bias are often contested.

Fair Use – A statutory exception allowing limited use of copyrighted material without permission for purposes such as criticism, news reporting, or education. Related terms: four-factor test, transformation. Example: Quoting a short excerpt in a review. Determination depends on a multi-factor analysis.

Family Member Doctrine – A principle in trademark law that allows registration of marks that are similar if the owners are related and the goods are not likely to cause confusion. Related terms: likelihood of confusion, affiliation. Example: Two sibling companies using similar logos for distinct product lines. Courts apply this doctrine cautiously.

Fee Simple – The most complete form of ownership in property, including intangible assets, without limitations. Related terms: title, ownership. Example: Owning a patent outright (fee simple) versus holding a license. Transferability is unrestricted.

Filing Date – The date on which an IP application is officially received by the relevant office, establishing priority. Related terms: priority date, first filing. Example: A patent filed on March 1, 2024, gets that date as its priority. Missing the filing deadline can forfeit rights.

First-to-File – A patent system where the right to a patent is awarded to the first applicant to file, regardless of invention date. Related terms: priority, race. Example: Two inventors develop the same invention; the one who files first secures the patent. The system encourages prompt filing.

First-to-Invent – A legacy patent system (now abolished in most jurisdictions) where the right to a patent

was awarded to the first to conceive the invention. Related terms: interference, conception. Example: Prior to 2013, US law used first-to-invent; inventors had to prove actual invention date. The shift to first-to-file simplified priority disputes.

Fixation – The requirement that a work be captured in a tangible medium to qualify for copyright protection. Related terms: originality, expression. Example: Recording a song on a digital file satisfies fixation. Unfixed ideas lack protection.

Force Majeure – A contractual clause that excuses performance due to extraordinary events beyond a party's control, sometimes impacting IP licensing obligations. Related terms: act of God, clause. Example: A pandemic prevents a licensee from delivering software updates. Invocation may affect royalty payments.

Freedom-to-Operate (FTO) – An assessment of whether a product can be commercialized without infringing existing IP rights. Related terms: clearance, risk analysis. Practical use: Conducting an FTO search before launching a new drug. Incomplete analysis can expose companies to infringement suits.

General Public – The collective body of individuals who may be affected by IP policies and enforcement. Related terms: public interest, access. Example: Balancing patent exclusivity with public health needs. Policy debates often revolve around the impact on the general public.

Goodwill – The intangible value associated with a business's reputation, often reflected in trademark protection. Related terms: brand equity, reputation. Example: A well-known restaurant's name carries goodwill. Misappropriation can erode that value.

Grandfather Clause – A provision allowing existing rights to continue under new regulations, often used in IP transitions. Related terms: transition, legacy rights. Example: Older trademarks may be "grandfathered" after a law change. Interpretation may be contested.

Harassment – Unlawful conduct that may intersect with IP enforcement, such as threatening letters intended to intimidate. Related terms: intimidation, abusive litigation. Example: Sending hostile cease-and-desist letters. Courts may sanction abusive behavior.

Heuristic – A practical method or rule of thumb used in IP search and analysis, such as keyword clustering for patent landscape studies. Related terms: algorithm, methodology. Example: Using a heuristic to identify likely infringing products. Heuristics can miss edge cases.

Hybrid Protection – Combining multiple IP rights, such as patents and trade secrets, to safeguard different aspects of an invention. Related terms: dual strategy, layered protection. Practical use: Patent the core technology while keeping process details secret. Coordination between regimes is essential.

Infringement – The unauthorized use of an IP right, such as copying a patented invention or using a protected trademark. Related terms: violation, unauthorized use. Example: Selling a product that incorporates a patented component without a license. Remedies include damages and injunctions.

Infringing Product – A tangible good that embodies an IP right without permission. Related terms: counterfeit, unauthorized. Example: A smartphone that incorporates a patented camera module. Identifying

infringing products often requires technical analysis.

Initial Disclosure – The first public communication of an invention, which can affect patentability. Related terms: prior art, publication. Example: Presenting a new algorithm at a conference may constitute an initial disclosure. Timing is critical for filing.

Inspection Right – The ability of a rights holder to examine a suspected infringing product or premises. Related terms: discovery, evidence. Example: A trademark owner requests to inspect a warehouse. Enforcement may be limited by privacy laws.

International Search Report (ISR) – A document issued by a patent office during the PCT process, summarizing relevant prior art. Related terms: PCT, prior art. Practical use: Assessing patentability before entering national phases. The ISR influences claim strategy.

International Registration (Madrid System) – A system that enables filing of a single trademark application to obtain protection in multiple member countries. Related terms: Madrid Protocol, centralized filing. Example: Registering a brand in the EU, Japan, and Canada via one application. Coordination with national offices is required.

Injunction – An equitable order directing a party to do or refrain from specific conduct, often used in IP disputes. Related terms: injunctive relief, equitable remedy. Example: A court issues a preliminary injunction to stop sales of a infringing product. Obtaining an injunction requires showing likelihood of success and irreparable harm.

Insider Trading – Though primarily a securities law concept, misuse of confidential IP information for stock market advantage can be implicated. Related terms: confidentiality, securities law. Example: Trading shares based on knowledge of an upcoming patent grant. Enforcement involves both IP and securities regulators.

Intentional Infringement – Conduct undertaken with knowledge that it violates an IP right. Related terms: willful infringement, damages. Example: Selling a known counterfeit product. Intentional infringement can lead to enhanced damages.

Inter partes Review (IPR) – A post-grant proceeding before the USPTO to challenge the validity of an issued patent. Related terms: post-grant review, reexamination. Practical use: A competitor seeks to invalidate a competitor's patent. The process is limited to patents issued after 2012.

International Patent Classification (IPC) – A hierarchical system for categorizing patent documents by technical field. Related terms: classification, search. Example: Using IPC codes to locate relevant patents during a freedom-to-operate search. Accurate classification improves search efficiency.

International Trade Mark (ITM) – A trademark application filed under the Madrid System, seeking protection in multiple jurisdictions. Related terms: Madrid Protocol, centralized filing. Example: Filing an ITM for a fashion brand across European and Asian markets. Monitoring renewals across jurisdictions is essential.

Judicial Notice – A court's acceptance of a fact as true without requiring evidence, often applied to widely known IP facts. Related terms: evidence, proof. Example: The court takes note that a work is in the public

domain. Misapplication can affect case outcomes.

Judgment – The final decision of a court in an IP case, which may include monetary awards and injunctions. Related terms: verdict, decree. Example: A judgment awarding damages for trademark infringement. Enforcement may require post-judgment collection mechanisms.

Judicial Estoppel – A doctrine preventing a party from taking contradictory positions in subsequent litigation. Related terms: estoppel, consistency. Example: A patentee who narrowed claims during prosecution cannot later assert broader scope. The doctrine maintains procedural fairness.

Laboratory Notebook – A contemporaneous record of research activities, often used as evidence of invention date. Related terms: inventor's journal, prior art. Practical use: Demonstrating conception date in a first-to-invent jurisdiction. Proper documentation is crucial.

License Agreement – A contract granting permission to use IP under defined conditions. Related terms: royalty, grant. Example: A software company licenses its code to a hardware manufacturer. Negotiating scope, term, and termination rights can be complex.

Licensee – The party receiving rights under a license agreement. Related terms: licensee, licensee obligations. Example: A startup becomes a licensee of a patented sensor technology. Compliance with reporting and royalty payment obligations is essential.

Licensor – The owner of IP who grants a license to another party. Related terms: grantor, licensor duties. Example: A university acts as licensor for a patented biotech invention. Managing multiple licensees requires robust tracking.

Limitation Period – The statutory time limit within which a claim must be filed, after which rights may be barred. Related terms: statute of limitations, time bar. Example: Patent infringement actions must be filed within six years of the alleged infringement in the US. Missing the deadline can extinguish claims.

Litigation – The process of resolving disputes through the court system, including filing complaints, discovery, trial, and appeal. Related terms: lawsuit, dispute resolution. Example: Initiating a lawsuit for trademark infringement. Litigation is costly and time-consuming, prompting parties to consider alternative dispute resolution.

Live-Working Patent – A patent that remains commercially viable and actively exploited. Related terms: portfolio, active. Example: A pharmaceutical company maintains a live-working patent on a blockbuster drug. Managing renewal fees and monitoring competitors is ongoing.

License Compatibility – The ability of multiple licenses to coexist without conflict, especially in open-source software. Related terms: GPL, MIT license. Example: Combining code under Apache 2.0 with GPL-licensed components. Incompatible licenses can create legal barriers.

Limited Scope – A restriction on the breadth of rights granted, often used in licensing to define specific fields or territories. Related terms: territorial limitation, field of use. Example: A license limited to medical devices only. Precise drafting prevents unintended expansion.

Litigant – A party involved in a lawsuit, either as plaintiff or defendant. Related terms: party, claimant. Example: The trademark owner is the litigant initiating the action. Identifying the proper litigant can affect jurisdiction.

Live-Working Trademark – A trademark that is actively used in commerce and maintained through renewals. Related terms: registration, renewal. Example: A brand that files timely renewal documents to keep its registration alive. Failure to use may lead to abandonment.

Local Law – Jurisdiction-specific statutes and regulations governing IP rights. Related terms: national law, regional law. Example: The French Intellectual Property Code differs from the US Lanham Act. Practitioners must navigate varying local requirements.

Marketplace Enforcement – Strategies to monitor and act against infringing products on e-commerce platforms. Related terms: online infringement, takedown. Example: Sending a DMCA notice to an online retailer. Platforms may have differing policies, complicating enforcement.

Material Change – A substantial alteration to an IP asset that may affect its scope, value, or enforceability. Related terms: amendment, modification. Example: Changing the core algorithm of a patented software. Material changes may require filing new applications.

Merger Doctrine – A principle that bars claim of infringement when the patented feature is inseparably combined with the rest of the claimed invention. Related terms: inequitable conduct, claim construction. Example: A patented component that cannot be used without the entire device. Application varies by jurisdiction.

Message-Based Trade Mark – A trademark consisting of a slogan or phrase rather than a logo or word. Related terms: slogan, verbal mark. Example: "Just Do It" as a message-based mark. Protection focuses on the distinctiveness of the phrase.

Mixture of Rights – The coexistence of multiple IP protections over a single product, such as a design patent and trademark. Related terms: layered protection, composite. Example: A sneaker protected by a design patent, trademark, and trade dress. Coordinated enforcement is necessary.

Modification – A change to an existing IP asset that may affect its legal status. Related terms: amendment, alteration. Example: Updating a software's source code may create a derivative work. Determining whether a modification triggers new protection requires analysis.

Monetary Damages – Financial compensation awarded to a rights holder for losses incurred due to infringement. Related terms: compensatory damages, statutory damages. Example: Awarding \$1 million for lost profits from counterfeit sales. Calculating damages often involves expert testimony.

Monopolistic Abuse – The misuse of IP rights to stifle competition beyond legitimate protection, potentially violating antitrust laws. Related terms: antitrust, competition law. Example: Refusing to license a standard-essential patent on unreasonable terms. Balancing IP exclusivity with competition policy is delicate.

Motor Vehicle Trademark – A trademark specifically applied to automobile brands, often protected under both trademark and trade dress law. Related terms: automotive brand, trade dress. Example: The distinctive grille design of a car manufacturer. Enforcement may involve design patents as well.

Multimedia Work – A work that combines multiple forms of expression, such as video, audio, and text, protected by copyright. Related terms: composite work, derivative work. Example: An interactive educational app. Determining ownership can be complex when multiple contributors are involved.

National Phase – The stage in the PCT process where an applicant files in individual countries to obtain national patents. Related terms: PCT, entry. Example: Entering the US national phase 30 months after the international filing date. Each jurisdiction may require translations and fees.

Non-Disclosure Agreement (NDA) – A contract that obligates parties to keep confidential information secret, often used before sharing IP. Related terms: confidentiality agreement, secrecy. Example: A startup signs an NDA with a potential investor before disclosing its prototype. Breach can lead to loss of trade-secret protection.

Non-Infringement Opinion – A legal assessment concluding that a product does not infringe a particular IP right. Related terms: freedom-to-operate opinion, legal opinion. Example: A law firm provides a non-infringement opinion for a new device. Opinions are persuasive but not binding.

Non-Obviousness – A patentability requirement that an invention must not be obvious to a person having ordinary skill in the art. Related terms: inventive step, obviousness. Example: Demonstrating that a claimed improvement yields unexpected results. Evidence may include secondary considerations like commercial success.

Non-Standard Essential Patent (NSEP) – A patent that is not required for compliance with a technical standard. Related terms: standard-essential patent, SEP. Example: A patent on a proprietary compression algorithm. Licensing terms are negotiated freely, unlike SEPs.

Objection – An examiner's formal statement indicating deficiencies in an IP application. Related terms: office action, rejection. Example: An examiner issues an objection to a claim for lack of novelty. Applicants must respond within a set timeframe.

Obviousness – The patent law standard evaluating whether an invention would have been obvious to a skilled artisan at the time of filing. Related terms: non-obviousness, inventive step. Example: Combining two known elements in a predictable way may be deemed obvious. Courts apply the Graham factors.

Off-Label Use – The use of a patented pharmaceutical product for an unapproved indication, which may raise infringement concerns. Related terms: patent exhaustion, FDA. Example: Prescribing a drug for a disease not listed on its label. Patent owners may enforce rights against manufacturers but not necessarily prescribers.

Opposition – A formal proceeding allowing third parties to challenge the grant of a trademark or design registration. Related terms: opposition proceeding, cancellation. Example: Filing an opposition against a

rival's trademark application. Grounds may include likelihood of confusion or descriptiveness.

Orphan Work – A copyrighted work whose owner cannot be identified or located, limiting the ability to obtain permission. Related terms: orphan, public domain. Example: Digitizing a vintage photograph with no known author. Some jurisdictions provide limited use rights for orphan works.

Patent Cooperation Treaty (PCT) – An international treaty facilitating a unified filing process for patent applications in multiple jurisdictions. Related terms: international filing, PCT. Example: Filing a PCT application to seek protection in Europe, Japan, and the US. The PCT does not grant a patent itself.

Patent Eligibility