
Graduate Certificate in Intellectual Property Law

Intellectual Property Law Fundamentals

Intellectual property (IP) refers to the collection of legal rights that protect creations of the mind. These rights enable creators, inventors, and businesses to control the use of their innovations and to reap economic benefits. The main categories of IP include patents, trademarks, copyrights, trade secrets, and industrial designs. Each category has its own set of terms, requirements, and enforcement mechanisms. Understanding the vocabulary is essential for anyone studying or practicing IP law at a graduate level.

Patent law is concerned with protecting new, useful, and non-obvious inventions. The following terms are fundamental:

Invention – Any new and useful process, machine, manufacture, composition of matter, or any improvement thereof. For example, a novel pharmaceutical compound that treats a previously incurable disease qualifies as an invention.

Patentable subject matter – The categories of inventions that statutes permit to be patented. In most jurisdictions, abstract ideas, natural phenomena, and laws of nature are excluded. A software algorithm alone is generally not patentable, but a specific implementation that produces a technical effect may be.

Novelty – The requirement that the invention must not have been disclosed to the public before the filing date. Prior art, which includes publications, existing products, and public use, destroys novelty. A practical illustration: if a researcher publishes a paper describing a new battery chemistry, any subsequent patent application for that same chemistry will be rejected for lack of novelty.

Non-obviousness – Also called “inventive step,” this standard demands that the invention would not have been obvious to a person of ordinary skill in the art (POSA) at the time of filing. If a known device is merely combined with a known component in a predictable way, the result likely fails the non-obviousness test.

Utility – The invention must have a specific, substantial, and credible utility. A perpetual motion machine, which claims to produce energy without input, is typically rejected for lacking utility.

Specification – The written description that accompanies a patent application. It includes a detailed description of the invention, drawings, and claims. The specification must enable a POSA to reproduce the invention without undue experimentation. For instance, a biotech patent must disclose the method for isolating a protein, including the reagents and conditions used.

Claims – The numbered statements that define the legal scope of protection. Claims are the heart of a patent; they determine what the patentee can exclude others from doing. A claim may be independent or dependent, with dependent claims adding further limitations. Example: an independent claim may cover “a method for synthesizing compound X,” while a dependent claim may specify “where the reaction

temperature is between 50°C and 70°C.”

Prior art – All information made available to the public before the filing date, including publications, patents, products, and public disclosures. Prior art is used to assess both novelty and non-obviousness. A common challenge is the “prior art search,” which involves locating and analyzing relevant documents to evaluate the patentability of an invention.

Patent term – The period during which the patent is enforceable. In most countries, the term is 20 years from the filing date, subject to the payment of maintenance fees. Extensions may be available for pharmaceutical patents to compensate for regulatory delays.

Maintenance fees – Periodic payments required to keep a granted patent in force. Failure to pay results in lapse, at which point the invention enters the public domain. Companies often conduct “portfolio reviews” to decide whether to maintain or abandon patents based on commercial value.

Infringement – The unauthorized making, using, selling, or importing of a patented invention. Infringement can be direct (literal copying) or indirect (contributory or induced). A classic case: a company that manufactures a device that incorporates a patented component without a license may be liable for infringement.

Defence of invalidity – A patentee may be sued for infringement, and the alleged infringer can challenge the validity of the patent. Grounds for invalidity include lack of novelty, obviousness, insufficient disclosure, or non-patentable subject matter. Litigation often hinges on expert testimony and prior art analysis.

Licensing – The process by which a patentee grants permission to another party to use the patented technology, usually in exchange for royalties or other consideration. Licenses can be exclusive (only one licensee) or non-exclusive (multiple licensees). A practical example is a pharmaceutical company licensing a patented drug to a generic manufacturer after the patent expires, under a “post-grant” agreement.

Compulsory licensing – A statutory right that allows a government to authorize a third party to use a patented invention without the patentee’s consent, typically for public health or national emergency reasons. The United Nations’ TRIPS Agreement permits compulsory licensing under specific conditions.

Patent family – A group of related patent applications covering the same invention in multiple jurisdictions. Managing a patent family requires coordination of filing dates, claim language, and prosecution strategies across different patent offices.

Patent prosecution – The procedural steps taken to obtain a patent, including filing, examination, office actions, and allowance. Effective prosecution involves responding to examiner objections, amending claims, and possibly appealing adverse decisions.

Patent portfolio – The collection of patents owned by an individual or organization. Companies use portfolio analysis to assess the strength of their IP position, identify gaps, and plan strategic licensing or enforcement actions.

Patent troll – A pejorative term for entities that acquire patents primarily to enforce them through litigation

rather than to produce or commercialize the underlying technology. The practice raises policy concerns about abuse of the legal system.

Patent exhaustion – Also known as the “first sale doctrine,” this principle limits the patentee’s rights after a patented product is sold. Once a product is lawfully sold, the purchaser may resell or use it without further infringement liability. However, licensing agreements can sometimes carve out exceptions.

Moving to trademark law, which protects signs that distinguish the goods or services of one enterprise from those of another. Key vocabulary includes:

Trademark – A word, phrase, symbol, design, or combination thereof that identifies the source of goods or services. Example: the “swoosh” logo identifies Nike athletic apparel.

Goods – Tangible products. Trademarks used on goods are called “trademark” in some jurisdictions, while those used on services are called “service marks.” The distinction matters for registration.

Service mark – A trademark used to identify services rather than physical products. For instance, “McDonald’s” as a fast-food restaurant service is a service mark.

Distinctiveness – The degree to which a mark can serve as an identifier of source. Marks are classified as arbitrary/fanciful, suggestive, descriptive, or generic. Arbitrary marks (e.g., “Apple” for computers) receive strong protection, while descriptive marks (e.g., “Fast Print” for printing services) must acquire secondary meaning.

Secondary meaning – The association in the public’s mind between a descriptive mark and a particular source. Evidence may include length of use, advertising expenditures, and consumer surveys. A company selling “Quick-Clean” cleaning products may need to prove that consumers associate “Quick-Clean” with its brand.

Generic term – A term that has become the common name for a product category, and therefore cannot be protected. “Thermos” was once a trademark but became generic after widespread use.

Likelihood of confusion – The standard used to determine whether two marks are too similar, potentially causing consumer confusion about the source. Courts consider factors such as similarity of the marks, relatedness of the goods, strength of the senior mark, and evidence of actual confusion.

Senior user – The party that first used a mark in commerce. In many jurisdictions, the senior user has priority over later users, even if the later user files for registration first.

Registration – The process of recording a trademark with the appropriate government office (e.g., USPTO, EUIPO). Registration confers presumptive ownership and makes enforcement easier. However, rights can also arise from common law use without registration.

Opposition – A proceeding in which a third party challenges a trademark application before registration is

granted. Grounds for opposition include likelihood of confusion, descriptiveness, or prior rights. An example is a company filing an opposition against a new "Coca-Cola" flavored beverage that uses a similar logo.

Cancellation – A post-registration proceeding to remove a trademark from the register, often on grounds of non-use or abandonment. Trademark owners must typically demonstrate continuous use; otherwise, the mark may be canceled after five years of non-use.

Infringement – Unauthorized use of a protected mark in a way that is likely to cause confusion, mistake, or deception. Infringement actions may seek injunctions, damages, and attorney fees.

Dilution – A doctrine that protects famous marks from uses that blur or tarnish their distinctiveness, even in the absence of confusion. For example, using "Google" as a brand for a line of shoes could be considered dilution.

Cease-and-desist letter – A formal notice sent by a trademark owner demanding that an alleged infringer stop the offending activity. These letters often precede litigation and may include a demand for monetary settlement.

Trademark licensing – The agreement by which a trademark owner allows another party to use the mark under defined conditions. Licenses can be exclusive or non-exclusive, and must typically include quality control provisions to protect the mark's reputation.

Assignment – The transfer of ownership of a trademark from one party to another. Assignments must be recorded with the trademark office to be effective against third parties.

International Registration (Madrid System) – A system administered by the World Intellectual Property Organization (WIPO) that allows a trademark owner to seek protection in multiple member countries through a single application. It streamlines the filing process for multinational businesses.

Madrid Protocol – The treaty governing the Madrid System. It provides a mechanism for filing and managing international trademark registrations.

Collective mark – A mark used by members of an association to indicate that they belong to the group, such as a professional society's emblem. Collective marks have special rules to prevent misuse.

Certification mark – A mark indicating that goods or services meet certain standards set by the certifying organization. For example, "UL" certifies electrical safety.

Domain name – While not a trademark per se, domain names often intersect with trademark law. Cybersquatting, the registration of domain names that correspond to another party's trademark, can be challenged under the Uniform Domain-Name Dispute-Resolution Policy (UDRP).

Bad faith registration – The act of registering a trademark with the intent to profit from another's established brand, often to coerce a settlement. Courts may cancel such registrations and award damages.

Trademark monitoring – The ongoing process of watching the market for potentially infringing uses.

Companies may use watch services to detect unauthorized uses and act promptly.

Copyright law protects original works of authorship fixed in a tangible medium of expression. The essential terms include:

Work of authorship – Any original creation expressed in a medium, such as literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual, or software works. For example, a novel, a song, a film, and a computer program are all works of authorship.

Originality – The requirement that the work must be independently created and possess at least a minimal degree of creativity. Mere facts or ideas are not protected; the expression of those ideas is.

Fixation – The work must be recorded in a physical or digital form that is sufficiently permanent to be perceived, reproduced, or otherwise communicated. A spoken improvisation that is not recorded is not protected until it is captured.

Exclusive rights – The bundle of rights granted to the copyright owner, including reproduction, distribution, public performance, public display, and creation of derivative works. These rights enable the owner to control how the work is used.

Derivative work – A work that is based upon one or more pre-existing works, such as a translation, adaptation, or remix. The creator of a derivative work must obtain permission from the original copyright holder unless an exception applies.

Public domain – The status of works that are no longer protected by copyright, either because the term has expired, the author has dedicated the work to the public, or the work never met the statutory requirements. Works in the public domain can be freely used.

Copyright term – The length of time a work is protected. In most jurisdictions, it is the life of the author plus 70 years. For works made for hire, the term may be 95 years from publication or 120 years from creation, whichever is shorter.

Work for hire – A work created by an employee within the scope of employment, or a specially commissioned work where parties agree in writing that the work is a work for hire. The employer, not the individual creator, is the copyright owner.

Notice – Historically, a copyright notice (©, the year, and the name of the owner) was required to claim protection. Modern law makes notice optional, but it still serves as a deterrent and may affect damages in infringement actions.

Registration – While copyright arises automatically upon fixation, registration with the national copyright office provides additional benefits, such as the ability to sue for statutory damages and attorney fees. Registration is often a prerequisite for litigation.

Infringement – The unauthorized copying, distribution, public performance, or creation of a derivative work. Infringement can be direct (literal copying) or indirect (contributory or vicarious). For example, uploading a copyrighted song to a file-sharing site without permission is direct infringement.

Fair use – A doctrine that permits limited use of copyrighted material without permission for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research. Courts evaluate four factors: the purpose and character of the use, the nature of the copyrighted work, the amount used, and the effect on the market.

Fair dealing – Similar to fair use, but more narrowly defined in some Commonwealth jurisdictions. It provides specific statutory exceptions for research, private study, criticism, review, and news reporting.

First sale doctrine – The principle that once a lawfully made copy of a protected work is sold, the purchaser may resell or otherwise dispose of that copy without infringing the copyright. This doctrine underlies the resale of books, CDs, and other physical media.

Digital Millennium Copyright Act (DMCA) – A United States statute that implements international copyright treaties and establishes rules for online service providers. Key provisions include safe harbor protections for platforms that promptly remove infringing content upon notice, and anti-circumvention rules that prohibit the bypassing of technological protection measures.

Safe harbor – The legal shield that protects online service providers from liability for user-generated infringing content, provided they meet certain criteria such as implementing a notice-and-takedown system and not having actual knowledge of the infringement.

Notice-and-takedown – The process by which a copyright owner sends a formal notice to an online service provider, requesting removal of infringing material. The provider must act expeditiously to avoid liability.

Statutory damages – Pre-determined monetary awards set by law, ranging from a few hundred to several thousand dollars per work, depending on whether the infringement was willful. Statutory damages provide a deterrent and compensate owners when actual damages are difficult to quantify.

Orphan works – Works whose copyright owners cannot be identified or located. Some jurisdictions have introduced limited exceptions to allow the use of orphan works after a diligent search.

License – A permission granted by the copyright owner to use the work under specific terms. Licenses can be exclusive (only the licensee may exploit the work) or non-exclusive (multiple licensees may use the work). Creative Commons licenses are examples of standardized non-exclusive licenses that stipulate the conditions of use.

Collective rights management – Organizations, often called collecting societies, that administer rights on behalf of multiple copyright owners, such as composers, authors, and publishers. They issue licenses, collect royalties, and distribute payments.

Moral rights – Rights that protect the personal and reputational interests of authors, including the right of attribution and the right to object to derogatory treatment of the work. Moral rights are recognized in many

civil-law jurisdictions and are inalienable in some countries.

Work-sharing platforms – Online services that enable users to upload, share, and stream copyrighted content. These platforms must navigate DMCA safe harbor, licensing agreements, and content-identification technologies such as fingerprinting.

Content ID – A system used by video-sharing platforms to automatically identify copyrighted material and enforce the rights holder's preferences, which may include blocking, monetizing, or tracking the content.

Derivative licensing – The granting of permission to create adaptations, such as film adaptations of novels. Negotiating derivative licenses often involves complex considerations of royalties, creative control, and credit.

Public performance right – The exclusive right to perform a work publicly, such as a song on a radio broadcast or a theater production. Digital streaming services must obtain licenses for the right to publicly perform music and audiovisual works.

Mechanical rights – The right to reproduce and distribute a musical composition in audio recordings. In many jurisdictions, mechanical rights are administered by collecting societies that issue compulsory licenses for cover songs.

Synchronization right (sync right) – The right to pair a musical composition with visual images, such as in a film or advertisement. Sync licensing is a distinct revenue stream for music publishers.

Secondary infringement – Liability that arises from facilitating infringement, such as providing equipment, services, or instructions that enable others to infringe. Courts assess whether the secondary infringer had knowledge of the infringing activity.

Statutory exemption – Certain categories of uses that the law explicitly excludes from infringement, such as library archiving, format shifting for personal use, or educational copying under specific conditions.

Compulsory licensing (copyright) – A statutory mechanism that allows a user to obtain a license for a copyrighted work without the owner's consent, typically upon payment of a set royalty. This is common for musical works in some jurisdictions.

Trade secret law protects confidential business information that provides a competitive advantage. Core terms include:

Trade secret – Information that is not generally known, has commercial value because it is secret, and is subject to reasonable efforts to maintain its secrecy. Examples include formulas, manufacturing processes, customer lists, and marketing strategies.

Reasonable measures – The steps taken to keep information confidential, such as non-disclosure agreements (NDAs), restricted access, password protection, and employee training. Courts evaluate whether

the measures were sufficient to qualify as a trade secret.

Non-disclosure agreement – A contract in which parties agree not to disclose or use confidential information for unauthorized purposes. NDAs are a primary tool for protecting trade secrets during collaborations and employment.

Misappropriation – The acquisition, disclosure, or use of a trade secret without consent, typically through breach of confidence, theft, or espionage. Misappropriation can be civil or criminal, depending on jurisdiction.

Reverse engineering – The process of analyzing a product to discover the underlying technology. In many legal systems, reverse engineering is permissible if the product was lawfully obtained, but it may be prohibited by contractual restrictions.

Independent development – A defense that the alleged infringer arrived at the same information through separate, lawful research. The burden is on the defendant to prove independent development.

Trade secret protection – Unlike patents, trade secret protection can last indefinitely, provided secrecy is maintained. However, once the secret is disclosed, protection is lost.

Uniform Trade Secrets Act (UTSA) – A model law adopted by most U.S. states that provides a framework for trade secret protection, defining misappropriation, remedies, and procedural aspects.

Defend Trade Secrets Act (DTSA) – A federal statute in the United States that allows trade secret owners to bring civil actions in federal court and provides for injunctions and damages.

Economic espionage – The theft or misappropriation of trade secrets for commercial advantage, often involving foreign actors. Many jurisdictions impose criminal penalties for economic espionage.

Remedies – Legal relief for trade secret violations includes injunctions (to stop further use), damages (actual loss and unjust enrichment), and in some cases punitive damages. Courts may also order civil contempt sanctions for violations of protective orders.

Protective order – A court order that limits the disclosure of confidential information during litigation, often used in discovery to prevent inadvertent exposure of trade secrets.

Confidentiality clause – A provision in contracts that obligates parties to keep certain information secret. These clauses are essential in joint-venture agreements and licensing deals.

Trade secret audit – An internal review that identifies, classifies, and protects valuable confidential information. Companies conduct audits to ensure compliance with trade secret policies.

Trade secret litigation – Legal disputes involving allegations of misappropriation. Cases often involve discovery battles over the existence and scope of the trade secret, requiring protective orders and expert testimony.

International trade secret protection – While many countries have trade secret statutes, protection varies.

The European Union's Trade Secrets Directive harmonizes protection across member states, while other jurisdictions rely on common law or contractual principles.

Industrial design law safeguards the ornamental aspects of a product's appearance. Important terms include:

Industrial design – The visual features of a product, such as shape, pattern, or color, that give it a unique appearance. A distinctive bottle shape for a perfume may be protected as an industrial design.

Design registration – The process of filing a design with the appropriate office to obtain exclusive rights. Registration typically requires drawings or photographs that clearly disclose the design.

Design patent – In some jurisdictions, particularly the United States, a design patent protects the ornamental design of a functional item. The term "design patent" is distinct from utility patents.

Novelty (design) – The design must be new and not previously disclosed to the public. Prior designs, publications, or public exhibitions can destroy novelty.

Individual character – The design must create a different overall impression on the informed user compared with existing designs. This requirement ensures that minor variations do not qualify for protection.

Duration – Design protection typically lasts for a limited period, often 15 to 25 years, subject to renewal fees. The term varies by jurisdiction.

Enforcement – Infringement occurs when a product incorporates a design that is substantially similar to a protected design without permission. Remedies may include injunctions and damages.

Design infringement analysis – Courts compare the accused design with the protected design, focusing on overall visual impression rather than technical features.

Design portfolio – Companies often maintain a collection of registered designs to protect the aesthetic elements of product lines, especially in fashion, consumer electronics, and automotive industries.

International design protection – The Hague System for the International Registration of Industrial Designs, administered by WIPO, allows applicants to seek protection in multiple member countries through a single filing.

Hague Agreement – The treaty that establishes the Hague System, facilitating streamlined filing, examination, and renewal of design rights across participating states.

Design community – In some jurisdictions, a design community is a group of related designs that share a common overall impression. Protection may extend to all designs within the community under a single registration.

Geographical indication (GI) protects product names that originate from a specific location and possess qualities attributable to that place. Core concepts include:

Geographical indication – A sign used on goods that indicates a geographical origin and that the quality, reputation, or other characteristic of the goods is essentially attributable to that origin. Examples include “Champagne” for sparkling wine from the Champagne region of France.

Appellation of origin – A stricter form of GI that requires the product to be wholly produced, processed, and prepared in the designated area, using recognized know-how. “Parma ham” is an appellation of origin.

Collective trademark – A mark used by members of a cooperative or association to identify goods from a particular region. In some legal systems, collective trademarks can function as GIs.

Certification mark (GI context) – A mark that certifies that the goods conform to the standards associated with the geographical region, such as “Protected Designation of Origin” (PDO) in the European Union.

Protected Geographical Indication (PGI) – In the EU, a PGI indicates that at least one stage of production, processing, or preparation occurs in the region. “Prosciutto di Parma” is a PGI.

Protected Designation of Origin (PDO) – The highest level of GI protection in the EU, requiring that all stages occur in the region. “Roquefort” cheese is a PDO.

Misuse of GI – The unauthorized use of a protected geographical name, which can mislead consumers about the product’s origin. Enforcement actions may involve injunctions and damages.

International protection – The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) obliges WTO members to provide GI protection. However, the level of protection varies, and bilateral agreements often address specific GIs.

Enforcement challenges – GIs often face difficulties in markets where the name has become generic (e.g., “cheddar” for a cheese type). Protecting GIs requires vigilance, consumer education, and coordination among producers.

Moral rights protect the personal connection between creators and their works. Key terms include:

Moral right of attribution – The right of the author to be identified as the creator of the work. Failure to provide attribution can lead to a claim for infringement of moral rights.

Right of integrity – The author’s right to prevent distortion, mutilation, or other modifications that would prejudice their honor or reputation. Even if the work is in the public domain, moral rights may still apply.

Right of disclosure – The author’s control over when and how a work is first made public. This right is recognized in some jurisdictions, allowing authors to delay publication.

Waiver and transfer – In many civil-law countries, moral rights are inalienable and cannot be transferred,

though a limited waiver may be possible. In contrast, common-law jurisdictions often treat moral rights as assignable.

Duration – Moral rights usually last for the same term as the underlying copyright, though some jurisdictions extend them beyond the economic rights.

Licensing and technology transfer are central to the commercialization of IP. Important vocabulary includes:

License agreement – A contract that grants permission to use IP under defined terms. Licenses may be exclusive, non-exclusive, or sole (the licensor may also use the IP but no other third party may).

Royalty – The payment made by the licensee to the licensor, often calculated as a percentage of sales, a fixed per-unit amount, or a lump-sum.

Milestone payments – Payments tied to the achievement of specific development or regulatory milestones, common in pharmaceutical licensing.

Field of use – A limitation that restricts the license to a particular market segment or geographic area. For example, a software license may be limited to the education sector.

Territory – The geographic region in which the licensee may exploit the IP. Territories can be worldwide, regional, or country-specific.

sublicensing – The ability of a licensee to grant further licenses to third parties. Whether sublicensing is permitted is a key negotiation point.

Cross-licensing – An arrangement where two parties grant each other licenses to their respective IP, often to avoid litigation and foster collaboration.

Patent pool – A consortium of patent owners who aggregate their patents and offer joint licensing. Patent pools can simplify licensing for complex technologies, such as standards-essential patents.

Standards-essential patent (SEP) – A patent that claims technology essential to a technical standard. SEP owners must license on “fair, reasonable, and non-discriminatory” (FRAND) terms.

FRAND commitment – The obligation of SEP holders to offer licenses on terms that are fair and reasonable, preventing abuse of dominant position.

Technology transfer agreement – A broader contract that may include licensing, joint research, and collaboration provisions, facilitating the movement of technology from research institutions to commercial entities.

Confidentiality clause (technology transfer) – Protects proprietary information exchanged during collaboration.

Escrow – A mechanism where source code or other critical IP is deposited with a neutral third party, to be released under predefined conditions (e.g., supplier bankruptcy).

Indemnification – A clause in which one party agrees to compensate the other for certain liabilities, such as infringement claims arising from the licensed IP.

Warranty – Representations made by the licensor regarding the validity, enforceability, and non-infringement of the licensed IP.

Termination clause – Conditions under which the license may be ended, such as breach, non-payment, or expiration of the patent term.

Audit rights – The licensor's right to examine the licensee's records to verify royalty payments.

Enforcement and dispute resolution encompass the mechanisms for protecting and defending IP rights. Core concepts include:

Injunction – A court order requiring a party to do or refrain from doing a specific act. Preliminary injunctions may be granted before trial to prevent ongoing harm.

Damages – Monetary compensation for losses suffered due to infringement. Types include actual damages, lost profits, and in some cases, statutory damages.

Attorney-fees – In many IP cases, the prevailing party may recover reasonable legal costs, especially in cases of willful infringement.

Alternative dispute resolution (ADR) – Methods such as mediation and arbitration that allow parties to resolve IP disputes without litigation. Arbitration clauses are common in licensing agreements.

Customs enforcement – Authorities may seize imported goods that infringe IP rights. The IP holder must register the right with customs to enable enforcement.

Border measures – Legal tools that enable the blocking of counterfeit or pirated goods at the border, often through injunctions or customs notifications.

Cease-and-desist letter – A preliminary step that outlines the alleged infringement and demands cessation, often used to initiate settlement negotiations.

Settlement – An agreement reached between parties that resolves the dispute, usually involving payment, licensing, or other concessions.

Litigation strategy – The planning of legal actions, including choice of forum, jurisdiction, and claim formulation. For multinational IP owners, forum shopping can be a strategic consideration.

Forum non conveniens – A doctrine allowing a court to dismiss a case if another forum is more appropriate

for the parties.

Choice-of-law clause – A contractual provision that determines which jurisdiction’s law will govern the agreement, crucial in cross-border licensing.

Exhaustion doctrine – Also relevant to patents and copyrights, this principle limits the rights holder’s control after a lawful sale, impacting secondary markets.

Anti-trust considerations – Enforcement actions must avoid violating competition law. For instance, overly broad injunctions that restrict market entry may raise antitrust concerns.

Patent litigation trends – The rise of specialized IP courts, the use of claim construction hearings, and the growing importance of expert witnesses.

Copyright enforcement in the digital age – Use of automated detection tools, takedown notices, and the balance between protection and freedom of expression.

Trade secret enforcement – Injunctive relief is often the primary remedy because damages may be difficult to quantify. Courts may issue “temporary restraining orders” (TROs) to quickly stop ongoing misappropriation.

International dispute resolution – Arbitration under the International Chamber of Commerce (ICC) or the World Intellectual Property Organization (WIPO) is common for cross-border IP disputes.

Policy and international frameworks shape the global IP landscape. Key terms include:

World Intellectual Property Organization (WIPO) – A United Nations agency that administers international IP treaties, including the Patent Cooperation Treaty (PCT), Madrid System, and Hague System.

Patent Cooperation Treaty (PCT) – A treaty that streamlines the filing of international patent applications, providing a unified filing system and a preliminary examination before national phases.

International Search Report (ISR) – Issued during the PCT process, the ISR identifies prior art relevant to the patentability of the invention.

International Preliminary Examination Report (IPER) – Provides an opinion on the likelihood of patentability, assisting applicants in refining claims before national filings.

TRIPS Agreement – Sets minimum standards for IP protection among WTO members, covering patents, trademarks, copyrights, and trade secrets.

Berne Convention – An international treaty governing copyright protection, establishing the principle of “national treatment” and setting minimum standards for protection.

Paris Convention – Provides for national treatment and priority rights for patents, trademarks, and industrial

designs.

Madrid Protocol – Facilitates international trademark registration, allowing a single application to designate multiple member countries.

Hague Agreement – Enables international registration of industrial designs, simplifying the process for multinational applicants.

WIPO Arbitration and Mediation Center – Offers services for resolving IP disputes through mediation and arbitration.

Free Trade Agreements (FTAs) – Often contain IP chapters that go beyond TRIPS standards, affecting protection levels and enforcement mechanisms.

IP enforcement policies – National strategies that address piracy, counterfeiting, and online infringement, often involving coordinated efforts between customs, law enforcement, and the private sector.

Public policy exceptions – Limitations on IP rights when they conflict with broader societal interests, such as compulsory licensing for public health.

Digital rights management (DRM) – Technological tools used to control access to copyrighted works. DRM can raise legal issues under anti-circumvention provisions.

Open-source licensing – Licenses that grant users the right to use, modify, and redistribute software, subject to certain conditions (e.g., GNU GPL). Open-source models intersect with copyright and patent law.

Patent thicket – A dense web of overlapping patents that can hinder innovation, especially in high-technology sectors. Strategies to navigate thickets include cross-licensing and patent pools.

Standard-setting organizations (SSOs) – Bodies that develop technical standards. Participation often requires members to disclose essential patents and commit to FRAND licensing.

Innovation policy – Government initiatives that support research and development, often through tax incentives, grants, and IP-friendly legislation.

IP valuation – The process of estimating the monetary worth of IP assets, used in mergers and acquisitions, licensing negotiations, and financial reporting.

IP due diligence – The examination of IP portfolios