

Helpful Resources for Intellectual Property Law

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Grace Hopper Celebration of Women in Computing, Anita Borg Institute, October 2016

- U.S. Patent and Trademark Office: <https://www.uspto.gov/>
- U.S. Copyright Office: <http://www.copyright.gov/>
- For details about copyright law, access *The Compendium of U.S. Copyright Office Practices*, 3rd ed.: <http://www.copyright.gov/comp3/index.html>
- Although Trade Secret is typically a state law matter, a new federal law was just passed called the Defend Trade Secrets Act of 2016:
<https://www.congress.gov/bill/114th-congress/senate-bill/1890/text>

Reasons to consider trade secret law:

- Can protect work in progress, before the final version is ready.
- No costs to register/apply.
- Commentators suggest that as what can be protected by a patent (patent eligibility) is narrowed by recent cases (*Bilski v. Kapos*; *Alice Corp. v. CLS Bank International*), trade secret law may provide a better alternative, especially for software and business method-related inventions.
- But to use trade secret law to protect intellectual property, commentators suggest that creators/inventors/companies need to do a better job of categorizing their trade secrets (not everything that is “confidential” qualifies as a trade secret) and making sure that they are taking “reasonable” steps to protect these trade secrets.

More Online Resources:

Levitt and Davis list of number of free commercial portals and directories for legal research. (Carole A. Levitt & Judy K. Davis. *Internet Research on a Budget: Free and Low-Cost Resources for Lawyers*. Chicago: ABA Law Practice Division, 2014, pp. 35-46.)

- Justia: <http://www.justia.com>, accessed 10/12/16.
- FindLaw: www.findlaw.com, accessed 10/12/16.
- Law.com – <http://www.law.com>, 10/12/16.
- HR.org (formerly Hieros Gamos) <http://hg.org>, accessed 10/12/16.
- LLRX.com: <http://www.llrx.com>, accessed 10/12/16.
- Nolo Press: <http://www.nolo.com>, accessed 10/12/16.

Some additional websites for legal research are:

- Legal Information Institute: <https://www.law.cornell.edu/>, accessed 10/12/16.
- Washburn University’s WashLaw: www.washlaw.edu, accessed 10/12/16.
- Public Legal - Internet Legal Research Group: www.ilrg.com, accessed 10/12/16.

- Virtual Chase: <http://virtualchase.justia.com/legal-research>, accessed 10/12/16.
- All Law: <http://www.alllaw.com>, accessed 10/12/16.
- Law & Policy Institutions Guide: <http://www.lpig.org/>, accessed 10/12/16.
- American Intellectual Property Law Association (AIPLA):
<http://www.aipla.org/Pages/default.aspx>, accessed 10/12/16.
- International Legal Technology Association (ILTA): <http://www.iltanet.org/>, accessed 10/12/16.

Legal Dictionaries:

- Legal Dictionary: <http://www.legal-dictionary.org>, accessed 10/12/16.
- Law.com Dictionary: <http://dictionary.law.com>, accessed 10/12/16.
- FindLaw Legal Dictionary: <http://dictionary.lp.findlaw.com>, accessed 10/12/16.
- The Law Dictionary (Black’s Law Dictionary): <http://thelawdictionary.org/>, accessed 10/12/16.
- Nolo's Free Dictionary of Law Terms and Legal Definitions:
<http://www.nolo.com/dictionary>, accessed 10/12/16.

In terms of legal dictionaries, there is probably an “app” for that so that content can be accessed on mobile devices. For example,

- Black’s Law Dictionary: for Android <http://thelawdictionary.org/blacks-law-dictionary-android-app/> and the iPhone <http://thelawdictionary.org/blacks-law-dictionary-iphone-app/>, both accessed 10/12/16.

Finding Cases:

- Google Scholar: <http://scholar.google.com/>, accessed 10/12/16.
- FindLaw: <http://lp.findlaw.com/#casesearch>, accessed 10/12/16.
- The Public Library of Law: <http://www.plol.org>, accessed 10/12/16.
- The Free Law Reporter 2011--): <http://www.freelawreporter.org>, accessed 10/12/16.
- FindACase Network (free from VersusLaw): <http://findacase.com>, accessed 10/12/16.
- Justia’s U.S. Supreme Court Center: <http://supreme.justia.com>, accessed 10/12/16 and links to cases from other courts: <http://law.justia.com/cases/>, accessed 10/12/16.
- Oyez (for free U.S. Supreme Court resources): <http://www.oyez.org>, accessed 10/12/16.
- Supreme Court of the United States: <http://www.supremecourt.gov>, accessed 10/12/16.

Joint Copyright:

According to the definition on the U.S. Copyright Office website, “[a] joint work is defined in the copyright law as a “work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” In a joint work, all authors own an undivided interest in the entire work, without the need for any transfer of rights.

A long line of cases indicates confusion with joint copyright. See *Aalmuhammed v. Lee*, 202 F.3d 1227 (9th Cir. 2000). Courts have limited joint authorship claims by required that each alleged joint author intend to be a joint author with the others at the time the work is created. The other aspect of this is that, at the time the material was prepared, the parts are absorbed or combined into an integrated unit.

See also:

Lorelei Laird, That’s Awkward: Do Memes Violate Copyright Law? *ABA Journal*, Sept. 2016, p. 10.

Leslie A. Gordon, In the Dutch Domain: Why Anne Frank’s Diary Isn’t Free Yet. *ABA Journal*, Aug. 2016, pp. 9-10.

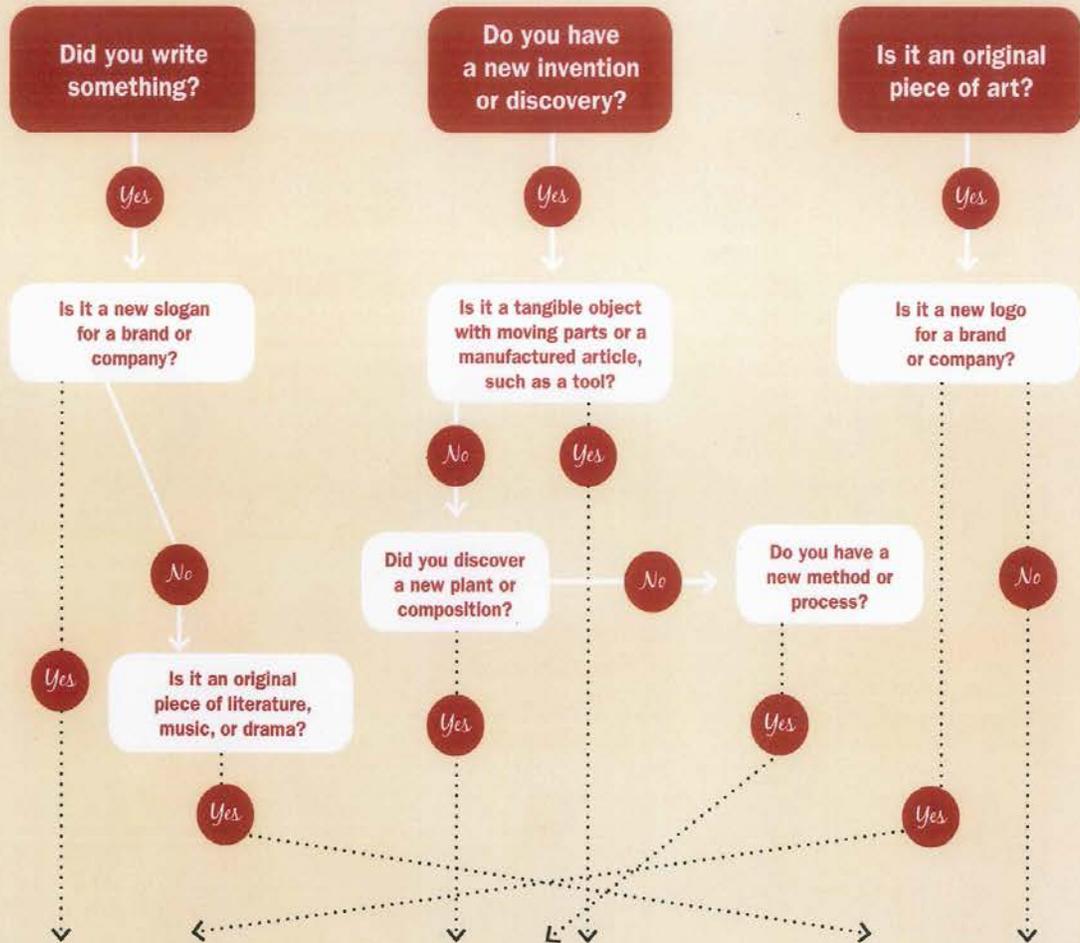
Mark Schweizer, Break For or Blow Against Three-Dimensional Marks? Fallout from the Court of Justice’s Judgment in the Kit Kat Shape Mark Case. *Landslide*, vol. 9, no. 1, Sept./Oct. 2016, pp. 52-56. (Should the shape of a Kit Kat candy bar be protected as a trademark?)

Ed Timberlake, Jr., The Cool Things: Frozen Confections Registered as Trademarks. *Landslide*, vol. 9, no. 1, Sept./Oct. 2016, pp. 13-17. (Dippin’ Dots, Bomb Pops, the Dairy Queen Crossed-Over Curl – should the shapes of these foods be protected as trademarks?)

Christopher J. Buccafusco & Jonathan Yellin, Copyright in the Kitchen: Exploring Protection for Recipes and Dishes. *Landslide*, vol. 9, no. 1, Sept./Oct. 2016, pp. 44-48.

HOW SHOULD I FILE?

Protect your idea with a copyright, patent, or trademark



Trademark

A trademark is a word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs, that identifies and distinguishes the source of the goods of one party from those of others. Think the Nike "swoosh" and the slogan *JUST DO IT*®. In addition, colors and fragrances may be registered as trademarks. Think the red painted soles of a Christian Louboutin shoe or the smell of Clarke's Osewez®'s sewing thread and embroidery yarn.

A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than a product. Think FedEx®.

Source: www.uspto.gov

Patent

Under U.S. patent law, any person who "invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent." In general, this means you must satisfy the following four requirements to qualify for a patent:

- The subject matter must be patentable.
- The invention must be novel.
- The invention must have some utility or usefulness.
- The invention must not be obvious.

Source: www.legalzoom.com

Copyright

Copyrights are a form of protection for the authors of "original works of authorship," such as literary works, including computer programs; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; and sound recordings and architectural works.

Abstract ideas which are only in your head are not copyrightable. That said, you can copyright tangible forms of creative expression which are recorded on paper, CD, DVD, or similar media. When a work is created, a copyright of it is automatically secured. If you like, you can add the copyright symbol to your work.

Source: www.law.cornell.edu