

***International Intellectual
Property Law***

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www.uspto.gov/sites/default/files/news/publications/IP_Report_March_2012.pdf



intellectual property and the U.S. economy

Industries in Focus

prepared by the
Economic and Statistics Administration
and the
United States Patent and Trademark Office

"Intellectual Property and the U.S. Economy: Industries in Focus,"

- intellectual property (IP)-intensive industries support at least 40 million jobs and contribute more than \$5 trillion dollars to, or 34.8 percent of, U.S. gross domestic product (GDP).
- Merchandise exports of IP-intensive industries totalled \$775 billion in 2010, accounting for 60.7% of total U.S. merchandise exports.
- IP-intensive industries directly accounted for 27.1 million American jobs, or 18.8% of all employment in the economy, in 2010.

Class Schedule

Class	Topics
	The International IP Landscape
1	Introduction: The origins of the international IP regime: Paris Convention on Industrial Property 1883; Berne Convention on Literary and Artistic Works, 1886; Universal Copyright Convention
2	The WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) negotiation history
3	General principles – national treatment, most favoured nation, minimum standards
4	TRIPS Revision
5	TRIPS Jurisprudence
6	Bilateralism

Class Schedule

Class	Topics
5	Morality issues: access to HIV AIDS medicines, stem cell patenting
6	Biotechnological inventions, plant breeders' rights; <u>biopiracy</u> and biodiversity
	Trademarks and Geographical Innovations
7	The international trademarks regime: Madrid Agreement and Protocol, well-known marks, dilution
8	Geographical indications and Certification Marks

Class Schedule

	Patents and Biotechnological Innovations
7	The international patents regime: Paris Convention, Strasbourg Classification Agreement, Budapest Treaty on the Deposit of Micro-organisms, Patent Co-operation Treaty (PCT), TRIPS, Patent Law Treaty (PLT) and SPLT,
8	Morality issues: access to HIV AIDS medicines,
9	Patenting of DNA and climate change
10	<u>Biopiracy</u>
13	Protection of traditional knowledge
11	Access to biological resources- Convention on Biological Diversity, Nagoya Protocol
12	plant breeders' rights

Class Schedule

	Trademarks and Geographical Indications
13	International Trademarks Regime – Madrid Agreement and Protocol, Nice Agreement, Trademark Registration Treaty
14	Well-known Marks
15	Geographical indications -foodstuffs, wines and spirits
17	Geographical indications -handicrafts
18	Certification and collective marks

	Copyright and Neighbouring Rights
19	International copyright regime- Berne Convention, WIPO Copyright Treaties
20	Unauthorised downloading- direct and vicarious infringement
21	Moral Rights, Exceptions, eg fair use
22	Protecting traditional cultural expressions
	Confidential Information
23	Trade Secrets

	Enforcement and Commercialization of IPRs
24	IPRs, Licensing and Technology Transfer
25	Civil Enforcement of IPRs
26	Border control of IPRs
27	Criminal Enforcement-
28	Anti-counterfeiting Trade Agreement (ACTA) 2010
29	Piracy and counterfeiting -involvement of organized crime and terrorists;
30	EU enforcement directive and national implementation

Reading Guide

Uploaded to website

1 –Origins of International IP Law

Abbott, Frederick M. Thomas Cottier, Francis Gurry, *The International Intellectual Property System, Commentary and Materials*, Kluwer Law International, 1999.

Blakeney, M. *Trade Related Aspects of Intellectual Property Rights. A Concise Guide to the TRIPs Agreement* London: Sweet & Maxwell, 1996

D'Amato, Anthony and Doris E. Long eds, International Intellectual Property Law Kluwer Law International, London; Boston, 2001

Correa, Carlos M., Abdulgawi *Trade Related Aspects of Intellectual Property Rights. A Commentary on the TRIPS Agreement*, 3rd ed, Oxford: Oxford University Press, 2016

Drahos, P. with Braithwaite, J., *Information Feudalism: Who Owns the Knowledge Economy?* London. Earthscan. 2002.

Doern, G. Bruce, *Global Change And Intellectual Property Agencies: An Institutional Perspective*, London: Pinter, 1999.

Course Materials

Uploaded to website

WORLD TRADE ORGANIZATION AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)

PART I GENERAL PROVISIONS AND BASIC PRINCIPLES

PART II STANDARDS CONCERNING THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS

1. Copyright and Related Rights
2. Trademarks
3. Geographical Indications
4. Industrial Designs
5. Patents
6. Layout-Designs (Topographies) of Integrated Circuits
7. Protection of Undisclosed Information
8. Control of Anti-Competitive Practices in Contractual Licences

Helpful IP Law Websites

- Franklin Pierce Law Centre: the FPLC Intellectual Property Mall: <http://www.ipmall.fplc.edu>
- Intellectual Property Resources on the Web: Mountain Man Graphics: http://magna.com.au/~prfbrown/ip_links.html
- Internet sites for lawyers: <http://www.viclf.asn.au/research.html>
- Max Planck Institute for International and Comparative Patent, Copyright and Competition Law, Munich: <http://www.intellecprop.mpg.de/>
- US Copyright Office: <http://lcweb.loc.gov/copyright>
- US House of Representatives Internet Law Library, Intellectual Property: <http://law.house.gov/105.htm>
- World Intellectual Property Organisation, Geneva: <http://www.wipo.org/>
- World Wide Web Virtual Library, Law, Intellectual Property (Indiana University School of Law, Bloomington): <http://www.law.indiana.edu/law/v-lib/intellect.html>

Assessment

- Oral Exam
- Dissertation?

Assessment, Exam (possibility 1)

- In his October 2009 Encyclical Letter, ***Caritas In Veritate***, Pope Benedict XVI wrote that “On the part of rich countries there is excessive zeal for protecting knowledge through an unduly rigid assertion of the right to intellectual property, especially in the field of health care.” To what was Pope Benedict XVI referring?
- Are there any other fields in which it can be argued that rich countries are inappropriately asserting intellectual property rights?
- In your answer refer to at least two categories of intellectual property right.

Assessment – Exam (possibility 2)

- The objectives of the World Trade Organization Agreement on Intellectual Property Rights (TRIPS) are contained in Article 7 which provides that “The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge”.
- To what extent do you think that these objectives can be realized by the Agreement in its current form?
- How might the Agreement be amended to accommodate the particular interests of developing countries?
- In your answer refer to at least two categories of intellectual property right.

Dissertation possibilities

Patents

1. Is DNA patentable?
2. What are the competition implications of patenting climate-ready genes?
3. Are plants patentable?
4. What remedies are available to organic farmers in relation to GM contamination?
5. When is the compulsory licensing of patents appropriate?
6. Does the copyright open source model work for biotechnology?

Dissertation Topics

Plant Breeder's Rights

7. Does the insertion of a disease resistance gene into a plant create a new plant variety?
8. Can plant breeding methods be patented?
9. What is “an essentially derived variety”.
10. When is the saving of seeds by farmers permitted?
11. Why has plant variety rights protection been described as “the Neanderthal of intellectual property”?

Dissertation Topics

Access to Genetic Resources and Benefit Sharing

12. What is the international legal regime regulating bioprospecting?
13. Can IP rights be sought in relation to germplasm made available under the International Treaty on Plant Genetic Resources for Food and Agriculture.
14. Describe the evolution of the Nagoya Protocol.

Geographical Indications

18. What are the linking factors?

19. To what extent can a company's business address be protected as a trade mark?

20. How might GIs promote rural development?

21. What are the international proposals for the protection of handicrafts as geographical indications?

22. Why did Australia and the USA bring an action under the TRIPS Agreement against the EU in relation to the latter's geographical indications law?