

FAST FACTS 2007



INTELLECTUAL PROPERTY RIGHTS

GENERAL FACTS

The World Intellectual Property Organization (WIPO) defines intellectual property (IP) as “creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.” (see <http://www.wipo.org>)

The three most common vehicles for protecting intellectual property are patents, trademarks and copyrights.

Patents: (Utility, Design, or Plant) Protect inventions and improvements to existing inventions.

Trademarks: Are words, names, symbols, devices, and/or images that are applied to products or used in connection with goods or services to identify their source.

Copyrights: Protect the expression of ideas in literary, artistic, and musical works.

The following is a brief overview of intellectual property rights (IPR) and the organizations involved in protecting IPR internationally.

HOW ARE IP RIGHTS PROTECTED INTERNATIONALLY

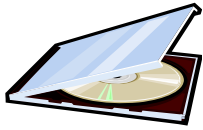
Intellectual property rights give the owners of ideas, inventions, and creative expression the right to exclude others from access to, or use of, their property for a certain period of time. The U.S. provides a wide range of protection for intellectual property through the federal registration of trademarks and service marks, federal patent protection and copyright protection, and under state laws through protection of trade secrets and marks. However, federal protections apply only in the U.S., its territories and possessions. International treaties and the laws of various countries differ significantly in terms of the degree of protection and enforcement available.

To secure full patent rights in another country, you must apply for a patent in that country. To learn about the specific intellectual property laws and requirements of individual countries, see the WIPO “Guide to Intellectual Property Worldwide” at: <http://www.wipo.int/about-ip/en>

The Patent Cooperation Treaty (PCT) streamlines the process for U.S. inventors and businesses wishing to obtain patent protection in other countries. By filing one international patent application with the U.S. Patent Office (USPTO), U.S. applicants can concurrently seek protection in up to 115 countries. For filing an international patent under the PCT, see the USPTO website link at: <http://www.uspto.gov/go/pct/>

Copyright protection is automatic in all World Trade Organization (WTO) countries without any formality (such as registration or copyright notice), and is extended on the basis of national treatment – a U.S. author suing in France under French copyright law is entitled to the same protection as a French author suing in France under French copyright law. To learn more about copyrights, see the U.S. Copyright Office website at <http://www.copyright.gov>

The WTO agreement on Trade-Related aspects of Intellectual Property rights (TRIPs) increased the standards of protection for IPR. The agreement also provides for the effective enforcement of those standards both internally and at the border. The TRIPs agreement is the first multilateral



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intellectual property agreement that is enforceable between governments. The agreement is said to have a strong dispute settlement mechanism to resolve disputes and leads members of the WTO to provide criminal procedures and penalties in cases of willful trademark counterfeiting and copyright piracy.

Nevertheless, it is essential to seek proper legal advice on any issues related to IPR enforcement. For more information on enforcement and dispute resolution, see the WIPO website link at: <http://www.wipo.int/sme/en> as well as a listing of the VEDP VALET Partner legal firms with international expertise in the “Additional Resources” section on page 3 of this document.

Aside from confirming the type of IPR protection and enforcement practiced in the foreign country of your customer, another question to consider in consultation with an expert or legal counsel is whether or not to even pursue international protection for your IP. For example, there may be cases when it is advisable to forego patent protection to safeguard trade secrets and sensitive information that may need to be published in the patent process. In any case, it is important to note that in addition to obtaining patent protection, you should also protect your trade secrets through appropriate confidentiality provisions in employment, licensing, marketing, financing, distribution, and joint venture agreements.

HOW ARE IP RIGHTS PROTECTED INTERNATIONALLY?

The USTR at <http://www.ustr.gov/> includes country reports on the status of IPR protection, entitled the “Special 301” report.

Priority Foreign Country	Priority Watch List	Watch List
Ukraine	Argentina	Azerbaijan
	Bahamas	Belarus
	Brazil	Bolivia
Section 306	EU	Canada
China	India	Chile
Paraguay	Indonesia	Colombia

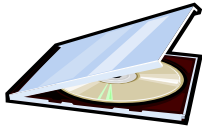
The USTR also has the **2005 National Trade Estimate Report on Foreign Trade Barriers** at: http://www.ustr.gov/Document_Library/Reports_Publications/2005/2005_NTE_Report/Section_Index.html

ADDITIONAL RESOURCES

World Trade Organization: <http://www.wto.org/>

“Tools for Protecting Your Intellectual Property” Harvard Business School Working Knowledge, September 2002: <http://hbswk.hbs.edu>

“Protecting Intellectual Property Rights Abroad: Resources for U.S. Exporters,” Export America Magazine, June 2002: <http://www.export.gov/exportamerica>



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VEDP TRADE EVENTS

For a complete listing of VEDP's international trade events, please visit the "Events" tab on our website: www.ExportVirginia.org

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