

# List of Entries

*Note: Entries are alphabetized letter by letter; e.g., publication precedes public use.*

## A

- AAU\*
- abandonment
  - of invention
  - of patent application
  - of trademark
  - of application to register trademark
- abstract of the disclosure
- access
- accused device
- accused work
- ACPA\*†
- acquiescence\*†
- adaptation right†
- ad interim copyright\*
- ADR\*
- aesthetic functionality\*
- affixation
- aggregation
- aid or abet infringement
- Aiken exemption
- AIPLA
- AIPPI
- algorithm
- all claims rule
- all elements rule
- all rights reserved
- alternative dispute resolution (ADR)
- ambush marketing
- amendment
  - of patent application
  - of application for and registration of mark
  - of copyright registration
- Amendment to Allege Use
- American Inventors Protection Act†
- analogous art
- annuity\*
- anonymous work
- anticipation
- anticircumvention\*†
- antlike persistency
- apostille
- apparatus claim
- appellation of origin
- application program
- apportionment of profits\*
- APS
- arbitrary mark
- arbitration\*
- art
- ASCAP
- ASMP
- assignment
  - of patent
  - of trademark
  - of copyright

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\* Indicates that the entry is a cross-reference

† Indicates that the entry is new to the third edition

## List of Entries

assignor estoppel  
    patent  
    trademark registration

ATRIP

attorney-client privilege

attorney fees award

    in patent cases

    in trademark cases

    in copyright cases

attorney work product

attribution, right of\*†

audience test\*

Audio Home Recording Act\*

audiovisual work

author

### B

back door to Berne

based on

Bayh-Dole Act

BCIA

Benson algorithm\*

Berne Convention

best edition†

best mode

biogenetics\*

biotechnology

BIRPI

blackout period

blanket license

blind bidding

block booking

blocking patents

BMI

Board of Patent Appeals and Interferences

bootleg merchandise

bootleg recording

brand name

brevet

Brussels Satellite Convention

Budapest Treaty

Buenos Aires Convention

bundling

bursting bubble\*

business method†

### C

CAFC\*

cancellation proceeding

captive chip

CARP\*

carry back

    patent

    trademark registration

CCC\*

CCPA\*

cell depository

cell library

certificate of correction\*

certification mark

challenge

Chinese copy

Chinese wall

chip

chip pirate

CIP

claim

claim differentiation, doctrine of

clean room

clearance

clear and convincing

click-wrap license

co-branding

Code of Conduct on the Transfer of

    Technology†

coined mark\*

collective mark

    trademarks and service

    membership

collective work\*

combination

combining prior art

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## List of Entries

- commercial success
  - common descriptive name
  - Community Trademark\*
  - compilation
  - composite mark
  - comprehensive nonliteral similarity\*
  - comprising
  - compulsory licensing
    - of a patent
    - of a trademark
    - of a copyright
  - computer program
    - copyright
    - patent
    - trade secret protection
  - concealment
  - concept
  - conception
  - concurrent use proceeding
  - cone of silence
  - confusingly similar
  - consent agreement
    - for patent
    - for trademark
  - consisting essentially of
  - consisting of
  - consonance\*
  - Constitution
  - constructive notice
  - constructive use
  - constructive reduction to practice\*
  - contestable registration\*
  - continuation
  - continuation-in-part
  - contributory infringement
    - patent
    - trademark
    - copyright
  - CONTU**
  - convention date
    - patent
    - trademark registration
  - Convention of the International Union for the Protection of New Plant Varieties (UPOV)
  - convoyed sales†
  - copies
  - copying
    - in copyright law
    - in patent law
    - in trademark law
  - copying a claim
  - copyright
  - Copyright Arbitration Royalty Panels
  - Copyright Clearance Center
  - copyright management information†
  - Copyright Royalty Tribunal
  - corporate receipt doctrine
  - correction, certificate of
    - patent
    - trademark registration
    - copyright registration
  - corroboration
  - count
    - patent interference
    - general federal litigation
  - Court of Appeals for the Federal Circuit
  - counterfeiting
  - Court of Customs and Patent Appeals
  - cover recording†
  - creativity
  - critical date
  - cross-read
  - crowded art
  - crowded field of marks
  - CRT\*
  - CSS†
  - CTM\*†
  - cybersquatting†
- D**
- Dann Amendments
  - DART\*

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## List of Entries

data base  
deceptive mark  
DeCSS\*†  
decompiling\*  
defensive publication\*  
definiteness of claims  
de minimis  
dependent claim  
deposit of biological materials\*  
deposit of copies  
    archival  
    registration  
derivation  
derivative work  
description requirement  
descriptive mark  
design around  
designer skilled in the art  
design patent  
design registration  
dictum  
Digital Audio Recording Technology  
Digital Millenium Copyright Act†  
    anti-circumvention provisions  
    protection for copyright management  
    information  
    safe harbors for internet service  
    providers  
    computer maintenance or repair  
    activities  
    protection for design of vessel hulls  
Digital Performance Right†  
diligence  
dilution  
disassembling  
disclaimer  
    patent  
    trademark registration  
disclosure  
disclosure document  
display  
distribution right  
divestive publication\*  
divisional application  
    patent  
    trademark  
DMCA\*†  
domain name†  
Domestic Publication of Foreign Filed  
    Patent\*†  
domination  
double patenting  
    same invention-type  
    obviousness-type  
doubt, rule of  
dramatic rights\*  
droit de suite  
droit moral\*  
droits voisins\*  
due diligence  
Dunkel Text  
duration  
    patent  
    trademark  
    copyright  
    trade secret  
    right of publicity  
duty of candor\*†

**E**

early neutral evaluation\*  
East and West†  
Economic Espionage Act†  
ejusdem generis  
election of species  
element  
embodiment  
enablement  
enabling prior art  
entire market value rule  
entitlement proceeding  
EPO\*  
equitable estoppel

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equivalents, doctrine of  
 equivalents, “means plus function” claims\*  
 equivalents, reverse doctrine of  
 established royalty\*  
 estoppel by marking\*  
 European Community Trademark†  
 European patent  
 eviction  
 examiner  
 examining attorney  
 exceptional case\*  
 exhausted combination\*  
 exhaustion doctrine  
     patent rights  
     trademark rights  
     copyright rights  
 ex parte  
 experimental use  
     Exception to the “On Sale” and “Public  
     Use” Bars to Patent Validity  
     Defense to a Charge of Patent  
     Infringement  
 expression-idea dichotomy\*

**F**

failure of others  
 fair use  
     copyright  
     trademark  
 Fairness in Music Licensing Act†  
 family of marks  
 famous mark  
     in the United States  
     Paris Convention, Article 6bis  
     North American Free Trade Agreement  
     (NAFTA), Article 1708(6)  
     General Agreement on Tariffs and Trade  
     (GATT) Agreement on Trade-Related  
     Aspects of Intellectual Property Rights,  
     Including Trade in Counterfeit Goods  
     (TRIPS), Article 16(2-3)

Examples of Domestic Implementation of  
     the Famous Mark Doctrine  
 United States Anti-Dilution Law  
 European Community Trademark  
     Harmonization Directive, Article  
     5(2)  
 fanciful mark  
 field of use restriction  
 file wrapper  
 file wrapper estoppel  
 final rejection  
     of patent application  
     of application for registration of mark  
 firmware  
 First Inventors Defense Act†  
 first sale doctrine  
 first to file  
     patent  
     trademark  
 first to invent  
 fixed  
 flash of genius  
 Foreign Patent Access System†  
 fragmented literal similarity\*  
 framing†  
 franchising  
 fraud on the Copyright Office  
 fraud on the Patent and Trademark  
     Office  
     in obtaining a patent\*  
     in obtaining registration of a mark  
 freeware\*  
 functionality  
     design patents  
     trademark–trade dress  
     copyright  
 functional patent

**G**

GATT  
 Gebrauchsmuster

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generic name  
genericide  
genetic engineering  
geographic denomination  
geographic mark  
Geschmacksmuster  
get up  
gist of the invention  
good will  
grace period  
grandparent application  
grand rights  
grant back  
graphical user interface  
gray market goods  
    trademark law  
    copyright law  
group of 77  
gTLD\*†

### H

Hague Agreement  
hard cases make bad law  
harmonization  
Harry Fox Agency  
head start injunction\*  
heart of the invention  
hindsight  
homestyle exemption\*†  
how to make  
how to use  
hypothetical person skilled in the art

### I

ICANN†  
idea  
idea-expression dichotomy  
idem sonans  
identity of invention  
IFRRO

implied license\*  
improvement patent\*  
inconsistent positions, doctrine of  
incontestable registration\*  
incremental income approach  
indefiniteness of claim  
independent claim\*  
independent development  
independent development injunction\*  
independent inventor  
indication of source  
indivisibility of copyright  
induce infringement  
industrial design registration\*  
industrial property  
inequitable conduct  
inevitable disclosure  
information disclosure statement  
infringement  
    utility patent  
    design patent  
    trademark  
    copyright  
    trade secret  
inherency  
inoperable prior art  
INTA  
integrity, right of\*†  
intellectual property  
intent to claim  
intent to use application  
intercept survey\*  
interest, prejudgment\*  
interference  
    patent  
    trademark registration  
interference estoppel  
inter partes  
intervening rights  
interview  
invent around\*  
invention

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inventive entity  
 inventive process  
 inventive step  
 inventor's certificate  
 investive publication\*  
 ITU\*

**J**

Jepson claim  
 joint authors  
 joint inventors  
 jukebox\*  
 junior party  
 jus tertii  
     copyright cases  
     trademark cases

**K**

Kamenstein Legislative History Project  
 knock-off  
 know-how

**L**

label license  
 laches  
     in patent cases  
     in trademark cases  
     in copyright cases  
 Lanham Act  
 late claiming  
 Lear rule\*  
 letter of consent\*  
 letter of protest\*  
 license  
     of patent  
     of trademark  
     of copyright  
 licensee estoppel  
     in patent licenses

    in trademark licenses  
     in copyright licenses  
 likelihood of confusion\*  
 linking†  
 Lisbon Arrangement  
 limited publication\*†  
 literal infringement  
 literary character†  
 literary work  
 little variation rule  
 Locarno Agreement  
 logo  
 long felt need  
 look and feel  
 lost arts  
 lost count  
 lost profits  
     patent infringement  
     trademark infringement  
     copyright infringement

**M**

Madrid Arrangement  
 Madrid Protocol  
 Madrid Union\*  
 maintenance fees  
 Manual of Patent Examining Procedure\*  
 manufacturing clause  
 march in  
 mark  
 marking estoppel  
 marking of patent  
 Markman Hearing†  
 Markush claim  
 mask work  
 means for claim\*  
 means-plus-function claim  
 mechanical licensing agent  
 mechanical rights  
 mechanic skilled in the art\*  
 mediated instructional activities

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- mediation\*  
merchandising  
merchant's mark  
merger  
    in copyright  
    in trademark  
metatag†  
method claim\*  
METI\*†  
Mexico City Convention  
microcode  
microorganism depository  
minitrial\*  
misappropriation  
misdescriptive mark\*  
mismarking  
misuse  
    patent  
    trademark  
    copyright  
MITI  
monopoly  
    patent  
    trademark  
moral rights  
motion picture  
moveover  
MPEP  
MPIA\*†  
multimedia  
multiple dependent claim  
multiple performances doctrine\*  
Muncie Gear doctrine\*  
musical work  
mutilation  
    changes required in patent law  
    changes required in copyright law  
    changes required in trademark law
- N**
- NAFTA  
naked license\*
- nanotechnology  
National Film Preservation Act  
neighboring rights  
new matter  
new use for old product\*  
Nice Agreement  
No Electronic Theft Act (NET)†  
nominative fair use\*†  
nonobviousness\*  
nonprofit organization  
nonstaple\*  
nose of wax  
notice  
    of patent\*  
    of trademark  
    of copyright  
notice of allowance†  
novelty  
nunc pro tunc
- O**
- object code  
objective evidence  
obviousness  
obvious to try  
office action  
Office for Harmonization in the Internal  
    Market†  
Official Gazette  
off-shore assembly  
    Export of Parts of a Patented  
        Combination  
    Importation Into the United States of the  
        Unpatented Product of an Off-Shore  
        Use of a Process Patented in the  
        United States  
OG\*  
OHIM†  
old combination\*  
OMPI\*†  
on sale

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Operating System Program  
 opposition proceeding  
 Orange Book†  
 ordinary observer test  
 ordinary skill in the art  
 originality  
 Orphan Drug Act  
 overbreadth\*  
 overclaiming

**P**

package licensing  
 palming off\*  
 Pan American Trademark Convention  
 paper example\*  
 paper patent  
 parallel imports\*  
 parent application  
 Paris Convention  
 passing off  
 passive carrier  
 patent  
 patent annuity\*  
 Patent Cooperation Treaty  
 Patent Depository Library  
 Patent Harmonization Treaty\*  
 patentee  
 patent marking\*  
 patent pending  
 patent pool  
 PCT\*  
 performance  
 performing rights society  
 per se illegal  
 persona  
 personal name mark  
 petty patent  
 phantom count  
 phantom registration  
 phonogram  
 Phonogram Convention

phonorecords  
 pioneer patent  
 piracy  
 plagiarism  
 plant patent  
     under the Plant Patent Act of 1930 (PPA)  
     the Plant Variety Protection Act of 1970  
     (PPA)  
     protection by utility patent  
 point of novelty  
 practice an invention  
 preamble  
 preferred embodiment\*  
 prejudgment interest  
     on patent infringement awards  
     on trademark infringement awards  
     on copyright infringement awards  
 preliminary injunction  
 patent  
     trademark infringement  
     copyright infringement  
 prequel  
 presumption of validity  
     patent  
     trademark  
     copyright  
 prima facie case  
 principal register  
 printed publication  
 prior art  
 prior art statement\*  
 priority of invention  
 process claim  
 product-by-process claim  
 product claim  
 profits  
     patent cases  
     trademark cases  
     copyright cases  
 progressive encroachment†  
 prophetic example  
 proprietary

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- prosecution  
prosecution history estoppel  
pro tanto  
protest  
    pending patent application  
    pending application for registration of a  
    mark  
provisional application  
provisional double patenting  
pseudonymous work  
PTO  
publication  
publication for opposition  
publication of pending patent application  
public display\*  
public domain  
public performance\*  
public use  
public use proceeding
- Q**
- quality control\*
- R**
- RAM  
ratio decidendi  
reads on  
reasonable royalty\*  
recapture  
recording of transfers  
    patent ownership  
    trademark ownership  
    license of copyright  
reduction to practice  
    actual  
    constructive  
reexamination  
registrar of domain names  
registration  
    invention\*
- trademark  
    claim of copyright  
registry\*†  
reissue  
related company  
related goods or services  
remake  
renewal  
    federal trademark registration  
    copyright  
repair-reconstruction†  
reproduction rights organization  
reprography  
requirement for division\*  
Restatement of the Law of Unfair  
    Competition  
research exemption\*  
restoration\*  
restriction  
reverse confusion  
reverse doctrine of equivalents\*  
reverse domain name hijacking  
reverse engineering  
reverse engineering injunction  
reverse passing off  
revival  
    abandoned patent application  
    abandoned application to register mark  
right of publicity  
ROM  
ROMARIN†  
Rome Convention  
royalty, reasonable  
    patent infringement  
    trademark infringement  
    copyright infringement  
RRO\*  
rule of doubt\*  
rule of reason  
    patent priority disputes  
antitrust  
    patent-antitrust

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**S**

safeguard clause†  
 satellite broadcasting\*  
 scarecrow patent  
 scènes à faire  
 SCMS\*  
 SCPA  
 secondary considerations  
 secondary meaning  
 secondary transmission\*  
 semiconductor chip  
 senior party  
 sequel  
 Serial Copy Management System\*  
 service mark  
 SESAC  
 shareware  
 shoe  
 shop right  
 shrink-wrap license  
 single means claim  
 SIR\*  
 skillful mechanic  
 skill in the art  
 small entity  
 SOU\*  
 sound recording  
 source code  
 special 301  
 specification  
 spectrum of distinctiveness\*  
 split  
 SSO  
 staple  
 stare decisis  
 Statement of Use  
 state of the art  
 statute of limitations  
     patent  
     trademark  
     copyright

statutory damages  
     copyright  
     trademark counterfeiting  
 statutory disclaimer\*  
 statutory invention registration  
 store receiver exemption\*  
 strength of mark  
 structure, sequence, and organization  
 style and grade designations\*  
 submarine patent  
 subconscious infringement\*  
 substantially  
 substantial similarity  
 suggestive mark  
 summary judgment  
 super 301\*  
 super station  
 supplemental register  
 supplementary registration  
 suppression  
 surname mark\*  
 surrender  
     patent  
     trademark registration  
 survey  
 swearing back  
 sweat of the brow  
 synchronization license  
 syndication rules  
 synergism

**T**

TARR†  
 TBMP\*†  
 teach  
 teach toward—teach away  
 TEAS†  
 technical trademark  
 Technology Education and Copyright Harmonization Act (TEACH)\*  
 technological protection measures†

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telephone interview*	TTAB*
terminal disclaimer	tying*
termination of grant	
term of protection*	<b>U</b>
territoriality of marks	
TESS†	UCC*
that which infringes if later, anticipates if earlier	UCITA†
third party requester†	UDRP*†
tie-in	unconscious infringement
patent	UNCTAD
trademark	undue breadth
copyright	UNESCO
tie-out	unexpected results
TLRA*	unfair competition
TLT*	Uniform Dispute Resolution Procedure
TMEP	(UDRP)†
tort	unit of publication doctrine
total concept and feel	unity of invention
trade dress	Universal Copyright Convention
trademark	UPOV*
Trademark Law Revision Act	URAA*
Trademark Law Treaty	Uruguay Round Agreements Act
Trademark Manual of Examining Procedure*	changes required in patent law
Trademark Registration Treaty	changes required in trademark law
Trademark Review Commission	change required in copyright law
Trademark Trial and Appeal Board	useful article
trade name	useful arts
trade secret	user interface
trafficking†	USTA
TRAM†	utility
transfer	utility model
transgenic	utility patent*
transition periods†	<b>V</b>
transmission	vague claims
transmit*	value-added retailer
traverse	vaporware
TRIMS	venue
TRIPS	patent cases
TRT*	trademark cases
T-Search	copyright and mask work cases

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virus  
Visual Artists Rights Act\*

### W

Walker Process counterclaim  
webcasting†  
whereby clause  
willful infringement  
    patent  
    trademark

    copyright  
WIPO  
World Trade Organization\*  
working  
work made for hire  
work product\*  
worm  
WTO

### X

X-Search

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