

Intellectual Property Resources

By Brent Domann

Intellectual property is often a subject for legal specialists, but you may occasionally find it necessary to research the subject on your own. If you should find yourself in this briar patch, help is available!

Before diving into sources, it is worth reviewing intellectual property in general. IP deals with property rights to intangible things like designs, icons and logos, and creative works. IP law covers three major areas and their related disciplines: patents, which protect inventions; trademarks, which protect commercial symbols; and copyrights, which protect creative and artistic works.

Patents

Patents protect designs and technological inventions including mechanical, electrical, and chemical processes (like drugs). Patent research is twofold; you may be looking for information about patents as a concept or area of law, or you may be looking for patent filings themselves.

Information about patents as a concept is widely available from both free and paid sources. An excellent place to start is the U.S. Patent and Trademark Office (<https://www.uspto.gov/>) [<https://perma.cc/44YH-8F8L>].¹ The USPTO has an excellent collection of resources including a primer on the basics of patents, an overview of the patent filing process, and an excellent page with information specifically aimed at attorneys and legal practitioners. These are all readily accessible from dropdown menus on the office's landing page.

Additionally, information about patents can be found from commercial sources. Treatises are an option (discussed below), but also recommended are law school study

aids. Available in several formats for different learning styles and written in plain English, they are often available for reasonable prices — for example, at the time of this writing, books from the *Nutsell* series² and *Nolo*³ are available for under \$50, and other publications can be had for under \$20.

Several resources are available to search patent filings. The USPTO has search tools that provide access to both granted patents (<https://patft.uspto.gov/netahtml/PTO/search-bool.html>) [<https://perma.cc/3PRG-KQQG>] and patent applications (<https://appft.uspto.gov/netahtml/PTO/search-bool.html>) [<https://perma.cc/XQA2-T75K>]. These databases are full text and include images of filings and their accompanying diagrams.

Additionally, Google has a patent search tool (<https://patents.google.com/>) [<https://perma.cc/VC9W-RSAZ>] that takes advantage of the index's excellent search algorithm; the advanced search (<https://patents.google.com/advanced>) [<https://perma.cc/59ST-TZLT>] is recommended. Note that patents prior to 1975 in the USPTO database can only be searched by issue date, patent number, or current U.S. classification, so searches of older patents may be easier using Google's service.

When researching patent law (which is chiefly federal), do not forget trade secrets. There are state law and common-law principles which may grant protection to certain information even if no patent exists, and these can be excellent fallbacks. Texts on IP often cover them alongside federal law.

Trademarks

Trademarks are things like marks, symbols, and words which identify goods in the marketplace and distinguish them from

others. While patents are registered federally, trademark protections also appear in state law;⁴ further, registration of trademarks offers significant benefits, so there are resources available at federal and state levels. Like patents, general trademark information is best found for free from the USPTO (<https://www.uspto.gov/trademarks>) [<https://perma.cc/NZ2P-2ZNC>] or analogous state offices (https://www.michigan.gov/lara/0,4601,7-154-89334_61343_35413_35431---,00.html) [<https://perma.cc/NP2K-NPSY>] and commercially in treatises.

To search for registered marks, the USPTO maintains a Trademark Electronic Search Engine (https://tmsearch.uspto.gov/bin/gate.exe?f=login&p_lang=english&p_d=trmk) [<https://perma.cc/L6P9-VX68>], which covers registered marks and some prior pending registrations. Michigan maintains a similar database (<https://cofs.lara.state.mi.us/corpweb/trademarksearch/trademarksearch.aspx>) [<https://perma.cc/SF9E-GF2A>].

When researching trademarks, useful related concepts include unfair competition, false advertising, and other business torts.

Copyright

Copyright is an area of law dealing with the protection of creative or artistic works. These include literary works, music, film, and more. Copyright is primarily a federal issue, and the Copyright Act of 1976⁵ is the main source of law. Other major sources are the Music Modernization Act⁶ and the Digital Millennium Copyright Act.⁷ The Copyright Office provides an excellent collection and overview (<https://www.copyright.gov/title17/>) [<https://perma.cc/A2KK-ZFTN>]. While copyright manifests the moment a work is put into a fixed medium,

significant benefits come from registration with the Copyright Office, so it tends to be a great centralized source of information.

When researching copyrights, you may also find it helpful to explore licensing. Often, copyright disputes involve permissions, unlicensed use, or unclear licensing terms, so these can be fruitful search areas. Additionally, there may be state laws worth exploring — particularly those governing publicity. This field could see growth as college athletes increasingly capitalize on name, image, and likeness.⁸

As with the topics above, the federal government provides a significant amount of useful information for free. The Copyright Office (<https://www.copyright.gov/>) [<https://perma.cc/V7Q2-B7WR>] has guides on registration, primers on relevant statutes, and information on licensing. Registered copyrights can also be searched on the Copyright Office website (<https://www.copyright.gov/public-records/>) [<https://perma.cc/C3NL-65JM>]; records go back to 1978, but there is a virtual card catalog that covers 1870–1977. Also available are Review Board opinions, an index of fair-use cases, briefs and filings archives, and other resources.

Beyond the Copyright Office, the Copyright Society of the USA (<https://www.csusa.org/>) [<https://perma.cc/Z7N2-T2HR>] is worth consulting. It may also be helpful to identify major industry players: for example, in the music industry, the Harry Fox Agency (<https://www.harryfox.com>) [<https://perma.cc/8UA2-HZ5U>] provides rights administration, and performing-rights organizations like BMI (<https://www.bmi.com/>) [<https://perma.cc/5BNU-E3T8>], ASCAP (<https://www.ascap.com/>) [<https://perma.cc/H9AB-UMV6>], and SESAC (<https://www.sesac.com/>) [<https://perma.cc/8JDN-4PV4>] assist in rights enforcement.

Classics

There are ample treatises available on IP topics, but these major works are worth investigating if you have very specific questions:

- *Chisum on Patents* (Matthew Bender Elite Products) is the leading and most-cited treatise on patents. It is available in

print and electronically through LexisNexis. The author also maintains a website with case reference guides at <https://www.chisum.com/> [<https://perma.cc/E8FU-7GGJ>].

- *McCarthy on Trademarks* (Thomson West) is widely cited and a prime treatise on trademark law. It is available in print and electronically through Westlaw.
- *Nimmer on Copyright* (Matthew Bender Elite Products) is the foremost publication on copyright law. It is the most-cited work of its kind and is available in print and electronically through LexisNexis.
- For more general IP information, Schechter and Thomas's *Intellectual Property: The Law of Copyrights, Patents, and Trademarks* (West Academic Publishing) is an excellent source. While not as extensive as the treatises above, it covers all three topics in one volume and, as part of West's *Hornbook Series*, is very accessible. It is available in print and electronically.

Additionally, any researcher on IP would be well served to investigate treatises covering trade secrets, unfair competition, and licensing.

Library research guides

In addition to the above, there are a few library research guides that are easily recommended. The University of Washington maintains an IP research guide (<https://guides.lib.uw.edu/law/IP>) [<https://perma.cc/D3N2-S4KU>] which includes research advice well beyond the basics, including coverage of international IP, prize-winning books, and online sources like blogs and websites. If looking specifically for treatises, Georgetown University provides a curated list including the classics mentioned above and also a few study aids (<https://guides.ll.georgetown.edu/treatise-finders/intellectualproperty>) [<https://perma.cc/3FF2-MMYJ>]. In the event that you would like more, a quick internet search can provide some promising results, with examples at Florida State University (<https://guides.law.fsu.edu/intellectualproperty>) [<https://perma.cc/LZW3-48WB>] and Loyola University

Chicago (<https://lawlibguides.luc.edu/IP>) [<https://perma.cc/H5FY-6D3P>].

Conclusion

While intellectual property law can be very specialized and intimidating at first, it is ultimately accessible to the dedicated researcher. Free resources in this area are better than one might expect and include both procedural and doctrinal information, and commercial sources are well established and widely available for purchase and in libraries. ■



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science from Wayne State University. He is current president of the Michigan Association of Law Libraries (MichALL) and a reference librarian at MSU Law, where he also teaches courses on legal research and foundations of law.

ENDNOTES

1. All websites cited in this article were accessed August 6, 2021.
2. E.g., Miller & Davis, *Intellectual Property: Patents, Trademarks, and Copyright in a Nutshell* (6th Ed) (St. Paul: West Academic Publishing, 2018) and Rader & Christoff, *Patent Law in a Nutshell* (3d Ed) (St. Paul: West Academic Publishing, 2018).
3. E.g., Stim, *Patent, Copyright & Trademark: An Intellectual Property Desk Reference* (16th Ed) (Berkley: NOLO, 2020).
4. MCL 429.31 *et seq.*
5. 17 USC 101 *et seq.*
6. PL 115-264, 132 Stat 3676.
7. 17 USC 512; 17 USC 1201–1205; 17 USC 1301–1332; and 28 USC 4001.
8. *NCAA v Alston*, ___ US ___, 141 S Ct 2141 (2021).