



## Protective Intellectual Property Services, LLC

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MAXIMIZING INTELLECTUAL PROPERTY'S CONTRIBUTION  
TO A COMPANY'S GROWTH AND VALUE<sup>SM</sup>

TRANSLATING TECHNOLOGY INTO THE LANGUAGE OF BUSINESS<sup>SM</sup>

September 2008

Welcome to the September 2008 issue of the PIPS IP Update Newsletter:

You have probably heard that it is important to protect your intellectual property to grow your company's value; however you first need to know:

### What is Intellectual Property – also known as IP?

"Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

Intellectual property is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs".<sup>1</sup> Software is also covered by Copyright.

Some materials can be covered by more than one method of protecting intellectual property rights. For example it is possible to protect computer software by both copyright and patent.

"Intellectual property rights give creators exclusive rights to their creations, thereby providing an incentive for the author or inventor to develop and share the information rather than keep it secret. The legal protections granted by IP laws are credited with significant contributions toward economic growth".<sup>2</sup>

The percent of the market value of intangible property, such as intellectual property, in the S&P 500 has increased from 16.8% in 1975 to 79% in 2005.<sup>3</sup> In technology companies such as Microsoft, intellectual property represents as much as 95% of the stock's market value. For small technology companies including start ups, the value of the intellectual property is often 90+ percent of the value of the company.

Intellectual Property consists of Patents, Copyrights, Trademarks, Service Marks, and Trade Secrets.

- A Patent protects the idea behind an invention. It is a "negative right" issued by a

<sup>1</sup> World Intellectual Property Organization

<sup>2</sup> Wikipedia

<sup>3</sup> Ned Davis Research

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government to an inventor. It is important to note that a patent does not give the patent owner the right to practice the invention -- it only gives the owner the right to prevent others from practicing the patented invention. If you work for a company, you probably signed an agreement giving your employer the rights to any intellectual property that you develop while working for the company. Once a patent application is filed, you can identify the invention with the notation "patent pending".

- A Copyright protects the embodiment of a work, such as a work of art, software, a performance, etc. As soon as materials are put in a tangible medium, you have a copyright in that material; it is not necessary to file for a copyright. However, in order to sue for copyright infringement, you do have to register your copyright. A copyright can be filed while protecting your confidential information, such as in the source code of a software program. The form of the copyright notice is © year, copyright owner e.g., "© 2008, Protective Intellectual Property Services, LLC".
- A Trademark<sup>TM</sup> or Service Mark<sup>SM</sup> 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 or services of one party from those of others. Examples include the shape of the Coca Cola<sup>®</sup> bottle, the name Coca Cola<sup>®</sup> or McDonalds' Golden Arches<sup>®</sup>. Once a trademark is registered with the federal government you use the symbol ® to designate this to others.
- A trade secret is information that: (i) derives independent economic value from not being generally known or readily ascertainable to other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. A trade secret needs to be protected in accordance with state law in order to qualify for protection under the law.

Which protection is best is dependent on the type of intellectual property and the company's business plans.

The time of the disclosure and the timing of the application are critical in preserving both U.S. and foreign rights. For example, in order to preserve IP rights you should file a patent application, if applicable, before making a public disclosure such as a presentation, a publication or even informal discussions with people outside of your company.

PIPS works directly with technology companies to identify their intellectual property and create and implement a strategy to grow their company and increase its value. Please visit [PIPS' web site](#) for more information about PIPS, its services and expertise.

We appreciate your feedback on making this newsletter more valuable to you by writing to us at [suggestions@protectiveIPservices.com](mailto:suggestions@protectiveIPservices.com).

The remainder of this newsletter contains materials that will help bring you up to date on current IP issues.

A handwritten signature in black ink, appearing to read 'Lenny'.



SM

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### USPTO

#### USPTO News: USPTO Announces Revisions to Patent Fees

By Donald Zuhn

47534) on Thursday, August 14, 2008, the US Patent and Trademark Office announced that certain patent fee amounts are being adjusted to reflect fluctuations in the Consumer Price Index (CPI) for financial year 2009. ...

#### US patent office tweaks rule amid court fight

Reuters - USA

WASHINGTON, Aug 7 (Reuters) - The US Patent and Trademark Office said on Thursday it would limit the retroactivity of a controversial new rule aimed at .

#### US Patent & Trademark Office spoiling for a patent fight

CNET News - San Francisco,CA,USA

Duffy worries that "the PTO's new interpretation of patentable subject matter provides a clear avenue to reject patent applications and to invalidate issued ...

#### Peer-to-Patent Project Extended and Expanded

InfoToday.com - USA

New York Law School (www.nyls.edu), in cooperation with the US Patent and Trademark Office (USPTO), announced the extension of the Peer-to-Patent project ...

### COURTS –Rulings on Patent Law and Procedures of Interest to Business Persons and Attorneys

#### Tech Companies Hit by Supreme Court Decision Stripping Patent ...

MarketWatch - USA

BOSTON, MA, Aug 15, 2008 (MARKET WIRE via COMTEX) -- Hi-tech companies face the fallout of a

recent Supreme Court decision that strips patent owners of ...

#### Fix to Patent Judge Appointment Procedure

New York Times - United States

By ADAM LIPTAK President Bush signed a bill meant to fix a flaw in a 1999 law that has cast doubt on thousands of patent decisions. ...

### DOMESTIC

#### What Business Owners Should Know About Patenting

Wall Street Journal - USA

He might have added a third ingredient: a patent. Without one, inventors can't sell, license or protect their creations. Edison understood that very well: ...

#### Exposing The Patent Troll Playbook... And How To (Almost) Beat It

Techdirt - USA

We've written about patent hoarding firm RTI before, back when it sued Google. At the time, we pointed to Rich Tehrani's fantastic article about the company ...

#### Combating Cyber Crime

Technology News Daily - Scottsdale,AZ,USA

Computer Crime & Intellectual Property Section – The Computer Crime and Intellectual Property Section (CCIPS) of the Criminal Division has more than 30 ...

#### Linux patent pool to push for 'defensive publication'

Computerworld - Framingham,MA,USA

By Chris Kanaracus August 12, 2008 (IDG News Service) A tech vendor-backed company that buys up patents in an effort to protect the Linux community from ...

#### The Ins and Outs of Intellectual Property

Purchasing.com - Newton,MA,USA

In today's era of global sourcing knowing the ins and

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outs of intellectual property can certainly be an advantage to all tiers of the supply chain. ...

### High-Tech Companies Put Selected Patents in Eco-Patent Commons for ...

Natural News.com - Phoenix,AZ,USA

IBM, Sony, Nokia and Pitney Bowes are currently the only companies participating in the Eco-Patent Commons, but they hope to encourage other companies to ...

### The Global Intellectual Property Center of the US Chamber of

Commerce Brand Protection Council: Your... - <http://bpcouncil.com/xml/articles.php?sid=10&lang=en>

The Global Intellectual Property Center is an IP initiative of the US Chamber of Commerce.

### INTERNET LAW - Enforcement of Intellectual Property Rights Act of 2008

IBLS INTERNET LAW (subscription) - Irvine,CA,USA

Protecting intellectual property (IP) is critical to America's future competitiveness and economic security. Counterfeiting and piracy of IP cost US ...

### How Patent Law Changes Could Hurt Small Inventors

Legislation News - <http://www.inboxrobot.com/news/legislation>

patent law. While certain elements of the legislation will bring the US patent system in ... to know: There are two very similar bills currently in process--one in the House (HR ... House (HR 1908) and one in the Senate Bill (S. 1145). ...

### Legislation continues the fight to protect intellectual property

Search-Autoparts.com - North Olmsted,OH,USA

Industry supporters are pushing for approval of a pending bill that aims to strengthen intellectual property rights and crack down on piracy and ...

### Keeping A Closer Eye On Intellectual Property

National Journal - Washington,DC,USA

Piracy is a global phenomenon, but also economic benefits from intellectual property

## Congressional Patent Reform

### Cisco spent \$300,000 in Q2 to lobby gov't on patent reform and ...

NetworkWorld.com - Southborough,MA,USA

was the amount that Cisco parted with in Q2 to lobby legislators on patent reform, trade measures and efforts to crack down on cybercrime, ...

is a global phenomenon, and we all benefit, around the globe, ...

### NAM welcomes senate bill to protect intellectual property.

ThomasNet Industrial News Room - New York,NY,USA

Counterfeiting and piracy of intellectual property costs economy upwards of \$250 billion a year. Legislation will toughen civil and criminal laws against ...

### Senator fuses controversial IP bills into big, bad package

Ars Technica - Boston,MA,USA

By Julian Sanchez | Published: July 25, 2008 - 02:40PM CT Intellectual property legislation introduced in the Senate on Thursday would combine elements of ...

### Intellectual-Property Bill Introduced in Senate

Broadcasting & Cable - New York,NY,USA

Enforcement of Intellectual Property Rights Act attempts to bring together Senate bills on subject, mirror House's PRO-IP Act. By John Eggerton ...

### Patents Aid Innovation Most Times

Wall Street Journal - USA

In "Patent Gridlock Suppresses Innovation" (Information Age, July 14), L. Gordon Crovitz asserts "that for most industries today's patent system does more ...

## Presidential Candidates IP Positions

### McCain's Tech Policy: H1B Visas Good, Taxes Bad

PC Magazine - USA

He also issued a vague promise to "seek international agreements and enforcement



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efforts that ensure fair rewards to intellectual property" and "efforts to ...

### John McCain's Intellectual Property Problem

Conde Nast Portfolio - New York, NY, USA

John McCain says he's committed to protecting intellectual property. So why is he being repeatedly accused of stealing intellectual property for political ...

### Guest Editorial: Obama Put Forward Sound Priorities on Patents ...

Patently-O - Chicago, IL, USA

From the perspective of a candidate running for President, articulating a position on the subject of patent reform might appear a fool's errand. ...

### Secondary Considerations of Obviousness in a Patent Case: The ...

Patently-O - Chicago, IL, USA

By Brent Yamashita\* Introduction: In nearly every patent litigation, the accused infringer will argue that the asserted patent claims are obvious (if not ...

### BSA Applauds US Senate for Introduction of New Copyright Bill

ag-IP-news Agency - Amman, Jordan

We can get closer to recognizing these economic benefits through important legislation like the Enforcement of Intellectual Property Rights Act. "Again, ...

### For once, some incontestable ROI

Computerworld - Framingham, MA, USA

Issue: An attempted theft of intellectual property could have cost the company millions. Action plan: Leverage the incident for more security investments.

### Public & Experimental Use: Reduction to Practice Requires Knowledge that Invention

Works for Intended Purpose Dennis Crouch's Patently'O

a patent will be considered invalid if the invention was "in public use" more than one year before the filing date.

## INTERNATIONAL

### FACTBOX: Protection of intellectual property rights in China

Xinhua - China

14 (Xinhua) -- From 2004 to September 2007, China has investigated 1357 intellectual property rights (IPR) infringement cases related to the Olympics. ...

### Royal Dutch Shell in US Courts accused of more IP theft

Blogger News Network - USA

"Shell International committed fraud, breaches of fiduciary duty, conversion of intellectual property, theft of trade secrets, and tortious interference ...

### Number of patent applications is growing worldwide, says UN agency

Business Intelligence Middle East (press release) - United Arab Emirates

Increased patent applications in China and South Korea, as well as in the United States, have pushed the total number of filings to 1.76 million, ...

### ... the JPO has launched "Community Patent Review"?

By admin(admin)

On 16 July 2008, the JPO launched a project for public review of patent applications similar to the USPTO's "Peer-to-Patent" system. Entitled "Community Patent Review (CPR)", the JPO's project is currently a pilot, scheduled to run ...

### China's Intellectual Property Development Research Centre (IPDRC ...

PR Newswire (press release) - New York, NY, USA

Mr. Mao Jinsheng, Director of IPDRC, commented, "We always aim to promote innovation and increase intellectual property development in China. ...

### Intellectual Property Rights Seizure Statistics Released

Imperial Valley News - Holtville, CA, USA

Washington, DC - United States Customs and Border Protection's Office of International Trade announced today that the domestic value of counterfeit and ...

### China must show respect for intellectual property rights

The Desert Sun - Palm Springs, CA, USA

All these issues are important and warrant attention; however, my focus today is China's woeful record on intellectual property rights. ...



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### OTHER

#### Intellectual Property and Open Source

Kansas City infoZine - Kansas City,MO,USA

Sebastopol, CA - infoZine - Once a term prized mostly by insomniacs for its soporific value, intellectual property--and how the law views it--is now central ...

#### Software Development: Who Owns The Copyright

Lawdit Commercial Solicitors - Southampton,UK

We always advise clients to put in place an agreement that will deal with ownership and licensing of the Intellectual Property rights in the software so as ...

#### OPINION: Star Wars battle over costumes reveals value of ...

LDPBusiness - Liverpool,England,UK

IP issues are often overlooked, especially when businesses use sub-contractors to create and design on their behalf. They assume that, as they are paying for creations, they automatically acquire all the rights in those designs.

#### Ocean Tomo Releases Catalogue for Fall 2008 Live Intellectual ...

MarketWatch - USA

OceanTomo.com) is the leading Intellectual Capital Merchant Banc(R) firm that specializes in understanding and leveraging Intellectual Property ("IP") ...

#### Best Practices for Access to Images: Recommendations for Scholarly ...

Actualités de la recherche en histoire visuelle - Paris,France

All countries distinguish between the physical property of an object (image, text, art work) and intellectual property. Only the latter is protected by ...