

United States. If you believe your work has been used in an unauthorized manner, you should consult an IP attorney. For violations of the IACA, you should consult the Indian Arts and Crafts Board.

Disclaimer

Intellectual property protection can involve complex legal issues. Consulting with a specialized IP attorney is recommended as you take steps to protect your work. This brochure is not a substitute for legal advice and should not be taken as legal advice. The brochure contains only U.S. IP information.

WHERE TO START

Indian Arts and Crafts Board

The Indian Arts and Crafts Board is an agency within the United States Department of the Interior that promotes the economic development of American Indians and Alaskan Natives through the expansion of the Indian arts and crafts market. For more information, visit our website at www.doi.gov/iacb or call 1-888-ART-FAKE (toll free).

Reporting Piracy and Counterfeiting

Report piracy and counterfeiting of Native American art and craftwork to the Indian Arts and Crafts Board, which can help handle your report. Learn more about piracy and counterfeiting at the Strategy for Targeting Organized Piracy (STOP) website at www.stopfakes.gov or call 1-866-999-HALT (toll-free).

WHERE TO LEARN MORE

- For Trademark information, visit www.uspto.gov/trademark/basics
- For Copyright information, visit www.copyright.gov
- For Patent information, visit www.uspto.gov/inventors
- For an IP overview, visit www.stopfakes.gov/business-guide-to-intellectual-property-rights
- To record registered trademarks and copyrights with the U.S. Customs and Border Protection (CBP), visit the CBP website at www.cbp.gov/trade/priority-issues/ipr/protection
- World Intellectual Property Organization (WIPO)

WIPO has useful information about arts and crafts and IP protection on their website at www.wipo.int, including "Marketing Crafts and Visual Arts: The Role of Intellectual Property" and "Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities" and a webinar series, www.wipo.int/tk/en/protect_and_promote.html

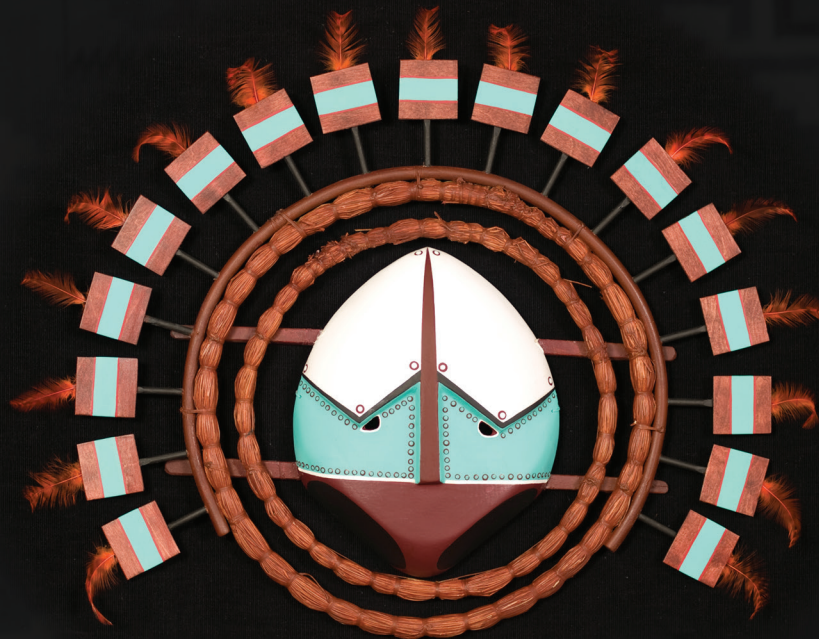


Introduction to Intellectual Property

(trademarks, copyrights, patents & trade secrets)

for American Indian and Alaskan Native Artists

Jerry Laktonen, Sandpiper Mask, 2009



U.S. Department of the Interior
Indian Arts and Crafts Board



UNITED STATES PATENT AND TRADEMARK OFFICE

What is Intellectual Property (IP)?

"Intellectual Property," or "IP," is a catch-all term that refers to the intangible "creations of the mind." IP is protected in law by, for example, trademarks, copyrights, patents, trade secrets. It is distinguished from other things you might own, such as a house or car, which are physical items and tangible property. IP is generally protected on a country-by-country basis.

Can IP Generate Income?

Intellectual property is a valuable business asset because it can provide market exclusivity, build brand reputation and goodwill, and can create income for you through licensing. Licensing involves a business arrangement where the IP owner allows another to use the rights for an agreed payment (i.e., a fee or royalty).

What is a Trademark?

A trademark helps customers identify and distinguish your goods and services from those of others. Trademarks can be letters, words, slogans, symbols, designs, colors, product/packaging configurations, sounds, or scents. Trademarks can inspire customer loyalty and promote sales. Trademarks can exist forever as long as they are being used in business.

How Can a Trademark Protect My Work?

Trademark rights may be used to prevent others from using a confusingly similar mark. Registration is not required for marks used in the United States, but it provides significant advantages to the rights holder. Registering your trademark with the United States Patent and Trademark Office (USPTO) establishes nationwide rights in your trademark. Registering your mark alerts others to your trademark rights and may deter them from registering confusingly similar marks for

related products or services. Registration allows you to use the ® symbol with your trademark. While you are not required to use any symbol with your mark, many trademark holders use TM or SM with a mark before it is registered. The ® can only be used after the mark is registered with the USPTO.

What is a Copyright?

Copyright protects original literary and artistic creations, when fixed in a tangible form of expression. There are many types of works that may be protected by copyright, such as sculptures, fabric designs, paintings, baskets, and music. Copyright gives the owner certain exclusive rights, including the right to make copies of the work, make changes to the work, distribute copies of the work, and perform and display the work publicly. A copyright allows you to control how your creations are used by others. A copyright typically lasts for the life of the author plus 70 years.

How Can a Copyright Protect My Work?

A copyright gives you the right to stop unauthorized copying, distributing, performing, and displaying your work without your permission. Copyright can also stop others from adapting your work by making new works created from the original work without your permission. Copyright protection begins from the moment you create your work in a tangible form of expression. While not required, using a copyright notice - the © symbol, the year of publication and the name of the copyright owner(s) - is recommended to put others on notice of your rights. Similarly, although not required, registration of your copyright with the United States Copyright Office provides important advantages, for instance, the ability to sue for infringement and to claim statutory damages and attorney's fees, as well as making it easier to license works,

collect royalties, and enforce rights outside of court.

What Is a Design Patent?

A design patent protects the way an article looks. Design patents are granted to any person who has invented any new, original, and ornamental design on products, such as jewelry, pottery, or textiles. The subject matter of a design patent must be decorative and therefore does not include the utilitarian or structural characteristics of the product. Patentable designs range from three dimensional configurations or shapes of products to ornamental patterns, lines, and colors applied to the surface of a product. Design patents last for 15 years.

How Can a Design Patent Protect My Work?

Design patents give you the exclusive right to prevent others from producing, importing, selling, or distributing products that infringe your design. You must hold a design patent from the USPTO to sue for infringement. Design patents also can be licensed.

What Is a Trade Secret?

A trade secret is confidential business information that gives you a competitive advantage. Trade secrets include methods or techniques for producing products, such as special techniques for firing pottery or blowing glass. Trade secrets are valuable because they allow you to maintain your competitive edge over others. Trade secret protection lasts as long as the information is kept secret.

How Can Trade Secrets Protect My Work?

Keeping information as a trade secret prevents others from using your special methods and techniques. You must take reasonable steps to maintain the secret because once the secret is disclosed publicly, you lose your legal protection. Non-

disclosure agreements and confidentiality agreements, as well as limiting access to the proprietary information by employees or consultants, are common methods used to protect trade secrets.

IP on the Internet

The design and content of your website, including your domain name, may implicate a variety of IP issues. Similarly, use of social media may involve IP issues, including protection of your own works and use of others' works. Knowledge of these issues can help you avoid them in your business.

Does Registering My IP Protect Me from Piracy and Counterfeiting?

Yes, it can. You can file the registered copyright or trademark with the U.S. Customs and Border Protection (CBP), which can help prevent importation of pirated and counterfeit goods. It is also possible to obtain an "exclusion order" to prevent entry into the United States of goods that infringe your patent, trademark, or copyright.

What Can I Do If Someone Uses My IP Without My Permission?

IP rights are private rights. That means you – not the government – must take steps to enforce your rights. If someone illegally copies your artwork, uses your trademark or design patent, or reveals your trade secret, enforcement options include filing a lawsuit for infringement, obtaining a court order to stop the sale or importation of infringing goods, and money damages. American Indian and Alaskan Native artists have additional legal protections for the art and craftwork they produce. The Indian Arts and Crafts Act (P.L. 101-644, as amended) (IACA) is a truth-in-advertising law that prohibits misrepresentation in the marketing of Indian art and craft products within the