



# **Intellectual Property:**

Making It Personal

By Thomas A. Schatz  
and Deborah S. Collier

## **Citizens Against Government Waste**

Citizens Against Government Waste (CAGW) is a private, nonprofit, nonpartisan organization dedicated to educating the American public about waste, mismanagement, and inefficiency in the federal government.

CAGW was founded in 1984 by J. Peter Grace and nationally-syndicated columnist Jack Anderson to build public support for implementation of the Grace Commission recommendations and other waste-cutting proposals. Since its inception, CAGW has been at the forefront of the fight for efficiency, economy, and accountability in government.

CAGW has more than one million members and supporters nationwide. Since 1986, CAGW and its members have helped save taxpayers more than \$1.3 trillion. CAGW publishes special reports, its official newspaper *Government WasteWatch*, and the monthly newsletter *WasteWatcher* to scrutinize government waste and educate citizens on what they can do to stop it. CAGW's publications and experts are featured regularly in television, radio, print, and Internet media.

CAGW is classified as a Section 501(c)(3) organization under the Internal Revenue Code of 1954 and is recognized as a publicly-supported organization as described in Sections 509(a)(1) and 170(b)(A)(vi) of the code. Individuals, corporations, associations, and foundations are eligible to support the work of CAGW through tax-deductible gifts.

Thomas A. Schatz, President  
Deborah Collier, Director of Technology and Telecommunications Policy

Citizens Against Government Waste  
1301 Pennsylvania Avenue, NW, Suite 1075  
Washington, DC 20004  
(202) 467-5300  
[www.cagw.org](http://www.cagw.org)

## Table of Contents:

### Chapter

#### [Introduction](#)

1. [The Changing Face of Piracy](#)
2. [The Dangers of Counterfeit Drugs](#)
3. [Music and Movies and Torrents, Oh My](#)
4. [Trademarks: Iconic Icons](#)
5. [Patents: To Create; Perhaps to Use, Perhaps to License, Perhaps to Litigate](#)
6. [Electronics, Software, and National Security: Pulling the Plug on Phony Parts](#)

#### [Conclusion](#)

#### [About the Authors](#)

#### [End Notes](#)

## Introduction

Most Americans do not think much about how property rights affect them in their daily lives. If they consider the subject at all, they are likely to be more aware of the monetary value of private property than intellectual property (IP). People will protect their valuables at home and work by locking their doors and installing security systems, and they usually have a good idea of how much their business, home, car, and investments are worth.

But few people realize that nearly every product they use is the result of someone's idea, or IP; nor are they likely to know the value of IP to the economy. And it is even more unlikely that they understand the impact of IP theft on either the creative process or the tens of millions of ordinary Americans who participate in that process.

## A Brief History of Intellectual Property Protection

During medieval times guilds, associations, or artisans were granted authority by the government to control the regulation and conduct of various industries.<sup>1</sup> In England, personal property and IP were traditionally viewed as distinct subjects with different origins. Personal or tangible property was viewed as “a creature of common law,” whereas copyrights and other IP were considered “largely a creature of statute.”<sup>2</sup>

The 1623 Statute of Monopolies provided for the exclusive control over an invention for a period of 14 years to the “true and first inventor.”<sup>3</sup> The Statute of Anne in 1710 granted an initial 14-year protection period with a possible 14-year renewal for protection of IP rights.<sup>4</sup>

In the United States, following the Revolutionary War every state had its own patent law, and every state except Delaware had its own copyright law.<sup>5</sup> The protection and promotion of IP was so important to the Founding Fathers that they included it in the General Welfare Clause, Article 1, Section 8 of the U.S. Constitution:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.<sup>6</sup>

Unlike IP, personal property is protected under the Fourth and Fifth Amendments, not in the Constitution itself. During the First Congress, H.R. 43, the Copyright Act of 1790, was enacted and signed into law on May 31, 1790 by President George Washington. As one of the first laws enacted by Congress, the legislation provided copyright protection for books, maps, and charts and established both the U.S. Copyright Office and the U.S. Patent and Trademark Office (PTO). These agencies were tasked with cataloguing, analyzing, and protecting IP rights.

Musical compositions were not mentioned in the text of the act and would not be expressly covered by copyright until the Copyright Act of 1831. However, they were routinely registered under the 1790 Act and categorized as “books.”<sup>7</sup>

Unlike the PTO, there is no “Office of Personal Property” or a “Department of Personal Property.” In fact, Article 5 states that private property can be taken for public use with just compensation. Although the government can exercise eminent domain over private property under such circumstances, it has no similar right to take away IP.

The legal protection of IP has enormous value. It turns intangible assets into exclusive property that can be traded in the marketplace. A March 2012 report by the U.S. Department of Commerce Economics and Statistics Administration and the PTO found that direct employment

in the most IP-intensive industries in the U.S. accounted for 27.1 million jobs in 2010, and indirect activities associated with those industries provided an additional 12.9 million jobs for a total of 40 million jobs, or 27.7 percent of all jobs in the economy.<sup>8</sup>

In a comparative study on the value of IP, economists Kevin A. Hassett and Robert J. Shapiro estimated that “innovation in its various forms accounts for 30-40 percent of the gains in growth and productivity by the American economy during the 20<sup>th</sup> century.”<sup>9</sup> The study further found that the value of IP in the U.S. was between \$5 trillion and \$5.5 trillion in 2005.<sup>10</sup> By comparison, in 2010 that value had increased to between \$8.1 trillion and \$9.2 trillion, or the equivalent of 55–62.5 percent of U.S. GDP.<sup>11</sup>

In 2010, the value of IP comprised approximately 80 percent of a company’s total assets based on the Standard & Poor’s 500 Index.<sup>12</sup> This compares to the 1975 value of intangible assets comprising only 17 percent as IP, with the remaining 83 percent found in physical and financial assets.<sup>13</sup>

Internationally, some governments have been developing policies that threaten IP. The creative process will suffer as a result of such policies, because individuals and companies will not be willing to spend as much time or money on new IP if they believe the fruits of their labor will be taken away without sufficient – or any – compensation.

In a 2007 CAGW report entitled “Property Rights in the 21st Century: Don’t Steal This Paper or My Ideas,” one of this report’s co-authors examined four “myths and reality” surrounding the definition and use of IP. These premises hold true today.

#### **Four Intellectual Property Myths**

1. Myth: The price of information and ideas should be zero because products should be priced at marginal cost.

Reality: Economists reject marginal cost pricing because such policies destroy investment.

2. Myth: Intellectual property rights result in information and ideas being “locked down” by their owners.

Reality: The creators of art, books, movies, and inventions want their creations to reach as many people as possible, so long as they are compensated.

3. Myth: Intellectual property rights are monopolies that give their owners too much economic power.

Reality: Patents or copyrights support competition by encouraging inventors and creators to enter new markets; IP gives its owners no more economic power than any other asset.

4. Myth: Intellectual property rights benefit big firms at the expense of “the little guy.”

Reality: Patents are often the best protection that a small inventor has against large firms; copyright benefits creative ventures of many sizes, from solo musicians to big studios.

Strong protection of IP provides real benefits. Consider the following American inventions and whether they would have come about in a climate of weak IP protection:

- The telegraph in 1835<sup>14</sup>
- The phonograph in 1877<sup>15</sup>
- The light bulb in 1880<sup>16</sup>
- Air conditioning in 1902<sup>17</sup>
- The television in 1927<sup>18</sup>
- The point contact transistor in 1947-1948<sup>19</sup>
- Marshmallow Peeps in 1952<sup>20</sup>
- Magnetic tape cartridges in 1964<sup>21</sup>
- The cell phone in 1973<sup>22</sup>
- The microprocessor in 1973<sup>23</sup>

The value of these and future inventions relies on strong IP protection. This report will review copyright, trademark, and patent issues, as well as ongoing threats to IP protections from piracy, counterfeiting, and illegal sharing online.

Many individuals who buy a fake Gucci bag on the corner or illegally download a TV show, movie, or music, share the view of Hana Beshera, one of the founders of NinjaVideo, who served 16 months in prison for violating copyright laws. Even after she got out of jail, Beshera still believed that “the movie business is so large that skimming a little off the top doesn’t hurt anybody.”<sup>24</sup> IP theft is wrong at every level; its impact affects everyone associated with the creative process. Indeed, with more than 40 million Americans directly or indirectly working in an IP-related industry, one of the victims of IP theft might well be personally known to the perpetrator.

The importance of protecting IP rights cannot be overemphasized. The right to retain legal possession of, and benefit financially from, IP is constantly being threatened. The intent of this publication is to help educate the public about the value and importance of IP, the impact on individuals and the economy from the theft of IP, and how IP helps innovation flourish and economies around the world thrive.

## Chapter 4: Trademarks: Iconic Icons

In 1886, Coca-Cola sold for five cents a glass as a fountain beverage. In 1894, Joseph A. Bideharn, a Vicksburg, Mississippi, candy store owner, began bottling and selling the beverage in a common glass bottle.<sup>168</sup> In 1916, after receiving ideas from various glassmakers, Coca-Cola Company selected a contoured design from the Root Glass Company of Terre Haute, Indiana, as its specific packaging in order to prevent its product from being confused with other glass-bottled sodas on the market. This classic bottle design with its scripted name was granted trademark status by the PTO, and is now one of the most recognizable brands around the world.<sup>169</sup>

The global economy has created the opportunity for many brand name and trademarked products to become well-known across international boundaries, including apparel, automobiles, beverages, clothing, household cleaners, fast food chains, liquor, and tobacco. Companies spend hundreds of millions of dollars on advertising and marketing, hoping that their brands become iconic household names.

When brands become widely successful and well-recognized, consumers seek out them out. Such highly-visible trademarks span language barriers and lifestyles. The value of individual branding can be seen in the reverse side of the equation, when protestors in other countries attack symbols and facilities of U.S.-based companies to object to certain policies or practices. In such cases, the company more or less is the country.

According to the PTO, a trademark is a “word, name, symbol, or device that is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. ... Trademarks are used to identify goods that are sold or otherwise transported or distributed through interstate commerce. Service marks serve the same purposes as trademarks but identify services or intangible activities that are performed by one person for the benefit of someone else either for pay or otherwise.”<sup>170</sup>

Inventors, creators, and innovators file trademark and service mark applications with the PTO to protect their IP and business identities.<sup>171</sup> The registered symbols, words, or packaging can only be used with the trademark owner’s permission or license. For instance, CAGW’s trademarked logo on the cover of this report can only be used by CAGW or those authorized by CAGW.

Counterfeiters are well aware of the value of a familiar trademark. They copy the packaging on products ranging from toothpaste to deodorant to tennis shoes in an effort to cash in on the market. Other frequently-counterfeited items include batteries, extension cords, perfume, shampoo, and toys.<sup>172</sup>

The products may look the same, but they are certainly not the same. For example, on June 14, 2007, the FDA announced a recall of counterfeit Colgate toothpaste that had been imported from South Africa and sold in discount stores in Maryland, New Jersey, New York, and Pennsylvania.<sup>173</sup> The 5-ounce tubes were found to contain antifreeze. Even though Colgate-Palmolive did not import toothpaste from anywhere in Africa, the counterfeiters might have gotten away with their scheme had the product not been tainted.

In January, 2014, firefighters followed up on an April 2013 fire at a manufacturing facility in Valley Stream, N.Y. They discovered a number of suspicious-looking goods and contacted the FDA. Investigators determined that the products, including Chap Stick, Johnson’s Baby Oil, Vaseline, and Vicks VapoRub, were indeed counterfeit. The facility was one of five in Nassau County being used to make these goods.<sup>174</sup> Four tractor-trailers were required to haul off the millions of dollars’ worth of fake products. The operation was described as the largest of its kind in U.S. history.<sup>175</sup>

The beauty product bust is one of many efforts being made by law enforcement officials against counterfeit products. In 2012, ICE seized 22,848 shipments of counterfeit goods worth \$1.26 billion, which kept them from reaching merchants and consumers.<sup>176</sup>

In a coordinated effort between the National Football League (NFL) and ICE officials, Operation Team Player seized \$37.8 million in fake Super Bowl merchandising and tickets during the 2013-14 football season. The total was more than the previous six Super Bowl seasons combined.<sup>177</sup> After the Seahawks won the NFC Championship, \$200,000 of phony merchandise was seized in the Seattle area.

The NFL actively identifies websites that are selling fake NFL merchandise, and closes them down with the assistance of brand protection companies, such as MarkMonitor.<sup>178</sup> The league then takes these scofflaws to court. In 2013, the NFL was awarded a \$273 million default judgment against the operators of more than 1,000 websites.<sup>179</sup>

While law enforcement pursues trademark infringement after it occurs, business owners should do all they can to guard their intellectual property. Although registration is not required under federal law in order to protect a company's right to use a trademark, owning a federal trademark provides some advantages over common law rights, including:<sup>180</sup>

- Legal presumption of ownership of the mark;
- Public notice of ownership of the mark;
- Listing in PTO's database of trademarks;
- The ability to notify the U.S. Customs and Border Protection Service of the registration in order to prevent importation of counterfeit foreign goods illegally using the mark;
- The right to use the federal registration symbol "®";
- The ability to file legal action in federal court; and,
- The ability to use the federal registration as a basis by which to file for registration in foreign countries.<sup>181</sup>

Trademark owners can register their brands with the PTO by themselves; however, many choose to work with a law firm that specializes in patents and trademarks. A June 2011 article in *Inc.* magazine recommended that the same attorney who registers the trademark should also provide counsel regarding anti-infringement activities and help locate a trademark watch service to assist in monitoring any potential infringement activities.<sup>182</sup> The *Houston Chronicle* made several recommendations about how to protect a trademark on the Internet, including building a unique brand, registering the mark, monitoring competitors online to ensure they are not also using the mark, fighting infringement, and protecting the brand.<sup>183</sup>

Some IP owners have been able to stop infringement on their own. For example, when Daniel Lubetsky, the chief executive of Kind Snacks, heard that someone else had copied the company's distinctive packaging, he sent the offending company a cease-and-desist letter and was able to get them to stop using similar packaging for their products.<sup>184</sup> However, not everyone is so successful.

On January 13, 2014, artist Tiffany Bozic detailed on Tumblr her ongoing battle against infringement of her artwork when she discovered that clothing manufacturer Romwe was selling sweatshirts with an image of her painting of Strigiformes owl faces. She requested that people not purchase the sweatshirt from Romwe or provide the company with any support.<sup>185</sup> In her posting, she detailed how she tries to prevent her work from being distributed without her authorization:



This is usually how it goes. I send the company a cease and desist letter. Usually they do not respond at all, they may or may not take down the merchandise from their website (or out of stores for that matter), meantime, they collect the money, and then move on and steal art from another emerging artist. And the cycle repeats, making it increasingly difficult for emerging artists like myself to earn a living.<sup>186</sup>

This type of infringement is not limited to artwork. Designer Liz Fields, who specializes in wedding gowns and bridesmaids' dresses, spoke with CAGW about her ongoing efforts to combat counterfeit products in the fashion industry. Fields is a young designer who attended The George Washington University before working for costume designers Merit Allen and Michael O'Conner.

After launching her own line of wedding gowns and bridesmaids' dresses in 2010, she quickly noticed that her designs were being sold at deep discounts on unapproved websites. Over the following three years, she made nearly 1,500 requests for websites to be taken down for selling counterfeit products under her name. She described how the Google request site was difficult to use in order to report a counterfeit site. There was no place to call for assistance and it would take months for a site to be taken down.

Wedding planning is always an emotional rollercoaster ride; as attested by buyers' reviews of the purchases they made on websites carrying the counterfeit gowns under the Liz Fields label, their wedding dreams turned into nightmares:

I'm in tears. My wedding is a month away and my dress FINALLY came. The sizing is terrible (it doesn't fit at all) and the quality is so bad! It looks like my five year-old nephew sewed the dress together. Actually, he might have done a better job. The shoulder straps are uneven. Visibly uneven. One is three inches bigger than the other....

This isn't a site I would recommend to anyone. I ordered my wedding dress through this place, but they emailed me saying that they couldn't possibly make the dress I picked and that the fabric and everything needed to be changed about it because they 'didn't have the right lace.' I didn't like this, so I emailed them back saying to cancel...

Another purchaser was equally frustrated and outraged:

[illegible]

Fields suggested why a bride would put herself through such an ordeal: "...many brides-to-be will be snookered into buying counterfeit wedding dresses. They think they're getting an incredible deal on designer duds – only to be left with a cheap knockoff from some sweatshop overseas."<sup>188</sup>

According to Fields, Tide-buy is one of the largest counterfeit sites, grossing \$5 million in sales in 2013. Fields estimated that, with an average Internet sale price posting of \$150 per dress, the company may have sold more than 30,000 dresses that year. Fields explained that not only do consumers purchase dresses from these counterfeit sites, but retailers also buy from them in an effort to increase their profit margins. This makes it difficult for small businesses like hers to continue to compete.

In addition to the impact of the counterfeit sites on her sales, in the fall of 2013, government enforcement efforts against counterfeit goods led to a delay in Fields' importing of a large shipment of samples for customers to try in authorized shops before placing orders for their gowns. Her shipment was stopped at the border despite the fact that all the paperwork was in order and taxes and fees on the goods had been paid. The dresses should have been in the stores before the holiday shopping season. Fields estimates that the delay cost her nearly \$4,000 in sales. This official insult on top of illegal injury helped push Fields to close her business in 2014.

While law enforcement efforts to stop Fields' samples were clearly in error, official government action to prevent counterfeit trademarked products from reaching the marketplace is an essential part of the worldwide fight against the theft of intellectual property. Unfortunately, while one branch of government is investigating counterfeit activities, another branch may be taking steps tantamount to stealing IP by forcing certain products to be sold in plain packaging, thus diluting the trademark and eliminating the familiar look of the brand. Among other issues, these actions raise questions about whether the affected companies would be entitled to compensation from the government.

For example, Australia apparently believes that it is not sufficient that tobacco products bear warning labels about the risk of cancer and other diseases. Beginning in December 2012, all such products sold in Australia must have a label that contains a photo intended to shock consumers, accompanied by phrases such as "Smoking Causes Cancer" or "Smoking Causes Blindness." The package colors are the same for all brands and therefore become difficult to distinguish. For example, Marlboro Red, which normally has a distinctive red and white label with the Phillip Morris logo on the front of the package, is sold in Australia in a solid green package with pictures of body parts on the side and the words "Marlboro Red" on the back and bottom. The Phillip Morris logo does not appear anywhere.



A study conducted by the Australian Institute of Health and Welfare (AIHW) from 2010 to 2013 claimed that, as a result of plain packaging, the smoking rate in Australia declined by more than 2 percent.<sup>189</sup> The study further found that daily smoking rates had almost halved since 1991; people aged 40-49 were most likely to smoke daily; people aged 18-49 were less likely to smoke daily than they were 12 years ago, but there was little change for those aged 60 or older; smokers

reduced the number of average cigarettes they smoked weekly (from 111 cigarettes in 2010 to 96 in 2013); and, about 1 in 6 smokers had smoked unbranded tobacco in their lifetime, although only 3.6 percent smoked it currently.<sup>190</sup> However, the attribution of plain packaging for the drop in smoking from 2010 to 2013 is a dubious claim on its face since the law passed at the end of 2012. The more likely reason for the decrease was the 12.5 percent increase in cigarette taxes over the course of those four years.<sup>191</sup>

During a July 17, 2014 NewsCorp Australia interview, AIHW Senior Executive Geoff Neideck admitted that it would be a stretch to claim that the use of plain packaging played “a key factor” in cutting the smoking rate.<sup>192</sup> Nonetheless, the lack of evidence that plain packaging changes behavior has not stopped legislators from going after other products. A bill that would restrict packaging on alcoholic beverages has been introduced for the past several years, although it has not yet been enacted.<sup>193</sup>

Other countries have considered the adoption of plain packaging for various products. The New Zealand parliament has hinted that it plans to institute plain packaging with graphic warnings on alcoholic beverages sometime this year,<sup>194</sup> while India,<sup>195</sup> France,<sup>196</sup> South Africa,<sup>197</sup> and the United Kingdom<sup>198</sup> are considering tougher packaging laws for tobacco products by 2015.

One wonders which legitimate industry will be next. For example, during his tenure as Indonesia’s Minister of Trade, current Indonesian Director General for International Trade Cooperation Gita Wirjawan warned New Zealand’s Ministry of Health that, “If the cigarettes we export there [New Zealand] are not allowed to have brands, then the wine they sell here [in Indonesia] shouldn’t also.”<sup>199</sup>

Not only does plain packaging create a disadvantage to consumers wishing to purchase specific brands based on familiarity, quality, or brand loyalty, it also increases the risk of counterfeit or fake products entering the marketplace by allowing bootleggers to easily copy plain packaging. Following the implementation of plain packaging rules in Australia, counterfeiting and smuggling of illicit cigarettes increased by 40 percent, and seizures of illicit cigarettes increased by 143 percent, from 82 million in 2012 to 200 million in 2013.<sup>200</sup>

The entry of additional counterfeit goods into the marketplace puts consumers at increased risk. For example, bootlegged cigarettes can contain caustic or toxic chemicals, including high levels of arsenic, due to fewer controls over manufacturing.

Imagine plain packaging appearing on every product that a bureaucrat finds objectionable: trucks and SUVs; fatty and salty foods; beer, wine, and liquor; and, even certain types of clothing. The government is already far too involved in everyone’s life; such additional overprotection is both unnecessary and ineffective. Plain packaging also undermines the credibility of government efforts to protect IP.

Fortunately, some industries are fighting back. In 2012, Mars, Inc., the American-owned global confectionery and food manufacturer and the third-largest privately held company in the U.S., wrote to the United Kingdom Department of Health voicing its concern over the impact of plain packaging.<sup>201</sup> The letter stated that “Mars is concerned that the introduction of mandatory plain packaging in the tobacco industry would also set a key precedent for the application of similar legislation to other industries, including the food and non-alcoholic beverage industries in which Mars operates.”<sup>202</sup>

While a plain label on a candy bar may be costly to companies and confusing to consumers, plain packaging for beer, wine and liquor would create far more challenges. For example, even the most sophisticated buyers of fine and rare wines have been duped by fake labels; the problem would be even more pronounced with plain packaging.

On August 6, 2014, wine “dealer” Rudy Kurniawan was sentenced to 10 years in prison for fraud, along with a \$20 million fine and \$28 million in restitution to the people he had defrauded. Beginning in 2004, Kurniawan mixed bottles of young wine together with older French wines of questionable vintage, slapped on fake labels, and sold them at exorbitant prices to wealthy clients who believed they were genuine rare bottles worth thousands of dollars.<sup>203</sup>

The scheme worked for several years in part because most of the buyers simply bought and stored the wine without tasting it, a common practice of rare wine collectors. It unraveled in part because Kurniawan created a label for a Domaine Ponsot vintage that never existed.<sup>204</sup>

Creating and protecting IP is the goal of every individual or company that wishes to become successful in the marketplace. Indeed, some names have been used so often that they have replaced a group of products that have a more ubiquitous description. For example, “Xerox” was once used instead of “copy”; “Kleenex” is often used instead of “tissue”; and, “Google it” is used instead of “search.” These are classic examples of the importance of branding.

While few products become so iconic, even the smallest icons need to be protected from infringement. With the help of the PTO, legal counsel, law enforcement, and non-interference from plain packaging proponents, any product has the potential to become a true household name.

## Conclusion

IP rights have been paramount since the Republic was established. As James Madison noted in “Federalist Paper 43,” referring to the authority to promote science and the arts by providing exclusive rights to authors’ and inventors’ writings and discoveries (which became Article I, Section 8 of the Constitution):

The utility of this power will scarcely be questioned. The copyright of authors has been solemnly adjudged in Great Britain to be a right of common law. The right to useful inventions seems with equal reason to belong to inventors. The public good fully coincides in both cases with the claims of individuals. The States cannot separately make effectual provision for either of the cases, and most of them have anticipated the decision of this point by laws passed at the instance of Congress.<sup>316</sup>

The Founding Fathers understood that by protecting the individual rights of artists, authors, entrepreneurs, innovators, and inventors, they were promoting the greater public welfare. These fundamental privileges remain essential to ensure that IP will continue to have a substantial, positive impact on everyone’s life.

Patent holders need strong enforcement of IP laws in the U.S. and by its trading partners. New initiatives to license underutilized patents will increase the availability of hundreds of inventions while reducing the amount of patent litigation. Consumers must have assurances that they are buying safe and effective products that will not cause them harm, and taxpayers need to know that the government is not using fake parts in its weapons systems.

However, there are headwinds to the protection of IP rights. The Internet has spawned a new wave of IP piracy that includes counterfeit drugs being sold on fake pharmaceutical websites and music and videos being illegally downloaded from file sharing or torrent sites. Stealing IP and distributing it without just compensation to its creator has a far-reaching negative impact on the next independent filmmaker, struggling garage band, or young author.

The theft of trademarks creates confusion for consumers who believe they are purchasing specific brand name goods, only to find that the items are mislabeled, counterfeit, or even deadly. Some governments have passed laws that essentially strip trademarks from certain goods, in order to support social goals or policies. Other governments enforce antitrust laws or weaken IP laws to allow their domestic businesses to make a profit from the ideas and sweat of others. If more countries develop policies that threaten IP, there will be less incentive to invest in technology, research, and development, and the global economy will suffer.

Despite these barriers to IP rights, there are many countries that understand and promote the importance of IP for economic growth. As Great Britain’s ITV Director of Policy and Regulatory Affairs Magnus Brooke said, “A strong IP regime is an engine of growth, NOT a barrier.”<sup>317</sup>

Keeping this engine running smoothly, using the recommendations and concepts contained in this report and similar sources, will help the global economy continue to grow. In the U.S. alone, IP-related industries provide more than 40 million jobs<sup>318</sup> and account for between 55 and 62.6 percent of GDP.<sup>319</sup> Without the innovation propelled by IP, the global economy would be on a slow (or slower, in current circumstances) train going nowhere.

Everyone benefits from IP. If the Founding Fathers had not recognized its importance, the light bulb, the telephone, the cell phone, and the microchip might never have been invented. Strong IP protection is fundamental to keeping the engine of ingenuity on track for generations to come.



**Thomas A. Schatz** is president of Citizens Against Government Waste (CAGW).

Mr. Schatz is a nationally-recognized spokesperson on government waste and has been interviewed on hundreds of radio talk shows from coast to coast. He is a regularly featured guest on national television news programs and local news broadcasts. Mr. Schatz has testified numerous times on government waste issues before committees of the U.S. Senate and House of Representatives, as well as before state and local legislative and regulatory bodies.

During his 28 years with CAGW, Mr. Schatz has helped make CAGW a “leading government watchdog on fiscally conservative issues, like taxes and earmarks,” according to *National Journal*. CAGW was cited by *The Hill* for its leading role in successfully pushing for the congressional earmark moratorium, which was identified as one of the “top 10 lobbying victories in 2010.” *The Hill* has

named Mr. Schatz as a “top lobbyist” for five consecutive years, from 2010-2014.

His previous books include “End the Income Tax,” co-authored with Jack Anderson in 1997; and “Telecom Unplugged: Ushering in a New Digital Era,” co-authored with Deborah Collier in 2014.

Prior to joining CAGW in 1986, Mr. Schatz spent six years as legislative director for Congressman Hamilton Fish, Jr. and two years practicing law and lobbying.

Mr. Schatz holds a law degree from George Washington University and graduated With Honors from the State University of New York at Binghamton with a bachelor’s degree in political science. He is married to Leslee Behar and has two daughters, Samantha and Alexandra.



**Deborah S. Collier** is the technology and telecommunications policy director for Citizens Against Government Waste (CAGW). She specializes in information technology (IT) and telecommunications policy, including cloud computing, IT procurement, information security, data privacy, broadband spectrum allocations, network neutrality, cable industry issues, e-commerce, and emerging technologies.

Since joining CAGW in July 2011, Ms. Collier has authored numerous of educational issue briefs; articles and blogs on technology and telecommunications policy, including three reports relating to cloud computing; and a report on the development of government mobile apps. In 2014, Ms. Collier joined with CAGW President Tom Schatz in co-authoring “Telecom Unplugged: Ushering in a New Digital Era.” She

has been a guest on radio and television news programs to discuss Internet taxation and other technology related issues.

Prior to her work at CAGW, Ms. Collier spent 24 years on Capitol Hill working in IT and legislative arenas. She worked for Rep. Clarence Miller (R-Ohio) both as a caseworker and system administrator, and then joined the staff of Rep. Steve Buyer (R-Ind.) as the director of information technology. From 2005 to 2010, she served on the House Committee on Veterans’ Affairs as the Republican Legislative Director. Ms. Collier was a member of the House Systems Administrators Association from 1989 until 2005, and served as the organization’s president from 2002 to 2005.

Ms. Collier holds a Bachelor of Arts (AB) degree in History from Ohio University. She is married to Kimo Collier, and has a son, Christian.



---

## Introduction

<sup>1</sup> “History and Sources of Intellectual Property Law,” National Paralegal College, National Juris University, 2006-2014,

[http://nationalparalegal.edu/public\\_documents/courseware.asp\\_files/patents/IntroIP/History.asp](http://nationalparalegal.edu/public_documents/courseware.asp_files/patents/IntroIP/History.asp).

<sup>2</sup> James V. DeLong, “Defending Intellectual Property,” in Adam Thierer and Wayne Crews (eds.), *Copy Fights*, Cato Institute, Washington, D.C. 2002, p. 21.

<sup>3</sup> “History and Sources of Intellectual Property Law.”

<sup>4</sup> Ibid.

<sup>5</sup> Orin E. Laney, “Intellectual Property and the Rights of Creative Employees,” 1999,

<http://www.orinlaney.com/ipguideweb.html>.

<sup>6</sup> *U.S. Constitution*, Article 1, Section 8.

<sup>7</sup> William F. Patry, *Copyright Law and Practice*, The Bureau of National Affairs, Inc., 1994, 2000,

<http://digital-law-online.info/patry/patry5.html>.

<sup>8</sup> “Intellectual Property and the U.S. Economy: Industries In Focus,” U.S. Department of Commerce Economic and Statistics Administration, U.S. Patent and Trademark Office, March 2012,

<http://www.esa.doc.gov/sites/default/files/reports/documents/ipandtheuseconomyindustriesinfocus.pdf>.

<sup>9</sup> Kevin A. Hassett and Robert J. Shapiro, “What Ideas Are Worth: The Value Of Intellectual Capital And Intangible Assets In The American Economy,” Sonecon, November 4, 2011,

[http://www.sonecon.com/docs/studies/Value\\_of\\_Intellectual\\_Capital\\_in\\_American\\_Economy.pdf](http://www.sonecon.com/docs/studies/Value_of_Intellectual_Capital_in_American_Economy.pdf).

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> “Intangible Asset Market Value,” Ocean Tomo Intellectual Capital Equity,

<http://www.oceantomo.com/productsandservices/investments/intangible-market-value>.

<sup>13</sup> Ibid.

<sup>14</sup> Samuel F. B. Morse, “Improvement in the Mode of Communicating Information by Signals by the Application of Electro-Magnetism,” U.S. Patent 1,647 (Filed April 7, 1838, issued June 20, 1840),

<http://pdfpiw.uspto.gov/.piw?docid=00001647&SectionNum=1&IDKey=9AEBD2B23335&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>15</sup> Thomas A. Edison, “Phonograph or Speaking Machine,” U.S. Patent 200,521 (Filed December 24, 1877, issued February 19, 1878),

<http://pdfpiw.uspto.gov/.piw?Docid=00200521&idkey=NONE&homeurl=http%3A%252F%252Fpatft.uspto.gov%252Fnetahtml%252FPTO%252Fpatimg.htm>.

<sup>16</sup> Thomas A. Edison, “Electric Lamp,” U.S. Patent 223,898 (Filed November 1, 1879, issued January 27, 1880),

<http://pdfpiw.uspto.gov/.piw?docid=00223898&SectionNum=1&IDKey=120EDB9888E8&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>17</sup> W. H. Carrier, “Apparatus for Treating Air,” U.S. Patent 808,897 (Filed September 16, 1904, issued January 2, 1906),

<http://pdfpiw.uspto.gov/.piw?Docid=808897&idkey=NONE&homeurl=http%3A%252F%252Fpatft.uspto.gov%252Fnetahtml%252FPTO%252Fpatimg.htm>.

<sup>18</sup> Philo Taylor Farnsworth, “Television System,” U.S. Patent 1,773,980 (Filed January 7, 1927, issued August 26, 1930),

<http://pdfpiw.uspto.gov/.piw?docid=01773980&SectionNum=1&IDKey=112E145D9051&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>19</sup> John Bardeen and Walter H. Brattain, “Three-Electrode Circuit Element Utilizing Semiconductive Materials,” U.S. Patent 2,524,035 (Filed June 17, 1948, issued October 3, 1950),



---

<http://pdfpiw.uspto.gov/.piw?docid=02524035&SectionNum=1&IDKey=CAC7A0F27768&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>20</sup> Mary Bellis, “The History of Marshmallow Peeps,” *Inventors.About.Com*, viewed October 8, 2014, [http://inventors.about.com/od/foodrelatedinventions/a/marshmallows\\_2.htm](http://inventors.about.com/od/foodrelatedinventions/a/marshmallows_2.htm).

<sup>21</sup> William P. Lear, “Magnetic Tape Cartridge,” U.S. Patent 3,350,025 (Filed August 31, 1964, issued October 31, 1967), <http://pdfpiw.uspto.gov/.piw?docid=03350025&SectionNum=1&IDKey=213694AED136&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>22</sup> Martin Cooper, Richard W. Dronsuth, Albert J. Mikulski, Charles N. Lynk, Jr., James J. Mikulski, John F. Mitchell, Roy A. Richardson, and John H. Sangster, “Radio Telephone System,” U.S. Patent 3,906,166 (Filed October 17, 1973, issued September 16, 1975), <http://pdfpiw.uspto.gov/.piw?docid=03906166&SectionNum=1&IDKey=00F208E395BB&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>23</sup> Gary W. Boone, “Computing Systems CPU,” U.S. Patent 3,757,306 (Filed August 31, 1971, issued September 4, 1973), <http://pdfpiw.uspto.gov/.piw?docid=03757306&SectionNum=1&IDKey=D20337B029D2&HomeUrl=http://patft.uspto.gov/netahtml/PTO/patimg.htm>.

<sup>24</sup> Jenna Wortham, “The Unrepentant Bootlegger,” *The New York Times*, September 27, 2014, [http://www.nytimes.com/2014/09/28/technology/the-unrepentant-bootlegger.html?\\_r=0](http://www.nytimes.com/2014/09/28/technology/the-unrepentant-bootlegger.html?_r=0).

## Chapter 1

<sup>25</sup> Ambassador Michael B. G. Froman, “2014 Special 301 Report,” Office of the United States Trade Representative, April 30, 2014, <http://www.ustr.gov/sites/default/files/USTR%202014%20Special%20301%20Report%20to%20Congress%20FINAL.pdf>.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> “2013 World Intellectual Property Indicators,” World Intellectual Property Organization, WIPO Economics & Statistics Series, December 9, 2013, [http://www.wipo.int/export/sites/www/freepublications/en/intproperty/941/wipo\\_pub\\_941\\_2013.pdf](http://www.wipo.int/export/sites/www/freepublications/en/intproperty/941/wipo_pub_941_2013.pdf).

<sup>29</sup> “ICE hosts intellectual property theft symposium at National IPR Center,” Immigration and Customs Enforcement, U.S. Department of Homeland Security, June 3, 2010, <https://ice.gov/news/releases/ice-hosts-intellectual-property-theft-symposium-national-ipr-center>.

<sup>30</sup> “IP Creates Jobs for America,” U.S. Chamber of Commerce, Global Intellectual Property Center, 2012, [www.IPcreatesjobs.com](http://www.IPcreatesjobs.com).

<sup>31</sup> “GIPC International IP Index,” U.S. Chamber of Commerce, Global Intellectual Property Center, January 29, 2014, <http://www.theglobalipcenter.com/gipcindex/>.

<sup>32</sup> *Ibid.*

<sup>33</sup> Gardiner Harris, “India’s Efforts to Aid Poor Worry Drug Makers,” *The New York Times*, December 29, 2013, [http://www.nytimes.com/2013/12/30/health/indias-efforts-to-aid-poor-worry-drugmakers.html?\\_r=2&](http://www.nytimes.com/2013/12/30/health/indias-efforts-to-aid-poor-worry-drugmakers.html?_r=2&).

<sup>34</sup> Sally Pipes, “India’s War on Intellectual Property Rights May Bring with it a Body Count,” *Forbes*, September 16, 2013, <http://www.forbes.com/sites/sallypipes/2013/09/16/indias-war-on-intellectual-property-rights-may-bring-with-it-a-body-count/>.

<sup>35</sup> Stephen Ezell and Robert Atkinson, “The Indian Economy at a Crossroads,” The Information Technology and Innovation Foundation, April 2014, pp. 18-20.

<sup>36</sup> *Ibid.*, pp. 104-111.

<sup>37</sup> Stephen E. Siwek, “The True Cost of Sound Recording Piracy to the U.S. Economy,” Institute for Policy Innovation, IPI Center for Technology Freedom, Policy Report 188, August 2007, [http://www.ipi.org/docLib/20120515\\_SoundRecordingPiracy.pdf](http://www.ipi.org/docLib/20120515_SoundRecordingPiracy.pdf).

---

<sup>38</sup> Dr. Stan J. Liebowitz, “The Measured Impact of Internet Piracy on the Sales and Revenues of Copyright Owners,” Center for the Analysis of Property Rights and Innovation, University of Texas at Dallas, October 1, 2012, p. 17.

<sup>39</sup> “To Catch a Fake,” A 20/20 Investigative Report, ABC News, June 13, 2014, <http://abc.go.com/shows/2020/listing/2014-06/13-2020-613-to-catch-a-fake>.

<sup>40</sup> Ibid.

<sup>41</sup> “About Us,” National Intellectual Property Rights Coordination Center, <http://www.iprcenter.gov/about-us>.

<sup>42</sup> “IPR Center, partners honored at 2014 Intellectual Property Champions Awards,” U.S. Immigration and Customs Enforcement, April 23, 2014, <http://www.ice.gov/news/releases/1404/140423washingtondc.htm>.

<sup>43</sup> “The Negative Consequences of International Intellectual Property Theft: Economic Harm, Threats to the Public Health and Safety, and Links to Organized Crime and Terrorist Organizations,” International Anti-Counterfeiting Coalition, January 2005, [http://www.iacc.org/assets/iacc\\_whitepaper.pdf](http://www.iacc.org/assets/iacc_whitepaper.pdf).

<sup>44</sup> “Cyber’s Most Wanted,” Federal Bureau of Investigation, May 20, 2014, <http://www.fbi.gov/wanted/cyber>.

<sup>45</sup> Spencer Ackerman and Jonathan Kaiman, “Chinese military officials charged with stealing US data as tensions escalate,” *The Guardian*, May 20, 2014, <http://www.theguardian.com/technology/2014/may/19/us-chinese-military-officials-cyber-espionage>.

<sup>46</sup> “Black Market for Counterfeit Goods Rakes in \$500 Billion Yearly,” ABC News “Nightline,” October 22, 2013, <http://news.yahoo.com/blogs/nightline-fix/black-market-counterfeit-goods-rakes-500-billion-yearly-140659855.html>.

<sup>47</sup> Yvonne P. Mazzulo, “How to spot counterfeit cosmetics,” *The Examiner*, October 22, 2013, <http://www.examiner.com/article/how-to-spot-counterfeit-cosmetics>.

## Chapter 2

<sup>48</sup> Erwin A. Blackstone, Ph.D., Joseph P. Fuhr, Jr., Ph.D., and Steve Pociask, MA, “The Health and Economic Effects of Counterfeit Drugs,” *American Health & Drug Benefits*, June 2014, Vol. 7, No. 4 – Business, <http://www.ahdbonline.com/issues/2014/june-2014-vol-7-no-4/1756-the-health-and-economic-effects-of-counterfeit-drugs>.

<sup>49</sup> Roger Bate, “The Deadly World of Fake Medicine,” CNN, July 17, 2012, <http://www.cnn.com/2012/07/17/health/living-well/falsified-medicine-bate/>.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Paul Toscano, “The Dangerous World of Counterfeit Prescription Drugs,” *USA Today*, October 7, 2011, <http://usatoday30.usatoday.com/money/industries/health/drugs/story/2011-10-09/cnbc-drugs/50690880/1>.

<sup>53</sup> Ibid.

<sup>54</sup> “General Information on Counterfeit Medicines,” World Health Organization, <http://www.who.int/medicines/services/counterfeit/overview/en/>.

<sup>55</sup> “Federal Food, Drug, and Cosmetic Act (FD&C Act),” Regulatory Information, U.S. Food and Drug Administration, October 2014, <http://www.fda.gov/regulatoryinformation/legislation/federalfooddrugandcosmeticactfdact/fdcactchaptersiandiishorttitleanddefinitions/ucm086297.htm>.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> “Educational Resources: Buying Medicine from Outside the United States,” U.S. Food and Drug Administration, July 14, 2014, <http://www.fda.gov/Drugs/ResourcesForYou/ucm078922.htm>.

<sup>59</sup> “Is It Legal for Me to Personally Import Drugs?” U.S. Food and Drug Administration, “About FDA,” July 14, 2014, <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm194904.htm>.

- 
- <sup>60</sup> “Counterfeit Drug Task Force Report,” U.S. Food and Drug Administration, October 2003, <http://www.fda.gov/Drugs/DrugSafety/ucm174388.htm>.
- <sup>61</sup> Ibid.
- <sup>62</sup> “Reimportation of All Prescription Drugs for Human Use,” Import Alert 66-14, U.S. Food and Drug Administration, August 19, 2014, [http://www.accessdata.fda.gov/cms\\_ia/importalert\\_177.html](http://www.accessdata.fda.gov/cms_ia/importalert_177.html).
- <sup>63</sup> Ibid.
- <sup>64</sup> Ibid.
- <sup>65</sup> “4 Deaths Tied to Counterfeit Drugs Dispensed at Ontario, Canada Pharmacy,” The Partnership for Safe Medicines, September 2005, <http://www.safemedicines.org/2005/09/4-deaths-tied-to-counterfeit-drugs-dispensed-at-ontario-canada-pharmacy.html>.
- <sup>66</sup> “Chief Coroner Makes Recommendations Resulting from Investigation into 11 Hamilton Deaths,” Ministry of Community Safety and Correctional Services, January 9, 2006, <http://news.ontario.ca/archive/en/2006/01/09/Chief-Coroner-makes-recommendations-resulting-from-investigation-into-11-Hamilto.html>.
- <sup>67</sup> Melanie Haiken, “Up To 77 Percent Of Viagra Bought Online May Be Fake, And Possibly Dangerous, Research Shows,” *Forbes*, September 12, 2013, <http://www.forbes.com/sites/melaniehaiken/2013/09/12/buying-viagra-online-its-very-likely-fake-and-possibly-dangerous-new-data-say/>.
- <sup>68</sup> Ibid.
- <sup>69</sup> Ibid.
- <sup>70</sup> “Internet Drug Outlet Identification Program, Progress Report for State and Federal Regulators,” National Association of Boards of Pharmacy, July 2013, [https://awarerx.s3.amazonaws.com/system/redactor\\_assets/documents/237/NABP\\_Internet\\_Drug\\_Outlet\\_Report\\_July2013.pdf](https://awarerx.s3.amazonaws.com/system/redactor_assets/documents/237/NABP_Internet_Drug_Outlet_Report_July2013.pdf).
- <sup>71</sup> Jocelyne Sambira, “Counterfeit Drugs Raise Africa’s Temperature,” *Africa Renewal*, May 2013, p. 5, <http://www.un.org/africarenewal/magazine/may-2013/counterfeit-drugs-raise-africa%E2%80%99s-temperature>.
- <sup>72</sup> Gardiner Harris, “Low-Cost Drugs in Poor Nations Get a Lift in Indian Court,” *The New York Times*, April 1, 2013, [http://www.nytimes.com/2013/04/02/business/global/top-court-in-india-rejects-novartis-drug-patent.html?pagewanted=all&\\_r=2&](http://www.nytimes.com/2013/04/02/business/global/top-court-in-india-rejects-novartis-drug-patent.html?pagewanted=all&_r=2&).
- <sup>73</sup> Ibid.
- <sup>74</sup> Penelope Macrae, “Roche Drops India Patent for Breast-Cancer Drug,” Fox News, August 17, 2013, <http://www.foxnews.com/world/2013/08/17/roche-drops-india-patent-for-breast-cancer-drug/>.
- <sup>75</sup> Harris, “Low-Cost Drugs in Poor Nations Get a Lift in Indian Court.”
- <sup>76</sup> Marcia Crosse, Director, Health Care, Government Accountability Office, “Internet Pharmacies: Most Rogue Sites Operate from Abroad, and Many Sell Counterfeit Drugs,” Testimony before the House Energy and Commerce Subcommittee on Oversight and Investigations, February 27, 2014, <http://www.gao.gov/assets/670/661177.pdf>.
- <sup>77</sup> Howard Sklamberg, Deputy Commissioner for Global Regulatory Operations and Policy, Food and Drug Administration, Department of Health and Human Services, “Counterfeit Drugs: Fighting Illegal Supply Chains,” Testimony before the House Energy and Commerce Subcommittee on Oversight and Investigations, February 27, 2014, <http://www.fda.gov/newsevents/testimony/ucm387449.htm>.
- <sup>78</sup> Ibid.
- <sup>79</sup> Ibid.
- <sup>80</sup> Ibid.
- <sup>81</sup> “Guilty Pleas in Counterfeiting Cases,” Intellectual Property Spotlight, Office of the United States Intellectual Property Enforcement Coordinator, December-February 2014, [http://www.whitehouse.gov/sites/default/files/omb/IPEC/spotlight/ipec\\_spotlight\\_dec\\_2013\\_feb\\_2014.pdf](http://www.whitehouse.gov/sites/default/files/omb/IPEC/spotlight/ipec_spotlight_dec_2013_feb_2014.pdf).
- <sup>82</sup> Ibid.

---

<sup>83</sup> “Orange County Man Charged with Selling Counterfeit Sexual Dysfunction Drugs over the Internet,” Immigration and Customs Enforcement News Releases, March 11, 2013, <http://www.ice.gov/news/releases/1303/130311santaana.htm>.

<sup>84</sup> Ibid.

<sup>85</sup> “To Catch a Fake,” 20/20.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Sklamberg, “Counterfeit Drugs: Fighting Illegal Supply Chains.”

<sup>90</sup> Lynn C. Klotz, Ph.D., “What Is The Real Drug Development Costs for Very Small Biotech Companies?” *Genetic Engineering Biotechnology News*, January 16, 2014, <http://www.genengnews.com/insight-and-intelligence/what-is-the-real-drug-development-cost-for-very-small-biotech-companies/77900012/>.

<sup>91</sup> “Pharmaceutical Patents: The Value of Pharmaceutical Patents & Strong Intellectual Property Protection,” Pharmaceutical Research and Manufacturers of America, [http://www.innovation.org/documents/File/Pharmaceutical\\_Patents.pdf](http://www.innovation.org/documents/File/Pharmaceutical_Patents.pdf).

<sup>92</sup> Blackstone, Fuhr, and Pociask, “The Health and Economic Effects of Counterfeit Drugs.”

<sup>93</sup> Ibid.

### Chapter 3

<sup>94</sup> Jorge Lopez, “Bootleg Movies Lands Augusta Man In Jail,” WRDW-TV, CBS Channel 12 News, August 8, 2014, <http://www.wrdw.com/home/headlines/Bootleg-movies-lands-Augusta-man-in-jail--270423901.html>.

<sup>95</sup> Nic Healey, “Game of Thrones finale piracy hits 2 petabytes in 12 hours,” *C/Net*, June 16, 2014, <http://www.cnet.com/news/game-of-thrones-finale-piracy-hits-2-petabytes-in-12-hours/>. According to Tru Optik, “Game of Thrones” has been subject to 289.9 million illegal downloads, more than any other television program; <http://truoptik.com/>. NB: A petabyte of data contains enough capacity to store 233,000 DVDs.

<sup>96</sup> “Buyers Bulletin: Tape Piracy...Everyone’s Problem,” A Public Collectors Reprint, 1974, [www.publiccollectors.org/TapePiracy.html](http://www.publiccollectors.org/TapePiracy.html).

<sup>97</sup> Callie Taintor, “Chronology: Technology and the Music Industry,” PBS, “FrontLine,” May 27, 2004, <http://www.pbs.org/wgbh/pages/frontline/shows/music/inside/cron.html>.

<sup>98</sup> Don Cusic, Gregory K. Faulk, and Robert P. Lambert, “Technology and Music Piracy: Has the Recording Industry Lost Sales?” *Studies in Popular Culture*, 28.1, Popular/American Culture Association in the South, October 2005, <http://www.pcasacas.org/SiPC/28.1/Cusic.pdf>.

<sup>99</sup> “Napster Shut Down,” ABC News, July 27, 2000, <http://abcnews.go.com/Technology/story?id=119627>.

<sup>100</sup> <http://www.rhapsody.com/napster>.

<sup>101</sup> Paul Gil, “Torrents 101: How Torrent Downloading Works: Part 1) An Overview of BitTorrent P2P File Sharing,” About.com, “Internet for Beginners,” April, 2014, <http://netforbeginners.about.com/od/peersharing/a/torrenthandbook.htm>.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> David Price, PhD., “Technical Report: An Estimate of Infringing Use of the Internet,” Envisional, January 2011, [http://documents.envisional.com/docs/Envisional-Internet\\_Usage\\_Report-Summary.pdf](http://documents.envisional.com/docs/Envisional-Internet_Usage_Report-Summary.pdf).

<sup>105</sup> Angela Watercutter, “The Most Pirated Movies of 2013 – And Why Piracy Isn’t Hurting the Box Office,” *Wired*, January 2, 2014, <http://www.wired.com/2014/01/most-pirated-films-2013/>.

<sup>106</sup> Ibid.

- 
- <sup>107</sup> Kat Smith, “Chloe Moretz Tells Of Frustration With Film Piracy & No More ‘Kick-Ass,’” *The Hollywood News*, August 25, 2014, <http://www.thehollywoodnews.com/2014/08/25/chloe-moretz-tells-of-frustration-with-film-piracy-no-more-kick-ass/>.
- <sup>108</sup> Måns Svensson, Stefan Larsson, and Marcin de Kaminski, “Professionalization, Gender and Anonymity in the Global File Share Community,” The University of Lund, March 2013, <http://lup.lub.lu.se/luur/download?func=downloadFile&recordId=3615165&fileId=3615249>.
- <sup>109</sup> Ibid.
- <sup>110</sup> Steven Caldwell Brown, “What Makes People Pirate?” *TechCentral*, August 5, 2014, <http://www.techcentral.co.za/what-makes-people-pirate/50127/>.
- <sup>111</sup> Chris Castle, “The MTP Interview: An Inconvenient Truth: Songwriters Guild President Rick Carnes talks about the effect of piracy on American songwriters,” Music Technology Policy, March 10, 2012, <http://musictechpolicy.wordpress.com/2012/03/10/an-inconvenient-truth-songwriters-guild-president-rick-carnes-talks-about-the-effect-of-piracy-on-american-songwriters/>.
- <sup>112</sup> David Lowery, “Letter to Emily White at NPR All Songs Considered,” *The Trichordist*, June 18, 2012, <http://thetrichordist.com/2012/06/18/letter-to-emily-white-at-npr-all-songs-considered/>.
- <sup>113</sup> Michael Schlesinger, “Testimony before the 301 Committee, 2010 Special 301 Hearing,” International Intellectual Property Alliance, March 2, 2011, <http://www.iipa.com/pdf/Special301RequesttoTestifyandStatement030211.pdf>.
- <sup>114</sup> Wortham, “The Unrepentant Bootlegger.”
- <sup>115</sup> Liye Ma, Alan Montgomery, Param Vir Singh, and Michael D. Smith, “An Empirical Analysis of the Impact of Pre-Release Movie Piracy on Box-Office Revenue,” Carnegie Mellon University, July 8, 2014, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1782924](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1782924).
- <sup>116</sup> Nick Simmons, “Gene Simmons: ‘Rock Is Finally Dead,’” *Esquire*, September 4, 2014, <http://www.esquire.com/blogs/culture/gene-simmons-future-of-rock>.
- <sup>117</sup> Ibid.
- <sup>118</sup> “United States Copyright Office: A Brief Introduction and History,” Circular 1a, U.S. Copyright Office, Library of Congress, <http://copyright.gov/circs/circ1a.html>.
- <sup>119</sup> “Overview of the Copyright Office,” United States Copyright Office, Library of Congress, <http://copyright.gov/about/>.
- <sup>120</sup> “Copyright in General,” United States Copyright Office, Library of Congress, <http://copyright.gov/help/faq/faq-general.html#register>.
- <sup>121</sup> “What Does Copyright Protect?” United States Copyright Office, Library of Congress, <http://copyright.gov/help/faq/faq-protect.html#website>.
- <sup>122</sup> Greg Sandoval, “Indie Filmmakers: Piracy and Google Threaten Us,” *C/Net*, September 20, 2010, <http://www.cnet.com/news/indie-filmmakers-piracy-and-google-threaten-us/>.
- <sup>123</sup> Laura Sydell, “Feeding Pirates: When Legit Companies Advertise on Shady Sites,” National Public Radio, “All Tech Considered,” July 1, 2010, <http://www.npr.org/blogs/alltechconsidered/2010/07/01/128255612/feeding-pirates-when-legit-companies-advertise-on-shady-sites>.
- <sup>124</sup> Ibid.
- <sup>125</sup> Laura Sydell, “Pirates Turn Deaf Ear to Independent Filmmaker,” National Public Radio, “All Tech Considered,” November 30, 2010, <http://www.npr.org/blogs/alltechconsidered/2010/12/01/131677403/pirates-turn-deaf-ear-to-independent-filmmaker>.
- <sup>126</sup> Ibid.
- <sup>127</sup> Ibid.
- <sup>128</sup> John Biggs, “Meet Tom Lowe, The Filmmaker Who Talked Back to The Pirate Bay,” *TechCrunch*, June 9, 2012, <http://techcrunch.com/2012/06/09/meet-the-filmmaker-who-talked-back-to-the-pirate-bay/>.
- <sup>129</sup> Wortham, “The Unrepentant Bootlegger.”
- <sup>130</sup> Diana Lodderhose, “Movie Piracy: Threat to the Future of Films Intensifies,” *The Guardian*, July 17, 2014, <http://www.theguardian.com/film/2014/jul/17/digital-piracy-film-online-counterfeit-dvds>.



- 
- <sup>131</sup> Ibid.
- <sup>132</sup> Samuel Gibson, "Piracy Study Shows Illegal Downloaders More Likely to Pay for Films than Music," *The Guardian*, May 6, 2014, <http://www.theguardian.com/technology/2014/may/06/piracy-film-music-study-pay-illegal-download-damage>.
- <sup>133</sup> Colin Dixon, "Are 4B illegal video downloads in 1H2014 really that bad?" *nScreenMedia*, August 25, 2014, <http://www.nscreenmedia.com/4b-illegal-video-downloads-1h2014-bad/>.
- <sup>134</sup> Ibid.
- <sup>135</sup> Karsten Strauss, "TV and Film Piracy: Threatening an Industry?" *Forbes*, March 6, 2013, <http://www.forbes.com/sites/karstenstrauss/2013/03/06/tv-and-film-piracy-threatening-an-industry/>.
- <sup>136</sup> "Brubaker," IMDb.
- <sup>137</sup> "Looking Back," *Lancaster Eagle-Gazette*, August 16, 2008, p. A-5, <http://pqasb.pqarchiver.com/lancastereaglegazette/doc/442544629.html?FMT=ABS&FMTS=ABS:FT&d ate=Aug+16%2C+2008&author=&pub=Lancaster+Eagle+-+Gazette&edition=&startpage=&desc=Looking+Back>.
- <sup>138</sup> "In Production," The Ohio Film Office, July 14, 2014, <http://development.ohio.gov/FilmOffice/InProduction.html>.
- <sup>139</sup> Adrian McDonald, "2013 Feature Film Production Report," Film L.A. Inc., 2014, <http://www.hollywoodreporter.com/sites/default/files/custom/Embeds/2013%20Feature%20Study%20Corrected%20no%20Watermark%5B2%5D.pdf>.
- <sup>140</sup> Ibid.
- <sup>141</sup> Dorothy Pomerantz, "Cameras Rolling – Away From California: State Falls to Fourth in Film Production," *Forbes*, March 6, 2014, <http://www.forbes.com/sites/dorothypomerantz/2014/03/06/local-film-industry-in-deep-trouble-in-california/>.
- <sup>142</sup> "Film Industry Generates \$5.1 Billion In Economic Impact," State of Georgia Office of Communications, August 5, 2014, <http://www.georgia.org/newsroom/press-releases/film-industry-generates-5-1-billion-economic-impact/>.
- <sup>143</sup> Dawn Prestwich, "Piracy Endangers TV Renewals and Jobs," (Guest Column), *Variety*, October 6, 2014, <http://variety.com/2014/tv/news/piracy-endangers-tv-renewals-and-jobs-says-killing-writer-guest-column-1201322657/>.
- <sup>144</sup> Ibid.
- <sup>145</sup> Ibid.
- <sup>146</sup> John Biggs, "A Pirate's Life For Me: Police Bust Hungarian Movie Ring," *TechCrunch*, October 10, 2011, <http://techcrunch.com/2011/10/10/a-pirates-life-for-me-police-bust-hungarian-movie-ring/>.
- <sup>147</sup> Francis D'Sa, "The Pirate Bay Doubles Traffic Despite Ban," *Deccan Chronicle*, July 20, 2014, <http://www.deccanchronicle.com/140720/technology-latest/article/pirate-bay-doubles-traffic-despite-ban>.
- <sup>148</sup> "Learn About Copyright on YouTube, What Is Copyright," Google, July 23, 2014, <https://support.google.com/youtube/answer/2797466?hl=en>.
- <sup>149</sup> Jack Marshall, "Ads Appear Before Unlicensed Content on YouTube, Too," *The Wall Street Journal*, May 8, 2014, <http://blogs.wsj.com/cmo/2014/05/08/ads-appear-before-unlicensed-content-on-youtube-too/?KEYWORDS=Video+Piracy>.
- <sup>150</sup> "For Students Doing Reports," Recording Industry Association of America, August 14, 2014, <http://www.riaa.com/faq.php>.
- <sup>151</sup> Kate Greene, "Preventing Movie Piracy," *Technology Review*, Massachusetts Institute of Technology, July 5, 2006, <http://www.technologyreview.com/news/406063/preventing-movie-piracy/>.
- <sup>152</sup> Erich Schwartzel, "Spy Cameras, Secret Audio Help Fight Movie Piracy," *The Wall Street Journal*, August 12, 2013, <http://online.wsj.com/news/articles/SB10001424127887324769704579008640314353088>.
- <sup>153</sup> Nick Bilton, "Internet Pirates Will Always Win," *The New York Times*, August 4, 2012, [http://www.nytimes.com/2012/08/05/sunday-review/internet-pirates-will-always-win.html?\\_r=0](http://www.nytimes.com/2012/08/05/sunday-review/internet-pirates-will-always-win.html?_r=0).
- <sup>154</sup> Wheretowatch.org.
- <sup>155</sup> "Find Music," Music Matters, <http://whymusicmatters.com/find-music>.

- 
- <sup>156</sup> No Electronic Theft (NET) Act, Public Law 105-147, 105<sup>th</sup> Congress, 111 STAT. 2678, Enacted December 16, 1997, <http://www.gpo.gov/fdsys/pkg/PLAW-105publ147/pdf/PLAW-105publ147.pdf>.
- <sup>157</sup> Digital Millennium Copyright Act, Public Law 105-304, 105<sup>th</sup> Congress, 112 STAT. 2860, Enacted October 28, 1998, <http://www.gpo.gov/fdsys/pkg/PLAW-105publ304/pdf/PLAW-105publ304.pdf>.
- <sup>158</sup> “Digital Piracy in the 21<sup>st</sup> Century,” *Bill of Rights in Action*, Winter 2008 (Volume 23, No. 4), Constitutional Rights Foundation, <http://www.crf-usa.org/bill-of-rights-in-action/bria-23-4-b-digital-piracy-in-the-21st-century>.
- <sup>159</sup> Bruce Boyden, “The Failure of the DMCA Notice and Takedown System: A Twentieth Century Solution to a Twenty-First Century Problem,” Center for the Protection of Intellectual Property, George Mason University School of Law, December 2013, <http://cpip.gmu.edu/wp-content/uploads/2013/08/Bruce-Boyden-The-Failure-of-the-DMCA-Notice-and-Takedown-System1.pdf>.
- <sup>160</sup> Cary Sherman, “Google’s 100 Million Notices,” *The Hill*, January 13, 2014, <http://thehill.com/blogs/ballot-box/195107-googles-100-million-notices>.
- <sup>161</sup> Maria Schneider, “Section 512 of Title 17,” Testimony before the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, March 13, 2014, [http://judiciary.house.gov/\\_cache/files/7aa84910-171e-4f3e-82fc-b2cef9a43c3e/031314-testimony---schneider.pdf](http://judiciary.house.gov/_cache/files/7aa84910-171e-4f3e-82fc-b2cef9a43c3e/031314-testimony---schneider.pdf).
- <sup>162</sup> Ibid.
- <sup>163</sup> “HSI Fresno seizes nearly \$1 million worth of bootleg movies and music in probe targeting counterfeiting,” U.S. Immigration and Naturalization Service, April 26, 2012, <http://www.ice.gov/news/releases/1204/120426fresno.htm>.
- <sup>164</sup> Ibid.
- <sup>165</sup> Paul Williams, “Music Licensing Under Title 17 – Part Two,” Testimony before the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, June 25, 2014, [http://judiciary.house.gov/\\_cache/files/5b77d14c-1ea5-491a-a508-5167e5d3d95c/062514-music-license-pt-2-testimony-ascap.pdf](http://judiciary.house.gov/_cache/files/5b77d14c-1ea5-491a-a508-5167e5d3d95c/062514-music-license-pt-2-testimony-ascap.pdf).
- <sup>166</sup> Ibid.
- <sup>167</sup> Daniel Castro, “Targeting Websites Dedicated to Stealing American Intellectual Property,” Testimony before the Senate Judiciary Committee, February 12, 2011, <http://www.itif.org/files/2011-coica-testimony.pdf>.

## Chapter 4

- <sup>168</sup> “History of Bottling,” The Coca-Cola Company, <http://www.coca-colacompany.com/our-company/history-of-bottling>.
- <sup>169</sup> Ibid.
- <sup>170</sup> “Trademarks,” U.S. Patent and Trademark Office, <http://www.uspto.gov/inventors/trademarks.jsp>.
- <sup>171</sup> Ibid.
- <sup>172</sup> Cristina Lourosa-Ricardo, “The Latest in Counterfeit Goods,” *The Wall Street Journal*, December 4, 2011, <http://online.wsj.com/news/articles/SB10001424052970204012004577070190846665320>.
- <sup>173</sup> Ibid.
- <sup>174</sup> Kirstan Conley, “Cops Bust Largest Fake Beauty Supplies Ring in U.S.,” *New York Post*, March 7, 2014, <http://nypost.com/2014/03/07/pair-accused-of-stocking-stores-with-bogus-beauty-products/>.
- <sup>175</sup> Ibid.
- <sup>176</sup> Elizabeth Gasiorowski Denis, “Crackdown on Counterfeiting,” International Organization for Standardization, January 8, 2014, [http://www.iso.org/iso/home/news\\_index/news\\_archive/news.htm?refid=Ref1809](http://www.iso.org/iso/home/news_index/news_archive/news.htm?refid=Ref1809).
- <sup>177</sup> Coral Garnick, “Counterfeit Seahawks merchandise can be hard to tackle,” *The Seattle Times*, August 20, 2014, [http://seattletimes.com/html/sports/2024355360\\_seahawksscamsxml.html](http://seattletimes.com/html/sports/2024355360_seahawksscamsxml.html).
- <sup>178</sup> Ibid.
- <sup>179</sup> Ibid.

---

<sup>180</sup> “Protecting Your Trademark: Enhancing Your Rights Through Federal Registration,” U.S. Patent and Trademark Office, Printed 2014, <http://www.uspto.gov/trademarks/basic/BasicFacts.pdf>.

<sup>181</sup> Ibid.

<sup>182</sup> Dave Smith, “4 Tips For Protecting Your Trademark,” *Inc.*, June 2011, <http://www.inc.com/guides/201106/4-tips-for-protecting-your-trademark.html>.

<sup>183</sup> Jason Gillikin, “How Can a Business Protect Their Brand & Trademark from The Internet?” *Houston Chronicle*, Viewed October 8, 2014, <http://smallbusiness.chron.com/can-businesses-protect-brand-trademark-internet-2254.html>.

<sup>184</sup> Darren Dahl, “Small-Business Guide: Intellectual Property,” *The New York Times*, August 6, 2009, [http://www.nytimes.com/2009/08/06/business/smallbusiness/06guide.html?\\_r=0&adxnnl=1&pagewanted=print&adxnnl=1409152996-ARNhziOoft1jKdgdLISpQ](http://www.nytimes.com/2009/08/06/business/smallbusiness/06guide.html?_r=0&adxnnl=1&pagewanted=print&adxnnl=1409152996-ARNhziOoft1jKdgdLISpQ).

<sup>185</sup> Tiffany Bozic, “Crazy Blatant,” Tumblr, January 13, 2014, <http://tiffanybozic.tumblr.com/post/7322230661/crazy-blatant-this-lame-clothing-company-romwe>.

<sup>186</sup> Ibid.

<sup>187</sup> Authors’ note: Comments found on Tidebuy.com for a dress attributed on the site to be designed by Liz Fields, using a photograph from her business website. Screenshots of these pages were provided by Liz Fields to CAGW on September 16, 2014. In addition, screenshots provided by Liz Fields of a Google search on the term “Liz Fields bridesmaids discount” posted the discount purchase price for one of her designs at \$254.00. According to Fields, the actual wholesale price of this gown is \$489.00, and the manufacturer’s retail price is \$1,079.

<sup>188</sup> Liz Fields, “Commentary: Knockoffs Hurt Firms, Workers and Customers,” *Courier-Post*, Cherry Hill, New Jersey, March 28, 2014, <http://www.courierpostonline.com/story/opinion/columnists/2014/03/29/commentary-knockoffs-hurt-firms-workers-and-customers/6963183/>.

<sup>189</sup> “Tobacco Smoking (NDSHS 2013 Key Findings),” Australian Institute of Health and Welfare, 2013, <http://www.aihw.gov.au/alcohol-and-other-drugs/ndshs/2013/tobacco/>.

<sup>190</sup> Ibid.

<sup>191</sup> Harriet Alexander, “Plunge in Smoking Attributed to Plain Packaging,” *The Sydney Morning Herald*, July 17, 2014, <http://www.smh.com.au/federal-politics/political-news/plunge-in-smoking-attributed-to-plain-packaging-20140716-ztqht.html>.

<sup>192</sup> Lauren Wilson, “More Australian Teenagers Are Choosing not to Drink and Smoke, According To A Major New Report,” News Corp Australian Network, July 17, 2014, <http://www.news.com.au/national/more-australian-teenagers-are-choosing-not-to-drink-and-smoke-according-to-a-major-new-report/story-fncynjr2-1226991404242>.

<sup>193</sup> Chris Vindurampulle, “Plain Packaging for Alcohol May Happen Sooner Than You Think,” Association of Corporate Counsel, August 5, 2014, <http://www.lexology.com/library/detail.aspx?g=d1b40902-3996-4360-8654-af2e3ca0b1ad>.

<sup>194</sup> Isaac Davison, “Tobacco Firms Warn MPs Over Plain Packaging,” *The New Zealand Herald*, May 15, 2014, [http://www.nzherald.co.nz/business/news/article.cfm?c\\_id=3&objectid=11254992](http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11254992).

<sup>195</sup> Stephanie March, “India Urged to Follow Australian Lead on Cigarette Plain-Packaging,” ABC News Australia, October 29, 2013, <http://www.abc.net.au/news/2013-10-28/an-india-urged-to-follow-australian-lead-on-plain-packaging-for/5049380>.

<sup>196</sup> “France Moves Towards Cigarette Plain Packaging,” *World Intellectual Property Review*, February 7, 2014, <http://www.worldipreview.com/news/france-moves-towards-cigarette-plain-packaging-6867>.

<sup>197</sup> Wendell Roelf, “South Africa plans plain cigarette packaging by 2014: minister,” Reuters, July 24, 2014, <http://www.reuters.com/article/2014/07/24/us-safrica-tobacco-idUSKBN0FT1QI20140724>.

<sup>198</sup> Paul Burstow, MP (Lib Dem), Kevin Barron, MP (Lab), Bob Blackman, MP (Con), All Party Parliamentary Group on Smoking and Health, London, SW1, “The Government Should not Delay on Introducing Plain Packaging,” *The Telegraph*, Letter to the Editor, August 8, 2014, <http://www.telegraph.co.uk/comment/letters/11019990/The-Government-should-not-delay-on-introducing-plain-packaging.html>.



---

<sup>199</sup> Davison, “Tobacco Firms Warn MPs Over Plain Packaging.”

<sup>200</sup> Andre Walker, “Watch: Australian Plain Packaging Leads to Explosion in Fake Cigarette Sales,” Breitbart - London, July 24, 2014, <http://www.breitbart.com/Breitbart-London/2014/07/24/Australian-Plain-Packaging-Leads-To-Explosion-In-Fake-Cigarettes>.

<sup>201</sup> Guy Bentley, “Mars Lawyers Slam Tobacco Plain Packaging,” *City A.M.*, July 24, 2014, <http://www.cityam.com/1406214295/mars-lawyers-slam-tobacco-plain-packaging>.

<sup>202</sup> Annie-Rose Harrison-Dunn, “Plain Packaging Pay Out To Mars Would ‘Certainly Not Be Trivial’, says Institute of Economic Affairs,” *Confectionery News*, July 30, 2014, <http://www.confectionerynews.com/Regulation-Safety/Mars-complaint-over-tobacco-plain-packaging-uneearthed>.

<sup>203</sup> Tatiana Schlossberg, “Wine Dealer Sentenced to 10 Years for Defrauding Clients,” *The New York Times*, August 7, 2014, [http://www.nytimes.com/2014/08/08/nyregion/wine-dealer-sentenced-to-10-years-for-defrauding-clients.html?\\_r=2](http://www.nytimes.com/2014/08/08/nyregion/wine-dealer-sentenced-to-10-years-for-defrauding-clients.html?_r=2).

<sup>204</sup> Ben Goldstein, “The Man Who Duped Millionaires Into Paying Big Bucks For Fake Wine,” National Public Radio, December 13, 2013, <http://www.npr.org/blogs/thesalt/2013/12/18/255241685/the-man-who-duped-millionaires-into-paying-big-bucks-for-fake-wine>.

## Chapter 5

<sup>205</sup> “Alexander Graham Bell: Telephone Inventor,” Lemelson Center for the Study of Invention and Innovation, Smithsonian National Museum of American History, [http://invention.smithsonian.org/centerpieces/iap/inventors\\_bel.html](http://invention.smithsonian.org/centerpieces/iap/inventors_bel.html).

<sup>206</sup> Henry M. Paynter, “The First Patent,” [https://www.me.utexas.edu/~longoria/paynter/hmp/The\\_First\\_Patent.html](https://www.me.utexas.edu/~longoria/paynter/hmp/The_First_Patent.html).

<sup>207</sup> “Patents by Country, State and Year,” U.S. Patent and Trademark Office (PTO), December, 2013, [www.uspto.gov/web/offices/ac/ido/oeip/taf/cst\\_all.htm](http://www.uspto.gov/web/offices/ac/ido/oeip/taf/cst_all.htm).

<sup>208</sup> “U.S. Patent Statistics Chart, Calendar Years 1963 – 2013,” U.S. Patent and Trademark Office, Patent Technology Monitoring Team (PTMT), August 15, 2014, [http://www.uspto.gov/web/offices/ac/ido/oeip/taf/us\\_stat.htm](http://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm).

<sup>209</sup> “General Information Concerning Patents,” U.S. Patent and Trademark Office, November 2011, [http://www.uspto.gov/patents/resources/general\\_info\\_concerning\\_patents.jsp#heading-24](http://www.uspto.gov/patents/resources/general_info_concerning_patents.jsp#heading-24).

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Elizabeth Kim, “Priceline founder looks to innovate licensing,” *Stamford Advocate*, August 18, 2014, p. 1, <http://www.stamfordadvocate.com/default/article/Priceline-founder-looks-to-innovate-patent-5692277.php>.

<sup>213</sup> Marshall Phelps and David Kline, “Building a white-hat brand in the patent industry,” *Intellectual Asset Management Magazine*, Issue 67, September/October 2014, p. 43, <http://www.iam-magazine.com/Magazine/Issue/67>.

<sup>214</sup> B. Zorina Khan, Ph.D., “Trolls and Other Patent Inventions: Economic History and the Patent Controversy in the Twenty-First Century,” Bowdoin College, Brunswick, Maine, and National Bureau of Economic Research, September 2013, p. 9, <http://cpip.gmu.edu/wp-content/uploads/2013/09/Khan-Zorina-Patent-Controversy-in-the-21st-Century.pdf>.

<sup>215</sup> Tom Habert, “Qualcomm Takes on the World,” *Electronics 360*, February 11, 2013, <http://electronics360.globalspec.com/article/8/qualcomm-takes-on-the-world>, and <http://investor.qualcomm.com/results.cfm?Quarter=&Year=2014>.

<sup>216</sup> “Earnings Release FY 14, Q4,” Investor Relations, Microsoft, <http://www.microsoft.com/Investor/EarningsAndFinancials/Earnings/SegmentResults/S1/FY14/Q4/Performance.aspx>.

<sup>217</sup> “Ownership/Assignability of Patents and Applications,” PTO, <http://www.uspto.gov/web/offices/pac/mpep/s301.html>.

- 
- <sup>218</sup> “Organizations for Inventors,” PTO, *inventorseye*, vol. 2, issue 6, December 2011, <http://www.uspto.gov/inventors/independent/eye/201112/orgs.jsp>.
- <sup>219</sup> Neil Kane, “Patents for Sale: How to Separate the Valuable from the Worthless,” *Forbes*, May 22, 2014, <http://www.forbes.com/sites/neilkane/2014/05/22/a-modest-proposal-for-licensing-patents/>.
- <sup>220</sup> Ibid.
- <sup>221</sup> Walter D. Valdivia, “University Start-ups: Critical for Improving Technology Transfer,” The Brookings Institution, November 20, 2013, p. 9, <http://www.brookings.edu/research/papers/2013/11/university-start-ups-technology-transfer-valdivia>.
- <sup>222</sup> Ibid., p. 6.
- <sup>223</sup> Richard Perez-Pena, “Patenting Their Discoveries Does Not Pay Off for Most Universities, a Study Says,” *The New York Times*, November 20, 2013, [http://www.nytimes.com/2013/11/21/education/patenting-their-discoveries-does-not-pay-off-for-most-universities-a-study-says.html?\\_r=0](http://www.nytimes.com/2013/11/21/education/patenting-their-discoveries-does-not-pay-off-for-most-universities-a-study-says.html?_r=0).
- <sup>224</sup> Valdivia, pp. 15-17.
- <sup>225</sup> “Overview, How PatentBooks Work,” PatentBooks, <http://patentbooksinc.com/evaluation-criteria/>.
- <sup>226</sup> Ibid.
- <sup>227</sup> Ibid.
- <sup>228</sup> “FAQ’s,” PatentBooks, <http://patentbooksinc.com/faq/>.
- <sup>229</sup> Gene Quinn, “A Conversation with Priceline.com Founder Jay Walker,” *IP Watchdog*, July 13, 2014, <http://www.ipwatchdog.com/2014/07/13/conversation-with-priceline-com-founder-jay-walker/id=50338/>.
- <sup>230</sup> Patent Properties, Media Center, <http://www.patentproperties.com/mediacenter.html>.
- <sup>231</sup> “Introducing the United States Patent Utility,” Patent Properties, <http://www.patentproperties.com/patentinnovations.html>.
- <sup>232</sup> Ibid.
- <sup>233</sup> Kim, p. 1.
- <sup>234</sup> Ibid.
- <sup>235</sup> Ibid.
- <sup>236</sup> “Geoffrey Barker, co-founder and COO, RPX Corp.” *Smart Business*, July 1, 2012, <http://www.sbsonline.com/article/geoffrey-barker-co-founder-and-coo-rpx-corp/>.
- <sup>237</sup> Ibid.
- <sup>238</sup> “Reducing Patent Risk,” RPX Corporation, <http://www.rpxcorp.com/rpx-services/>.
- <sup>239</sup> “Defensive Patent Acquisitions,” RPX Corporation, <http://www.rpxcorp.com/rpx-services/rpx-defensive-patent-acquisitions/>.
- <sup>240</sup> Stuart Newman, “Avoiding Litigation Thanks to Article One and RPX Corp,” *Forbes*, October 24, 2012, <http://www.forbes.com/sites/mergermarket/2012/10/24/avoiding-litigation-thanks-to-article-one-partners-and-rpx-corp/>.
- <sup>241</sup> “Reducing Patent Risk,” RPX Corporation.
- <sup>242</sup> “Welcome to RPX Insurance Services,” RPX Corporation, <http://rpxcorp.com/insurance>.
- <sup>243</sup> “FTC Seeks to Examine Patent Assertion Entities and Their Impact on Innovation, Competition,” Federal Trade Commission, September 27, 2013, <http://www.ftc.gov/news-events/press-releases/2013/09/ftc-seeks-examine-patent-assertion-entities-their-impact>.
- <sup>244</sup> Ibid.
- <sup>245</sup> Melissa Lipman, “FTC Patent Troll Study to Disappoint Some, Wright Says,” *Law360*, September 4, 2014, <http://www.law360.com/articles/573222/ftc-patent-troll-study-to-disappoint-some-wright-says>.
- <sup>246</sup> Ibid.
- <sup>247</sup> “Intellectual Property: Assessing Factors That Affect Patent Infringement Litigation Could Help Improve Patent Quality,” U.S. Government Accountability Office, GAO-13-465, August 22, 2013, <http://www.gao.gov/assets/660/657103.pdf>.
- <sup>248</sup> Ibid.
- <sup>249</sup> Ibid.
- <sup>250</sup> Khan, p. 13.

---

<sup>251</sup> Ibid., pp. 13-14.

<sup>252</sup> Ibid., p. 14.

<sup>253</sup> Ibid.

<sup>254</sup> Maureen K. Ohlhausen, Commissioner, “Antitrust Enforcement in China – What Next?” Second Annual GCR Live Conference, September 16, 2014, p. 9, <http://www.ftc.gov/public-statements/2014/09/antitrust-enforcement-china-what-next-second-annual-gcr-live-conference>.

<sup>255</sup> Ibid., p. 12.

<sup>256</sup> Ibid.

<sup>257</sup> Joshua D. Wright, Commissioner, “Does the FTC Have a New IP Agenda?” Remarks at the 2014 Milton Handler Lecture, “Antitrust in the 21st Century,” p. 8, <http://www.ftc.gov/public-statements/2014/03/does-ftc-have-new-ip-agenda-remarks-2014-milton-handler-lecture-antitrust>.

<sup>258</sup> “Competing Interests in China’s Competition Law Enforcement: China’s Anti-Monopoly Law Application and the Role of Industrial Policy,” U.S. Chamber of Commerce, September, 2014, p. 77, <https://www.uschamber.com/report/competing-interests-chinas-competition-law-enforcement-chinas-anti-monopoly-law-application>.

<sup>259</sup> Wright, p. 15.

<sup>260</sup> H. Report #112-98, to accompany H.R. 1249, America Invents Act, reported on June 1, 2012, p. 40, <https://beta.congress.gov/112/crpt/hrpt98/CRPT-112hrpt98-pt1.pdf>.

<sup>261</sup> Ibid.

<sup>262</sup> Deborah L. Lu, Smitha B. Uthaman, Ph.D., Thomas J. Kowalski, “Summary of the America Invents Act,” *National Law Review*, April 12, 2012, <http://www.natlawreview.com/article/summary-america-invents-act>.

<sup>263</sup> H. Report #113-279, to accompany H.R. 3309, Innovation Act, reported on December 2, 2013, p. 16, <https://beta.congress.gov/113/crpt/hrpt279/CRPT-113hrpt279.pdf>.

<sup>264</sup> Khan, p. 1.

<sup>265</sup> “Disruptor 50,” 2013 List, CNBC, <http://www.cnbc.com/id/100739744>.

<sup>266</sup> “2014 CNBC’s Disruptor 50,” CNBC, <http://www.cnbc.com/id/101734664>.

<sup>267</sup> Mark Twain, *A Connecticut Yankee in King Arthur’s Court*, Charles L. Webster & Company, New York, 1889, p. 107, <http://www.gutenberg.org/files/86/86-h/86-h.htm>.

## Chapter 6

<sup>268</sup> Lily Kuo, “Chinese Counterfeiters Are Selling the iPhone 6 Before it Has Even Been Released,” MSN News, June 13, 2014, <http://news.msn.com/science-technology/chinese-counterfeiters-are-selling-the-iphone-6-before-it-has-even-been-released-1>.

<sup>269</sup> Ibid.

<sup>270</sup> Thomas Halleck, “Chinese iPhone 6 Clones Feature 4.7-Inch Display, Run Android,” *International Business Times*, July 18, 2014, <http://www.ibtimes.com/chinese-iphone-6-clones-feature-47-inch-display-run-android-1632606>.

<sup>271</sup> Daisuke Wakabayashi and Wayne Ma, “Apple Sells Over 10 Million New iPhones in First Weekend,” *The Wall Street Journal*, September 22, 2014, [http://online.wsj.com/articles/apple-sells-10-million-new-iphones-on-first-weekend-1411389254?mod=dist\\_smartbrief](http://online.wsj.com/articles/apple-sells-10-million-new-iphones-on-first-weekend-1411389254?mod=dist_smartbrief).

<sup>272</sup> Ibid.

<sup>273</sup> Associated Press, “Feds Say Hackers Targeted Microsoft, Game Makers,” *The News Tribune*, September 30, 2014, <http://www.thenewstribune.com/2014/09/30/3407324/feds-say-hackers-targeted-microsoft.html?sp=99/296/358/>.

<sup>274</sup> Josh Lowensohn, “iPhone-related Death in China Could Be Linked to Fake Charger,” *CNet*, July 18, 2013, <http://www.cnet.com/news/iphone-related-death-in-china-could-be-linked-to-fake-charger/>.

<sup>275</sup> Angela Moscaritolo, “Apple Offering USB Charger Trade-in Deal Following Electrocution Death,” *PC Magazine*, August 6, 2013, <http://www.pcmag.com/article2/0,2817,2422748,00.asp>.

<sup>276</sup> Ibid.

- 
- <sup>277</sup> Chuck Goudie, “I-Team: Uncovering the Dangers of Fake Electronics,” ABC 7 News, Chicago, Illinois, May 14, 2013, <http://abc7chicago.com/archive/9101300/>.
- <sup>278</sup> Ibid.
- <sup>279</sup> Anjali Athavaley, “Beware Unsafe Holiday Lights,” *The Wall Street Journal*, December 17, 2009, <http://online.wsj.com/articles/SB10001424052748704541004574600132801477824>.
- <sup>280</sup> Mark Huffman, “Some Holiday Lights Bear Bogus UL Label,” *Consumer Affairs*, December 21, 2010, <http://www.consumeraffairs.com/news04/2010/12/some-holiday-lights-bear-bogus-ul-label.html>.
- <sup>281</sup> “Nuclear Safety and Health: Counterfeit and Substandard Products Are a Governmentwide Concern,” U.S. General Accounting Office, GAO/RCED-91-6, October 16, 1990, <http://www.gao.gov/assets/150/149878.pdf>.
- <sup>282</sup> Ibid.
- <sup>283</sup> “Defense Industrial Base Assessment: Counterfeit Electronics,” U.S. Department of Commerce, Bureau of Industry and Security, Office of Technology Evaluation, January 2010, p. i-ii, [http://www.bis.doc.gov/index.php/forms-documents/doc\\_view/37-defense-industrial-base-assessment-of-counterfeit-electronics-2010](http://www.bis.doc.gov/index.php/forms-documents/doc_view/37-defense-industrial-base-assessment-of-counterfeit-electronics-2010).
- <sup>284</sup> “Space and Missile Defense Acquisitions: Periodic Assessment Needed to Correct Parts Quality Problems in Major Programs,” U.S. Government Accountability Office, GAO-11-404, June 24, 2014, <http://www.gao.gov/assets/330/320127.pdf>.
- <sup>285</sup> “DOD Supply Chain: Suspect Counterfeit Electronic Parts Can Be Found on Internet Purchasing Platforms,” U.S. Government Accountability Office, GAO-12-375, February 2012, <http://gao.gov/assets/590/588736.pdf>.
- <sup>286</sup> Ibid.
- <sup>287</sup> “Inquiry into Counterfeit Electronic Parts in the Department of Defense Supply Chain,” Senate Committee on Armed Services, May 21, 2012, <http://www.levin.senate.gov/download/?id=24b3f08d-02a3-42d0-bc75-5f673f3a8c93>.
- <sup>288</sup> Ibid., p. 6.
- <sup>289</sup> Paul Courson, “Report: Bogus U.S. Military Parts Traced to China,” CNN, November 7, 2011, <http://www.cnn.com/2011/11/07/us/u-s-military-bogus-parts/>.
- <sup>290</sup> Kevin McCaney, “New Technology Looks Deep to Identify Counterfeit Microchips,” *Defense Systems*, October 2, 2014, <http://defensesystems.com/articles/2014/10/02/asom-counterfeit-microchip-detection.aspx>.
- <sup>291</sup> Dean P. Vanek and Steven D. Tibbs, “Feature Comment: Proposed FAR Rule Looks To Expand Reporting Of Nonconforming Items,” *The Government Contractor*, Information and Analysis on Legal Aspects of Procurement, West, Vol. 56, No. 25, July 9, 2014, [http://www.gclgroup.net/uploads/3/1/4/3154926/proposed\\_far\\_rule\\_looks\\_to\\_expand\\_reporting\\_of\\_nonconforming\\_items-56\\_gc\\_215\\_july\\_9\\_2014.pdf](http://www.gclgroup.net/uploads/3/1/4/3154926/proposed_far_rule_looks_to_expand_reporting_of_nonconforming_items-56_gc_215_july_9_2014.pdf).
- <sup>292</sup> Kevin Lewis, “The Fake And The Fatal: The Consequences Of Counterfeits,” *The Park Place Economist*, Illinois Wesleyan University, Volume XVII, April 2009, p. 49, <https://www.iwu.edu/economics/PPE17/lewis.pdf>.
- <sup>293</sup> Natalie Blazer, “Counterfeit Auto Parts Expose Manufacturers to Liability,” *Product Liability Monitor*, October 11, 2011, <http://product-liability.weil.com/uncategorized/counterfeit-auto-parts-expose-manufacturers-to-liability/>.
- <sup>294</sup> Lynda Tran, “Safety Advisory: NHTSA Alerting Consumers to Dangers of Counterfeit Air Bags,” National Highway Traffic Safety Administration, October 10, 2012, <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Safety+Advisory:+NHTSA+Alerting+Consumers+to+Dangers+of+Counterfeit+Air+Bags>.
- <sup>295</sup> Ashlee Vance, “Chasing Pirates: Inside Microsoft’s War Room,” *The New York Times*, November 6, 2010, [http://www.nytimes.com/2010/11/07/technology/07piracy.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/11/07/technology/07piracy.html?pagewanted=all&_r=0).
- <sup>296</sup> “How Long Does Copyright Protection Last?” U.S. Copyright Office, Library of Congress, 2014, <http://copyright.gov/help/faq/faq-duration.html#duration>.

- 
- <sup>297</sup> “Content Protection,” Entertainment Software Association, 2014, <http://www.theesa.com/policy/antipiracy.asp>.
- <sup>298</sup> “The Surprising Risks of Counterfeit Software in Business,” White Paper, Microsoft Corporation, 2009, <http://www.microsoft.com/en-us/piracy/knowthefacts/counterfeit.aspx>.
- <sup>299</sup> “Executive Order 13103 – Computer Software Piracy,” September 30, 1998, Presidential Documents, *Federal Register*, Vol. 63, No. 192, Monday, October 5, 1998, p. 53273, <https://www.federalregister.gov/articles/1998/10/05/98-26799/computer-software-piracy>.
- <sup>300</sup> “VA Secretary Unveils Data Security Encryption Program,” U.S. Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, August 14, 2006, <http://www1.va.gov/opa/pressrel/pressrelease.cfm?id=1169>.
- <sup>301</sup> “Review of Alleged Incomplete Installation of Encryption Software Licenses,” U.S. Department of Veterans Affairs, Office of Inspector General, 12-01903-04, October 11, 2012, <http://www.va.gov/oig/pubs/VAOIG-12-01903-04.pdf>.
- <sup>302</sup> Ibid.
- <sup>303</sup> “Desktop and Laptop Software License Management Is Not Being Adequately Performed,” Treasury Inspector General for Tax Administration, Reference Number: 2013-20-025, June 25, 2013, <http://www.treasury.gov/tigta/auditreports/2013reports/201320025fr.html>.
- <sup>304</sup> Ibid.
- <sup>305</sup> Ibid.
- <sup>306</sup> “Management’s Response to the Draft Report,” Department of the Treasury, Internal Revenue Service, May 20, 2013, <http://www.treasury.gov/tigta/auditreports/2013reports/201320025fr.html#mgtrasp>.
- <sup>307</sup> “SmartTrack: Software License Optimization from the Desktop to the Data Center,” Aspera, <http://aspera.com/en/tool/smarttrack/>.
- <sup>308</sup> “IT Asset Management Software,” BMC Software, <http://www.bmc.com/it-solutions/asset-management.html>.
- <sup>309</sup> “Automated Software Reconciliation,” Eracent, [http://www.eracent.com/index.php?option=com\\_content&view=article&id=53](http://www.eracent.com/index.php?option=com_content&view=article&id=53).
- <sup>310</sup> “Software License Optimization,” Flexera Software, <http://www.flexerasoftware.com/enterprise/products/software-license-management/>.
- <sup>311</sup> “SAM Case Studies: Success Stories,” Microsoft Corporation, Software Asset Management, <http://www.microsoft.com/sam/en/us/casestudies.aspx>.
- <sup>312</sup> “Software Asset Management,” Snow Software, <http://www.snowsoftware.com/int>.
- <sup>313</sup> “Federal Software Licenses: Most Agencies Have Reported Planned Actions to Address Our Prior Recommendations on Software License Management,” U.S. Government Accountability Office, GAO-14-834R, September 23, 2014, <http://www.gao.gov/products/GAO-14-835R>.
- <sup>314</sup> H.R. 1232, Federal Information Technology Acquisition Reform Act, 113th Congress, <http://thomas.loc.gov/cgi-bin/bdquery/z?d113:h.r.01232>.
- <sup>315</sup> H.R. 4435, Buck McKeon National Defense Authorization Act for Fiscal Year 2015, (Placed on Senate Calendar, June 5, 2014), <http://thomas.loc.gov/cgi-bin/query/D?c113:4:/temp/~c113luwL11>.

## Conclusion

- <sup>316</sup> Alexander Hamilton, James Madison, John Jay, *The Federalist Papers*, Clinton Rossiter (ed.), p. 268, New American Library, New York, New York, April 2003.
- <sup>317</sup> Magnus Brooke, ITV Director of Policy and Regulatory Affairs, in response to the Hargreaves Review of 2011, Speech before the UK Culture, Media and Sport Committee’s Eighth Evidence Session, ICOMP, March 12, 2013, <http://www.i-comp.org/blog/2013/a-strong-ip-regime-is-an-engine-of-growth-not-a-barrier-says-uk-broadcaster/>.
- <sup>318</sup> “Intellectual Property and the U.S. Economy: Industries In Focus,” U.S. Department of Commerce Economic and Statistics Administration.

---

<sup>319</sup> Hassett and Shapiro, “What Ideas Are Worth: The Value Of Intellectual Capital And Intangible Assets In The American Economy.”



1301 Pennsylvania Avenue, N.W.

Suite 1075

Washington, D.C. 20004

**1.800.BE.ANGRY**

[www.cagw.org](http://www.cagw.org)

[Facebook.com/CAGW](https://www.facebook.com/CAGW)

Twitter: @GovWaste