

20 Best Practices to Protect Your Intellectual Property Abroad

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In the United States, there are only three ways to protect the intellectual property: Patents, trademarks or copyrights. A patent is applicable to product design; a trademark is applied to a name, symbol or phrase; and a copyright is applied to a written document. Here are 20 Best Practices to Protect Your Intellectual Property Abroad.

1. Conduct an IP audit

Conduct an IP audit. The World Intellectual Property Organization (WIPO) publishes a "Guide to Conducting an IP audit".

2. Cost/Benefit Analysis

Prepare a comprehensive cost/benefit analysis of the foreign market vs. IP risk.

3. Training Employees/ Suppliers on IP Rights

Develop procedures for training employees/ suppliers on IP rights, procedures, and penalties. USPTO publishes "IP Training Module and IP Awareness Assessment."

4. Register Patent and trademarks at USPTO

Register all company patents, trademarks in the US with the US Patent and Trademark Office (USPTO) or copyrights with the Copyright Office.

5. Register your IP

Registering your IP in the US gives your company the right to sue US based violators in federal court.

6. WTO Agreement

Registration preserves your rights under international treaties such as the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs).

7. WTO Dispute Settlement

WTO Dispute settlement may be slow, but if you are doing business in a WTO member country, you have the right to file a complaint and request arbitration.

8. Be vigilant while entering foreign market

Keep all products out of foreign markets until patents, trademarks, and copyrights are protected there.

9. Not necessary to register in all countries

There is no longer a need to register your IP in each country in order to become the “rightful owner.”

10. International Agreements

Save money and time by using new international agreements that allow for uniform protection within multiple countries with a single registration.

11. Obtain Community Trade Mark

For example, for patents and trademarks in the European Union, obtain a “Community Trade Mark” or “European Patent.”

12. Obtain Uniform Trademark

For many non-EU countries, obtain uniform trademark and copyright protection with one application via the Madrid Convention.

13. Background Investigations

Conduct thorough background investigations of sales agents, distributors, and resellers before shipping a product to them. On-sight inspections prior to orders and periodic audits. US Export Assistance Center helps qualify existing or potential foreign business partners.

15. IP Infringement Cause

Draft foreign agent, distributor, reseller, and consultant agreements to make IP infringement cause for immediate termination, money damages and other penalties.

16. Monitor Foreign Markets

Continuously monitor foreign markets for illegal copies or counterfeits. Visit the market often.

17. Device Methods to Identify Copyright Violations

Purchase a worldwide watch software program which will alert you when a suspect mark, copyright or patent is published in one of more than 200 registers around the world. Use “track-and trace” technology like RFID bar codes and use search engines to find infringement online.

18. Incorporate Technical Barriers against Piracy

With respect to computer software, CDs, and DVDs, incorporate technical barriers into products to protect unauthorized use or copying such as encryption and digital fingerprints.

19. Have an Infringement Strategy

Have an infringement strategy as part of your marketing plan.

20. Cease and Desist Letters

If infringement persists, your lawyers should send “cease and desist” letters to violators and take immediate legal action.

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