

INTERNATIONAL INTELLECTUAL PROPERTY PROTECTION

SAFEGUARDING YOUR ASSETS

OVERVIEW

Globalization and the rapid proliferation of technology have elevated the importance of intellectual property (IP) protection for small and midsize enterprises (SMEs). The intangible nature of IP and the worldwide inconsistency of standard practices create challenges for U.S. businesses wishing to protect their inventions, brands, and business methods in foreign markets. The World Intellectual Property Organization defines IP as “creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.” This article is intended to provide exporters with a brief overview of intellectual property rights (IPR) and the methods being employed to protect those rights internationally.

Understanding your options

The three most common vehicles for protecting intellectual property are:

- **Patents** – A patent is a legal instrument that gives its owner certain exclusive rights for an invention. Most patents are directed to a product or process that provides a new or improved way of doing something or offers a new technical solution to a problem. The Patent Cooperation Treaty (PCT) streamlines the process for U.S. inventors and businesses wishing to obtain patent protection in other countries. By filing one international patent application with the **U.S. Patent and Trademark Office (USPTO)**, U.S. applicants can concurrently seek protection in numerous countries around the world.
- **Trademarks** – A trademark is a word, name, symbol, or device that identifies and distinguishes the source of goods used in trade. In short, a trademark is a brand name. In the U.S., rights to trademarks, service marks, and other marks are acquired through use, registration, or prior foreign registration. However, in some countries, trademark rights are acquired only through registration, and many countries require local use of the registered mark to maintain the registration. Whether a given mark can be registered in a particular country will depend on the law of that country.
- **Copyrights** – A copyright protects original works of authorship. In the U.S., this protection generally gives the owner the exclusive right to reproduce, prepare derivative works, distribute copies, or perform or display the work publicly. No “international copyright” provides universal protection for your work throughout

the world, however securing copyright protection has been greatly simplified under international copyright treaties and conventions, such as the Berne Convention and the **WTO TRIPS Agreement**.

In most countries, including the U.S., registration is typically not required. A small number of countries, however, offer little or no protection for the works of foreign nationals. Ultimately, copyright protection depends on national or local law.

IPR give the owners of ideas, inventions, and creative expression the right to exclude others from access to or use of their property for a certain period of time. International treaties and the laws of the various countries differ significantly in terms of the degree of protection and enforcement available. The level of IPR enforcement depends on local law, the resources of the IP owner, the attitude of local officials, etc. In the U.S. and many countries, IP owners pursue infringement claims through civil litigation. Internationally, avenues to address IP infringement vary by country, and will be dictated by local law.

It is highly encouraged that you consult and seek legal advice on IPR issues from an international IPR attorney with experience in the target country.

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