



Reducing intellectual property crime

Intellectual property (IP) rights are legal rights that protect inventors and creators from unauthorised copying or other uses of their work. In general, it is an infringement to reproduce, distribute, publish or offer for sale another person's work unless this is authorised by the owner of the IP rights in the work. Infringement of IP rights may result in civil litigation or criminal prosecution. Maximum penalties for copyright offences in Australia are five years' imprisonment and substantial fines, while trade mark offences carry maximum two years' imprisonment and fines.

Some forms of intellectual property rights require registration to secure ownership rights, including patents, trade marks, designs and plant breeder's rights. In Australia, this is done through IP Australia, a government agency within the Department of Industry, Tourism and Resources. There are separate mechanisms for non-IP registrations such as for business names and domain names. The Australian Customs Service also plays an important role by controlling the importation of IP material subject to notices of objection lodged by owners, which allows seizure of infringing goods. Some other forms of IP do not require registration, such as copyright, circuit layouts, confidential information (such as trade secrets). Copyright and circuit layout rights arise as soon as the work is created in a material form. Trade secrets can be protected by legally imposed obligations of confidence.

Strategies for protecting IP include:

- registration as soon as practicable where there is an applicable registration system, and maintenance of confidentiality until registration
- clear identification of authorship/ownership, using the © (copyright) ® (registered trade mark) and ™ (unregistered/pending trade mark) symbols and patent pending notices
- use of copyright notices on business documentation including websites and emails
- co-ordinating trade mark protection with business name and domain name registration (which are independent processes).

Consumers can avoid contributing to copyright and trade mark infringement by:

- not reproducing or distributing copyright material without authorisation
- avoiding buying fake 'knock-off' products from market stalls and disreputable traders and online sources, and contacting industry reporting hotlines when such products are encountered
- not buying or downloading infringing material from the Internet such as 'warez' software, recordings, pirated or bootleg music, film or games, and counterfeit consumer goods.

Further reading:

Attorney-General's Department, Copyright Law Branch. <http://www.ag.gov.au>

Australian Customs Service. *Protecting intellectual property*. <http://www.customs.gov.au>

IP Australia. *What is intellectual property?* <http://www.ipaustralia.gov.au>

Urbas G 2000. Public enforcement of intellectual property rights. *Trends & issues in crime and criminal justice* no.177 <http://www.aic.gov.au/publications/tandi/tandi177.html>