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including the latest on changing patent laws

Patents, Copyrights & Trademarks

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2nd Edition

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- ✓ Example office actions and amendments
- ✓ Example patents

Henri Charmasson
John Buchaca
Intellectual property attorneys

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**by Henri Charmasson
and John Buchaca**



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About the Authors

Henri Charmasson is an attorney with a 35-year career in the field of intellectual property (IP) law. He has been a naming adviser to major corporations. Henri is also an inventor with his name on 15 U.S. patents and an entrepreneur who sits on the board of several small business corporations. In his early engineering career, Henri designed computer hardware. Henri has authored several articles and delivered lectures on patent, copyright, trademark and trade secret topics, and written an authoritative treatise about the art of naming companies and branding new products. Born, raised, and educated in sunny Provence, France, he's found in California the ideal place to exert his enterprising spirit.

John Buchaca, also an Intellectual Property law attorney, is a former software engineer and occasional inventor, and has worked with Henri for more than 15 years. Indeed, when Henri wrote the first edition of this book, John regarded himself as the "first dummy." Before becoming a lawyer, he worked in ocean acoustics analysis and modeling and computer programming. His undergraduate degree is in applied mathematics. But his highest claim to fame (according to Henri) is to be married to Henri's daughter and to be the father of two of Henri's grandchildren. He lives in San Diego, California where he is a partner at Charmasson, Buchaca & Leach, LLP, an IP law firm.

Dedication

To Marcia and Mari

Authors' Acknowledgments

Thanks to our editorial team and particularly to our project editor, Corbin Collins, who tactfully coached us into expressing many arcane legal principles in limpid prose.

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We're proud of this book; please send us your comments through our online registration form located at <http://dummies.custhelp.com>. For other comments, please contact our Customer Care Department within the U.S. at 877-762-2974, outside the U.S. at 317-572-3993, or fax 317-572-4002.

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Introduction

Welcome to Patents, Copyrights & Trademarks For Dummies, 2nd Edition! We'll try to make your visit as pleasant and enlightening as we can.

In our technology-driven world, intellectual property (IP) represents the major asset of most business enterprises. If the phrase *intellectual property* leaves you puzzled, this book will help you navigate its reefs and shoals and show you how to acquire and protect your share of this form of wealth.

Have you always thought you might be the next Thomas Edison or Danielle Steele? Has your company recently developed a bold new corporate logo or motivating trademark? Perhaps you're thinking of a new concept in software, one that can revolutionize the entire world of cybernetics. Or maybe you've just dreamed up the latest in "latest things" — something to rival the iPod or camera phone.

If so, you've come to the right place because having the great idea, creating a magnificent work of art, or starting the next fad is only the first step to cashing in on your creativity and hard work. Next up is protecting your intellectual property. But, obviously, you know that. You've been enticed to pick up this book (and buy it, we hope) by those three not-so-little words: patents, copyrights, and trademarks. We're guessing you want to find out more about these matters. Well, you're about to find out all you need to know (but were afraid to even think about). You're entering the exciting world of IP rights. Well, maybe the term *exciting* is pushing things a bit, but give us a break, we're IP attorneys after all.

About This Book

In this book we explain, in layman's terms, the basic nature, function, and applications of intellectual property (IP) rights, including how you can acquire and wield them effectively against your competitors, or exploit them lucratively through licensing agreements and other rewarding schemes. Each of the main types of IP protection — patents, copyrights, and trademarks — is covered in its own complete part. We also dedicate a chapter to the too-often overlooked subject of trade secrets.

After reading this book, you'll have a solid grasp of the processes involved in acquiring, registering, maintaining, and protecting the intellectual property rights due you and/or your company. You'll be able to make informed decisions and speak confidently with the IP professionals you meet along the way. And you'll have the tools and knowledge to take care of much of the work involved in the various research and registration processes.

However, this book is no substitute for legal advice from a specialized professional. When you deal with intellectual property and IP rights, you face many complex legal issues. There's only one definite answer to any legal question: *It depends*. So make sure that you have a competent professional advisor to guide you through the legal muck.

Note: Although the authors recommend that companies always prominently display their commercial identifiers (names and brands), preferably in bold, uppercase letters, to make them stand out and emphasize their legal status, for practical and aesthetic reasons, the publisher has

opted to follow the industry standard of spelling brand and trade names with their accepted, conventional spellings throughout this book. This usage should not detract readers from appreciating the importance of highlighting your marks and other commercial identifiers whenever they are used on signs or advertisements.

Conventions Used in This Book

We use the following conventions throughout the text to make things consistent and easy to understand.

New terms appear in *italic* and are closely followed by an easy-to-understand definition.

Bold highlights the action parts of numbered steps.

Sidebars — text enclosed in a shaded gray boxes — contain information that's interesting to know but not necessarily critical to your understanding of the chapter or section topic.

We regularly use the abbreviation *IP* to refer to intellectual property. It's one of those IP lawyer things we just can't shake.

Throughout the book, we provide *estimates* of fees you may run into in your quest to sew up your intellectual property. Many U.S. Patent and Trademark Office fees are changed at least once a year (usually in October), sometimes substantially. Fee estimates here are based on the most recent published fee schedule at the time of this writing.

Failure to pay the full applicable fee can result in a missed deadline and lapse of your application, patent, or trademark registration. Always check the current fee schedule on www.uspto.gov before sending a payment.

When we use the term *you*, we are, of course, referring to you the reader. But for those tasks, jobs, and other assorted legal hoops where we advise you to consult an IP professional — and there are many of them — *you* often refers to both you and the professional.

Foolish Assumptions

In order to channel the sea of IP information into a single book that's helpful to you, we make a few assumptions about you, the reader. See whether one or more of these shoes fit:

You have a penchant for entrepreneurial adventure.

You're running a business. Even the smallest commercial enterprise, such as an outdoor coffee cart, can benefit by making intelligent use of IP — creating an inspiring business name, for example.

You're a budding or accomplished sculptor, painter, playwright, choreographer, musician, or songwriter, or you're involved in some other type of artistic activity.

You're a writer, publisher, or computer programmer, or are in another profession that takes advantage of the products of your creative mind.

You're a scientist, engineer, or inventor.

You're a college student considering a career in the field of IP law.

You're a business lawyer, executive, or middle manager and want to understand some aspects of IP rights.

If we've hit the mark with any of the previous descriptions, this book is for you.

How This Book Is Organized

Patents, Copyrights & Trademarks For Dummies, 2nd Edition, is organized so that you can easily access the information that you need. We've put the material in six parts, each with chapters related to a common theme. We now give you a preview of coming attractions. Projector, please.

Part I: Corralling Your IP Assets: Intellectual Property Basics

Part I talks about intellectual property and briefly describes how patents, copyrights, trademarks, trade secrets, and other IP rights safeguard your IP assets. We also include the basics of dealing with IP professionals, such as agents, attorneys, and examiners.