

Course Learning Outcomes for Unit III

Upon completion of this unit, students should be able to:

6. Classify the different types of intellectual property.
 - 6.1 Recognize how the topics of real, personal, and intellectual property are related.
 - 6.2 Identify the similarities and differences among the methods for protecting intellectual property.

Reading Assignment

Chapter 8: Real, Personal, and Intellectual Property, pp. 150–170

Unit Lesson

Introduction to Property

Most people can easily identify certain types of property. The car you drive, the home you live in, the clothes you own—these are all varieties of property. *Real property*, or “realty,” is land and everything permanently attached to it. *Personal property* consists of tangible, movable objects. *Intellectual property* consists of those intangible things that result from mental creativity, such as composing music, writing a book, and making a scientific invention, rather than making a physical effort.

Real Property

Owning realty includes more than the surface of the land. Click [here](#) to see a diagram that depicts the entirety of real estate ownership. It shows the three types of realty: airspace rights, surface rights, and mineral rights.

The significance of these three types is well illustrated in “Special Report: U.S. Builders Hoard Mineral Rights Under New Homes” (Conlin & Grow, 2013). This describes how some homebuilders in the United States keep the subsurface mineral rights for themselves, which is definitely a situation where *caveat emptor* (Let the buyer beware!) applies. This situation illustrates an important aspect of property ownership—the bundle of rights, which proposes that owning land is like owning a bundle of sticks, and each stick represents an individual right. The report describes how some property developers kept a stick for themselves and sold the bundles without the mineral or subsurface rights to the unwitting homebuyers (Conlin & Grow, 2013).

The textbook describes each of the various interests in land, including fee simple absolute, conditional estate, life estate, future interest, and leasehold estate (Kubasek, Browne, Herron, Dhooge, & Barkacs, 2016). These are possessory estates because they involve possessing the land but not having an ownership interest in the land. Nonpossessory estates are interests in land that do not involve possession. Examples of this are easements, profits, and licenses.

An example of an easement can be found [here](#), which describes the creation of a conservation easement for purposes such as historic preservation, natural resource-based outdoor recreation or education, watershed preservation, and preservation of scenic open space. The party granting this easement retains ownership of the land but is allowing it to be used by others for the stated purposes, without taking anything from the land. In contrast, a profit allows the right to go onto someone’s land and take part of the land or a product of the land away. If easements and profits are properly recorded, they are transferred with the land to subsequent owners. Licenses, however, can provide the same rights but are revocable and temporary in nature.

Personal Property

Personal property specifically refers to tangible objects that can be physically moved (e.g., a car).

Intellectual Property (IP)

One of the biggest challenges associated with the creation and ownership of intellectual property (IP) is the fact that it has the nature of other types of property. This is often overlooked; however, IP is indeed property, similar to realty and personal property, and it, too, carries a bundle of rights, both for the creator of the property *and* for the community. Article I, Section 8, Clause 8 of the United States Constitution grants Congress the power, "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" (U.S. Const. art. I, § 8). From this constitutional provision, the legislative and judicial system decides which rights to set aside for the creators of IP and which will be left for the public. Possible IP creator rights include copyright, patent, trademark, and trade secret.

Under the common law of copyright, a potential user (i.e., infringer) may be prevented from reproducing a copyrighted work. To learn more about the costs, learn more about the process, and to review the forms involved, visit the United States Copyright Office [here](#).

Thomas Edison, the famed inventor, is responsible for three key innovations in the United States: the phonograph, the incandescent light bulb, and a moving picture camera. He filed over 1,000 patents in his lifetime ("Thomas Edison's Patent," n.d.). The patent application process is very unique in that the applicant is required to literally provide a blueprint for his or her invention. A U.S. patent grants to the applicant 20 years from the date of application the right to exclusively produce, sell, and use the object. After the exclusivity period lapses, the patent expires, and anyone can produce, sell, and use the object. The blueprint provided in the application is an exchange that bestows the exclusive right to the applicant but also can help others reproduce the invention once the patent lapses. Many consider the patent to be the most protective of all the forms of IP; however, it is also the shortest-lived. For more information on Thomas Edison's Patent Application for the Light Bulb (1880), click [here](#).

A trademark connects a product or service with a specific producer. Trademarks are powerful business tools in that they are designed to resonate with a consumer in a way that will perpetuate business (i.e., support the brand identity). How do trademarks do that? Consider your last supermarket visit. While strolling down the laundry detergent aisle, you see dozens of brands in colorful, uniquely shaped containers. You prefer Tide laundry detergent and know that it is the orange bottle with the blue cap. Instantly, you see it and know that is the detergent you want to purchase because you recognize the product among all of the others. This is the power of the trademark. In this example, color, shape, and logo design are all factors. Can a sound be trademarked? Click [here](#) to see and hear a list of federally-registered sound trademarks.

There is a multitude of rules that regulate the use of trademarks. The *United States Trademark Law: Federal Statutes* may be viewed by clicking [here](#).

The owner of a trade secret is required to take all reasonable precautions to prevent that secret from being discovered by others. The formula for Coca-Cola is an excellent example of a trade secret. Coca-Cola employees work in different and divided groups so that the formula remains a secret (Quinn, 2012).

References

- Conlin, M., & Grow, B. (2013, October 9). Special report: U.S. builders hoard mineral rights under new homes. Retrieved from <http://www.reuters.com/article/us-usa-fracking-rights-specialreport-idUSBRE9980AZ20131009>
- Kubasek, N., Browne, M. N., Herron, D. J., Dhooge, L. J., & Barkacs, L. (2016). *Dynamic business law: The essentials* (3rd ed.). New York, NY: McGraw-Hill Education.
- Thomas Edison's patent application for the light bulb (1880). (n.d.). Retrieved from <http://www.ourdocuments.gov/doc.php?flash=true&doc=46>
- Quinn, G. (2012, January 6). Vault with Coca-Cola trade secret formula on public display. Retrieved from <http://www.ipwatchdog.com/2012/01/06/vault-with-coca-cola-trade-secret-formula-on-public-display/id=21588/>
- U.S. Const. art. I, § 3

Suggested Reading

The suggested readings below are provided to supplement key concepts in the Unit III Lesson.

- Mitchell, R. T. (2011). Deed [of gift] of easement. Retrieved from http://www.clarkelandconservation.org/files/2013/07/form_deed_of_gift_of_easement-07-06-11.pdf
- Quinn, G. (2012, January 6). Vault with Coca-Cola trade secret formula on public display. Retrieved from <http://www.ipwatchdog.com/2012/01/06/vault-with-coca-cola-trade-secret-formula-on-public-display/id=21588/>
- Schoofs, M. (2002, January 30). Physicians' group defies patent law to bring AIDS drugs to South Africa. *The Wall Street Journal*. Retrieved from <http://www.wsj.com/articles/SB1012338297451348120>
- Thomas Edison's patent application for the light bulb (1880). (n.d.). Retrieved from <http://www.ourdocuments.gov/doc.php?flash=true&doc=46>
- Trademark "sound mark" examples. (n.d.). Retrieved from <http://www.uspto.gov/trademark/soundmarks/trademark-sound-mark-examples>
- United States Copyright Office. (n.d.). Forms. Retrieved from <http://copyright.gov/forms/>