



Intellectual Property

A U.S./Canada Software & Multimedia Perspective

Introduction

Society entrusts government with the responsibility for the protection of individual expressions and ideas. Protection typically comes in the form of copyrights, trademarks or patents. However, technology has given society the ability to modify, transfer and disseminate information at an unprecedented pace. As a result, companies in the software and multimedia industries are finding it more difficult to protect competitive advantages. In fact, the envelop of what is legally protected and enforceable, and what is not, is blurred. The reasons are fourfold: rapid commercialization of advanced technology; a decrease in the technology product-life-cycle; the obsession of the global society to embrace the personal computer; and the commercial use of the internet.

For the small enterprise involved in international collaborations, or expecting to license or distribute a product internationally, cross-border intellectual property issues should be a top priority. Therefore, knowing what types of intellectual property protection are available is paramount. The services of patent attorneys are almost always required but understanding their role makes negotiating easier.

The United States and Canada are policy leaders in the regulation and enforcement of intellectual property. Despite many similarities between the legal systems, there are subtle differences. However, recently signed treaties suggest that there is a merging of ideology.

This paper examines today's intellectual property legal protocol in the U.S. and Canada. The focus is on the common legal processes and litigation ramifications for the most pertinent areas of the law. Recent changes to intellectual property law are highlighted and emerging trends within the software industry are reviewed.