

Foreign Protection Issues

- Copyright
- Trademark
- Internet Domain Name Disputes
- Patent

Foreign Copyrights

- Protection substantially internationalized, with no formalities needed (but using notice good idea, e.g., “© 2001 ABC, Inc.”)
- Most generally applicable treaty is the Berne Convention
- U.S. is unusual in requiring its citizens to register copyrights to get full advantages of infringement litigation

Foreign Trademarks (1)

- Expect to spend \$2,000 per country for registrations
- Unlike U.S., in many countries first to register defeats first to use
- For most part (Europe as exception), have been forced to do individual filings in each country of interest

Foreign Trademarks (2)

- U.S. has recently acceded to Madrid Protocol, but has not yet implemented it -- will likely in long run smooth filings in multiple countries
- Administered by the World Intellectual Property Organization (WIPO)

Domain Name Disputes

- See ICANN Domain Name Dispute Policy at <http://www.icann.org/udrp/udrp.htm>
- Can initiate rapid arbitration proceeding to seek to have domain transferred
- Issue usually boils down to presentation of “Evidence of Registration and Use in Bad Faith”, see subsection 4(b)

Foreign Patents (1)

- Within one year of initial filing in U.S., file Patent Cooperation Treaty (PCT) application
- For about \$5,000, this buys 20 months to decide which countries in which to file
- Watch patent bars -- U.S. is unusual in granting one-year grace period after public disclosure, sale, or offer for sale

Foreign Patents (2)

- Common timeline:
 - Month zero, file U.S. provisional application
 - Month 12, file U.S. utility and PCT applications
 - Month 18, PCT application is published with results of prior art search
 - Month 30, file national entry applications in individual foreign countries

Foreign Patents (3)

- Extremely expensive, especially over long term with multiple national entry filings
- Average costs for initial filing:
 - Europe, Japan, \$8,000
 - Canada, Australia, \$2,000
 - China (PRC), \$10,000
 - Korea, Mexico, \$6,000
- But can be very attractive in buyout