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# Intellectual Property Quarterly Newsletter

A Quarterly Insight on Intellectual Property in State Government

April 2018, Issue 1

## CHIP Shots™

Critical Holdings in Intellectual Property

- **Yosemite loses rights to iconic names.** In 2016, the federal government lost the right to use park names.
- **Google loses to Oracle.** Google's use of JAVA programming in Android was not a fair use.
- **Cellphone battle.** In *Apple v. Samsung*, the court is now deciding damages.

## State Launches Intellectual Property Program

This is the inaugural issue of the intellectual property newsletter which will feature hot topics on intellectual property issues, updates on training and outreach, suggestions for best practices, and information about our expert state employees who can help guide your agency or department through the potentially complex maze of intellectual property. Our motto? When in doubt (about IP), talk to legal counsel!

For more information about these topics, please visit our website at:

[www.dgs.ca.gov/OLS/Programs/IP.aspx](http://www.dgs.ca.gov/OLS/Programs/IP.aspx)

## What is intellectual property?

*Intellectual property (IP) is a legal term that refers to creations of the mind, including an idea, invention or process.*

There are the four main categories of IP:

- **Copyrights:** pictures, audio and video recordings, maps, publications, Web page content
- **Patents:** inventions, processes
- **Trade secrets:** methods, techniques, processes
- **Trademarks:** names, logos, symbols, identifying marks

*Common examples in state government:*

- Flex Your Power
- Slow for the Cone Zone
- California Grown
- Save our Water



## The Value of IP

By Mary Beth Barber, California State Library

In 2013, the whole world got a little richer – especially California. The reason? The Bureau of Economic Analysis included intellectual property (IP) as assets in the agency's calculation of Gross Domestic Product (GDP). Nothing really changed the day the new calculations went into effect, of course. But the switch acknowledged the importance of copyrights, patents, trademarks and trade secrets in today's economy.

Intellectual property can be worth millions of dollars, and a huge sector of the California economy is based on these 'products of the mind.' Yet two reports from the California State Auditor – one in 2000 and a follow-up in 2011 – noted a need for state government to increase its IP focus. Legislation passed in 2012 (AB 744-Perez) directed the executive branch to track intellectual property generated by state employees or with state funding and compile the records into an informational database.

The Department of General Services (DGS) did this and more. Under the guidance of the Office of Legal Services at DGS, a group of IP experts from across dozens of agencies was established. The Intellectual Property Advisory Group is a network of IP expert state employees who meet regularly to advise DGS and each other about IP issues. Using this insight, DGS crafted a series of IP tools, including contract support-material, IP management plans, and training videos.



As of 2012, DGS was given the authority under statute to help state agencies and departments manage and protect their intellectual property assets. DGS will do so through the initiation of a multi-phase statewide outreach program. Not only is it the law, but appropriately managing intellectual property benefits governmental entities and helps avoid unnecessary legal battles associated with the improper use of IP.

#### **IP Advisory Group Roster:**

- Allan Ward, Asst. Chief Counsel
- Bridget Jones, Attorney
- Carl DeNigris, Attorney
- Carmen Gibbs, Attorney
- Cathy Moua, AGPA
- Christopher Gill, Attorney
- Ephraim Egan, Attorney
- Grace Arupo Rodriguez, Asst. Deputy Director
- Jennifer Yamane, Attorney
- John Long, Attorney
- Jonathan Eisenberg, Attorney
- Katie Belmonte, Attorney
- Kenneth O'Neill, Attorney
- Laura Reimche, Attorney
- Maria Sapiandante, Attorney
- Mark Sumner, Attorney
- Mary Beth Barber, Project Specialist
- Michael Rand, Attorney
- Michelle Church-Reeves, Attorney
- Sahana Ayer, Attorney
- Skitch Crosby, Attorney

## *Who We Are*

The DGS IP Team is comprised of a dedicated attorney and support staff who are assigned responsibility for designing and implementing a statewide IP program.

In addition, DGS has established an IP Advisory Group to assist the state in managing and protecting IP resources. This collaborative group consists of representatives from different state agencies/departments who are highly knowledgeable in intellectual property law.

The IP Advisory Group was established in August 2015 and meets every six weeks to discuss pressing IP issues facing the state of California. With the assistance of the group, the team has developed IP training for state employees and strategies to assist in managing IP.

The statewide IP Advisory Group has developed IP training, drafted various IP-related contracts and forms, and has helped establish an IP tracking database, among many other accomplishments.

## *How can DGS help state agencies?*

Imagine the logo of your department or agency was being used for commercial purposes by a person or organization not affiliated with the state. What steps should the department take to stop the conduct and protect its rights to the logo? Or perhaps your department hired a consultant to prepare materials, including brochures, forms and publications. How would you determine how the materials can be used and under what circumstances?

DGS can help guide the department or agency through the mine field of intellectual property. We can help draft cease and desist letters, take-down letters and other communications with the offending party (short of actual litigation). DGS can also help the state entities to proactively protect critical State IP materials such as training manuals, domain names, written reports, and research studies, by assisting with the registration of copyrights, trademarks or service marks, including department or agency logos. And, in the end, DGS will track the life cycle of all state-owned IP through the use of the new California IP database.

The Bureau of Economic Analysis has recognized that IP is a valuable asset (see "The Value of IP", this newsletter). As guardians of the public trust, we all have an obligation to protect those assets. DGS is here to help state entities fulfill that obligation.

#### **Intellectual Property Program**

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