

Intellectual Property Guidelines for Business



International Chamber of Commerce
The world business organization

An ICC initiative

BASCAP

Business Action to Stop
Counterfeiting and Piracy

Foreword

Business Action to Stop Counterfeiting and Piracy (BASCAP), an initiative of the International Chamber of Commerce (ICC), has developed a set of Intellectual Property (IP) Guidelines to provide information to businesses on practical steps they can take to assess the effectiveness of their IP management policies, particularly in the area of copyright and trademark; to help protect their own IP; and to consider new options for improving performance and managing the risks associated with counterfeiting and piracy. The Guidelines address internal IP use, supply chain practices, relations with intermediaries, and the handling of third-party IP. They deal with IP management in all its forms within companies, from IP development to component sourcing, manufacturing, wholesaling, retailing and internal corporate use.

Summary principles

Objectives

ICC/BASCAP offers the following Guidelines to help business:

- understand and support the value of IP as the basis of innovative, creative and economic activity that promotes business and national competitiveness;
- manage their own copyrights and trademarks more effectively;
- comply with the IP laws protecting other companies' copyrights and trademarks;
- manage the business risks associated with infringement;
- prevent and deter counterfeiting and piracy; and
- develop company policies and practices to effect such compliance.

Company policy

- 1 **Corporate policy.** Establish a corporate policy to conduct operations in compliance with IP laws and related best practices. Implement specific policies, procedures and practices to promote compliance.
- 2 **Lawful use.** Acquire, use and deal in only licensed copies of copyright protected material, and genuine articles of trademark protected products, in carrying out the company's business.
- 3 **Protection of company IP.** Take reasonable steps to identify and protect the company's own IP.
- 4 **Compliance.** Designate a senior director or manager whose responsibility includes overseeing and enforcing the company's IP policies.

Education and awareness

- 5 **Employee policies.** Implement policies to encourage all employees and subcontractors to comply with laws and the company's IP compliance policy.
- 6 **Training and awareness.** Train relevant employees and subcontractors (where appropriate) on IP compliance and company policy.

Supply, manufacture and distribution

- 7 **Supplier and customer notification.** Notify relevant suppliers and customers that the company complies with IP laws and expects them to do the same.
- 8 **Legitimate inputs.** Where possible, obtain IP-related inputs for the business from legitimate and auditable vendors.
- 9 **Contractual provisions.** Document material IP-related transactions, and supplier and customer relationships, accurately and in adequate detail.
- 10 **Supplier and customer awareness.** Obtain reliable identification and background information on IP-related suppliers and customers.
- 11 **Required licences.** Obtain written proof of material IP rights and required licences, prior to manufacturing, shipping or offering IP-based products or services.
- 12 **Due diligence.** Inspect documentation and materials for warning signs that infringing material may have been supplied or ordered. Make further enquiries, as needed, to determine the status of suspicious activity.

Security and confidentiality

- 13 **Physical and network security.** Maintain physical and information technology (IT) security sufficient to ensure the integrity of company records and operations, and to protect IP and confidential material.
- 14 **Asset management.** Implement asset identification, inventory and control processes sufficient to ensure that material IP-related assets are manageable and traceable.
- 15 **Trade-secret and confidential-information protections.** Use best efforts to protect the company's and third parties' trade secrets and other confidential material.
- 16 **Technological anti-piracy measures.** Respect, not interfere with, and maintain the security of technological anti-piracy measures used by rights owners with their IP-based products and processes.

Compliance and audit

- 17 **Recordkeeping.** Keep material, IP-related documentation and related materials for appropriate periods of time.
- 18 **Labelling.** Label completely and accurately all IP-related products and packaging manufactured or supplied.
- 19 **Monitoring.** Periodically review the company's IP policies.
- 20 **Exemplars.** Supply exemplars of IP-based products produced on production lines used in the company's operations to relevant rights owners, their industry anti-piracy bodies and law enforcement authorities on request.
- 21 **Cooperation with IP owners and public authorities.** Provide reasonable assistance to rights owners, industry anti-piracy bodies and law-enforcement authorities in their investigations of possible IP infringements.

Overview and guidance

Overview

The growing problem of counterfeiting and piracy poses a variety of risks for business.

Counterfeiting and piracy involve infringement of the rights owner's copyright or trademark rights, which are referred to in the Guidelines as "intellectual property" or "IP".

To help companies better manage IP, ICC/BASCAP has developed a set of Intellectual Property Guidelines.

The Guidelines provide information to businesses on practical steps they can take to assess the effectiveness of their IP management policies, to protect their own IP, and to consider new options for improving performance and managing the risks associated with counterfeiting and piracy.

Companies large and small in virtually every industry increasingly use and rely on IP – the copyright, trademark, trade secrets and other intangible rights that underlie many products and services. The use of IP, whether branded products or components, copyrighted software, video or audio, images, books, news services, or a company's own or someone else's trademarks, is commonplace in every sector of business. As a result, companies increasingly find the need to put policies and procedures in place for managing their own and preventing the misuse of others' IP.

In today's economy, the "intellectual capital" embodied in creative and branded content can be as important to economic growth as traditional capital, goods and services. IP protection helps to ensure the return on investment for intellectual capital necessary to produce a continuous stream of new innovation and creativity. This makes individual companies, industry sectors and national economies more competitive, fuels cultural, technological, social and economic development, and leads to overall improvements in our health and life.

The sheer volume of IP with which companies must deal is growing. Inadequate management of one's own IP can lead to lost market opportunities and displacement of legitimate sales by counterfeits. Inadequate management of the copyright or branded materials of others can result in civil or criminal claims, large compensation payments, and business disruptions and distractions.

In addition to this, there are broader business and societal risks from inadequate attention to IP management, such as injuries, health risks or other damage from counterfeit automotive parts, food or pharmaceutical products.

The IP Guidelines provide a useful guide for a wide range of businesses in different sectors to assist in assessing the effectiveness of their IP management policies.

ICC/BASCAP recognizes that IP management policies and requirements vary from industry to industry, and there is not one set of best practices applicable to all businesses. However, there are valuable lessons that can be learned from businesses in various sectors. Some of the examples collected in the Guidelines may provide useful ideas that can be tailored for particular industries or segments of the supply chain.

They may be used directly as a basis for a company, for example, to create or improve internal company policies or employee manuals. The terms of the Guidelines can also be included in contracts between IP owners and suppliers, such as manufacturing plants.

They are also suitable for adoption as the basis of a compliance certification or an industry code of practice, whether voluntary or mandatory, in particular industry sectors.

The Guidelines are intended to be a living document that will evolve to respond to the challenges of new technologies and industry practices. Like the IP system more generally, the Guidelines are intended as a balanced approach that respects the legitimate interests of rights owners, other stakeholders, business and society at large.

Please visit the BASCAP website for a copy of the Guidelines and information on updates at www.iccwbo.org/bascap.

Intellectual Property Guidelines for Business

Objectives

ICC/BASCAP offers the following Guidelines to help business.

- understand and support the value of IP as the basis of innovative, creative and economic activity that promotes business and national competitiveness;
- manage their own copyrights and trademarks more effectively;
- comply with the IP laws protecting other companies' copyrights and trademarks;
- manage the business risks associated with infringement;
- prevent and deter counterfeiting and piracy; and
- develop company policies and practices to effect such compliance.

Company policy

1 **Corporate policy. Establish a corporate policy to conduct operations in compliance with IP laws and related best practices. Implement specific policies, procedures and practices to promote compliance.**

Guidance

- 1.1 IP compliance can benefit greatly from the commitment of a company or other enterprise at the highest level of company management. This can be done, for example, through policy requirements adopted by resolution of its executive board or similar management body.
- 1.2 "Intellectual property" or "IP" for purposes of the Guidelines refers to the legal protection of intangible rights in creative works and brands, in particular copyright and trademark, but also trade secrets, design rights and the like. Patent issues are more complex, and are not addressed or covered by the Guidelines.
- 1.3 IP management requirements vary from industry to industry, and there is not one set of best practices applicable to all businesses. However, there are lessons that can be learned from businesses in various sectors that take the protection of IP seriously. Several existing policies warrant consideration, including for optical media manufacturing the *IFPI Good Business Practices for Optical Disc Mastering & Manufacturing Plants*. For the software and IT industries, procurement and asset-management guidelines and standards contain useful IP compliance practices, including in the *Business Software Alliance Software Management Guide*, the *IT Governance Institute's Control Objectives for Information and Related Technology (COBIT®) version 4.1*, and the *ISO standard ISO/IEC 19770-1, Software Asset Management*. Note that many of the recommendations in the ICC/BASCAP IP Guidelines can form a useful basis for a corporate policy.

2 **Lawful use. Acquire, use and deal in only licensed copies of copyright protected material, and genuine articles of trademark protected products, in carrying out the company's business.**

Guidance

- 2.1 This commitment covers the entire range of a company's input, use and output activities that involve IP-related products or services. The commitment to purchase only legitimate IP-based materials for use in a business or as part of a supply chain is described in more detail below.
- 2.2 Products used in business but not directly included in manufactured outputs, such as computer software, reference books, news services, and the like, are typically protected by copyright as well as trademark and are infringed by unlicensed copying and distribution. This commitment requires not copying or using infringing materials of this sort in the business.

- 2.3 IP-based products manufactured or put into circulation by a business without the authorization of the rights owner are also infringing. This includes such products as discs containing unlicensed copyright material (films, music, software, games), and fake branded goods (e.g. computer hardware, industrial products, food, cigarettes, automotive parts, consumer products and pharmaceuticals). This commitment requires not manufacturing, marketing, selling, distributing, disseminating or otherwise dealing in any such infringing items.
- 2.4 Adequate budget needs to be allocated for all IP-related materials used for the business, so there is no incentive for employees to use infringing materials.

3 Protection of company IP. Take reasonable steps to identify and protect the company's own IP.

Guidance

- 3.1 A company's understanding and protection of the IP that it has itself developed not only helps the company to reap the benefits of its own creativity and innovation, it sets a good precedent for respecting third parties' IP.
- 3.2 Protection of a company's own IP may take many different forms depending on its sector and particular business. Review of trade names and symbols, and registration and proper usage of trademarks, are appropriate for many businesses. Documentation of original copyrightable works, and in some cases registration or notice of copyright, may be needed. With respect to industrial inventions, this may involve registration of design rights. Processes for renewing such rights, and paperwork and other evidence of the existence of such rights, should be carefully maintained.
- 3.3 There are a wide range of strategies that a company may employ to deter others from infringing its IP rights. Depending on a company's business and industry sector, these can include:
- Use of technological protections in its IP-related products and processes.
 - Selection of business partners that adhere to good IP management practices.
 - Cooperation with enforcement authorities on the national, regional and international level.
 - Cooperation among rights owners and intermediaries (including wholesalers, transporters, retailers, internet service providers and other online services) to take steps to deter infringement and the sale of counterfeited and pirated products.
 - File criminal complaints or take legal actions as appropriate.
 - Work with industry associations to combat various types of counterfeiting and piracy.
- 3.4 Customs offices typically require particular assistance with respect to a company's own IP. Registering intervention applications with Customs, and providing product information, training and prompt responses to Customs' requests for assistance, can substantially improve Customs' efforts to stop shipments of infringing items at the border.

4 Compliance. Designate a senior director or manager whose responsibility includes overseeing and enforcing the company's IP policies.

Guidance

- 4.1 For an enterprise to achieve IP compliance, it is usually necessary for someone within the organization to be personally responsible and accountable for making it happen. This person needs to be sufficiently senior to have or obtain a comprehensive overview of the organization's activities; to have the authority to develop and execute the company's IP compliance policies, procedures and practices; and to deal with infractions and complaints. A qualified senior director or manager generally would be the right level to fulfil this compliance function.

Education and awareness

5 Employee policies. Implement policies to encourage all employees and subcontractors to comply with laws and the company's IP compliance policy.

Guidance

- 5.1 As with health and safety codes and other requirements of the law, employees should be encouraged to comply with the IP laws and the company's policies, practices and procedures related to IP. This could include commitments not to engage in any infringing activity on company premises or equipment or in any way related to the company operations, and to maintain the confidentiality of the trade secrets and other confidential information of the company and third parties.
- 5.2 IP compliance could also be included in an employee's terms and conditions of employment, or as part of a policies and procedures handbook that is distributed to and binding on employees. IP compliance requirements are different and additional to any provisions in employee contracts or handbooks that govern IP ownership in the case of employee-created works.
- 5.3 Similar requirements and terms and conditions could also be included in written contracts with independent contractors.
- 5.4 Employees' and contractors' commitment to respect IP typically should extend not only to activities carried out in the course of their direct work for the company – such as in purchasing, product development, manufacturing, marketing and the like – but also more generally with respect to their activities on company premises and company equipment. Many companies protect against the risk of unauthorized activities in this area by not allowing employees to install or use infringing copies of software, music, published materials or games on company computers, or to open the company computer network to outsiders for illegal access, transmission or storage of copyright or trade-secret material.

6 Training and awareness. Train relevant employees and subcontractors (where appropriate) on IP compliance and company policy.

Guidance

- 6.1 Training of relevant personnel usefully could cover applicable IP laws, licensing requirements, IP owners in the business, and the company's policies, procedures and practices.
- 6.2 A compliance officer needs to understand IP laws as well as the business and licensing practices in the IP fields relevant to the company's business, in order to design and maintain IP compliance policies, procedures and practices that are effective, efficient and workable for the company. For example, a compliance officer in a CD replication business would typically be familiar with copyright rules related to music, licence agreements used by record companies and other rights owners, and information on the rights owners in the relevant field, such as through one of the many available public databases.
- 6.3 Employees and contractors likewise need IP-related training and information relevant to their work. For example, a production manager in a replication plant needs to understand that it is an infringement for commercial software, music or films to be pressed onto CDs or DVDs if a licence agreement is not in place with the rights owner. In many companies, the purchasing manager needs to understand that use of a recognized brand label on a fake product is an illegal counterfeit.
- 6.4 It may be appropriate for the compliance officer and relevant employees and consultants to receive such training both when they take on a particular IP-related role, and periodically thereafter, given employee and product turnover as well as evolution in the licensing and business practices in every field. Relevant industry professional groups as well as law firms and societies offer such training in most countries.

Supply, manufacture and distribution

7 Supplier and customer notification. Notify relevant suppliers and customers that the company complies with IP laws and expects them to do the same.

Guidance

- 7.1 One way to enhance compliance by suppliers and customers is to notify relevant suppliers and customers that the company respects IP, maintains IP compliance policies, practices and procedures, and expects such suppliers and customers to do the same. The precise obligations can be negotiated and included in the relevant contract or in separate mailings or website notices. This sets the right expectations for business dealings and can pre-empt problematic requests or activities, such as orders for supply of counterfeit products.
- 7.2 The company's contracts with suppliers and customers might also include provisions allocating responsibility for counterfeit goods or other IP violations. These can include IP indemnities, "make good" and financial remedies, delisting the infringer as an approved source or customer, and contract termination. These are ways in which a company can manage the IP risks in the event its suppliers or customers engage in IP infringement without the company's knowledge, consent or other involvement.

8 Legitimate inputs. Where possible, obtain IP-related inputs for the business from legitimate and auditable vendors.

Guidance

- 8.1 Input activities such as purchasing of components or supplies, or third-party design, development, manufacturing or other services, often involve copyrighted or trademarked articles. A company can often negotiate commitments from vendors to purchase products and services that do not infringe IP laws.
- 8.2 Particularly for manufacturing operations, it is helpful for a company to obtain inputs only from fully auditable vendors that source exclusively from original manufacturers, franchised distributors or first owners of the goods.
- 8.3 More detailed "best practices" on securing legitimate inputs and other supply chain issues can be found in specific industry guides, as well as in the US Chamber of Commerce publication, *No Trade in Fakes: Supply Chain Tool Kit*.

9 Contractual provisions. Document material IP-related transactions, and supplier and customer relationships, accurately and in adequate detail.

Guidance

- 9.1 One of the warning signs of a business that is at serious risk from inattention to IP issues, or that is actively engaged in counterfeiting or other infringing activity, is inadequate or missing written records. It is particularly important for companies engaged in manufacturing IP-based products that their activities be properly documented and auditable.
- 9.2 What recordkeeping is appropriate will vary by industry and activity, but should include documentation of "material" activities with respect to IP-based goods and services. This may encompass detailed and accurate written licence or manufacturing agreements, purchase and sales orders, production records, invoices and shipment documents. Records of material activities need to be sufficiently specific to identify the IP-based material itself (for example, the individual industrial or consumer product unit, musical track, software or film title, drug or chemical product, food product, or trademark), quantity, price or licence fee, and correct destination and consignee.

- 9.3 For some sectors, it is important to keep and store master production copies and production samples securely, as they can be a protection for the company and its suppliers and customers as well as the IP owner. Particularly in the case of a dispute or claimed infringement, master copies and production samples can be helpful for tracing the source of illicit products or parts and assigning liability to the correct party.
- 9.4 Material transfers and licences of IP rights should be in writing. This is particularly important if a company outsources development of IP-related material, as many countries' laws presume that such transfers and licences are not valid unless in writing. Written agreements can prevent disputes over IP ownership and possible claims of infringement.
- 9.5 IP-related contracts should be clear and cover all the relevant topics in sufficient detail to avoid confusion and later problems. These contracts typically include the technology or material to be used, the rights licensed or reserved, consumer or trade terms and conditions as appropriate, confidentiality obligations, monitoring and due-diligence obligations, and termination and other remedies in case of an IP violation.

10 Supplier and customer awareness. Obtain reliable identification and background information on IP-related suppliers and customers.

Guidance

- 10.1 Much of the trade in counterfeits takes place between and on behalf of inadequately identified or anonymous suppliers and customers. Pseudonyms, post office boxes, mere "points of contact" and unidentified e-mail addresses can be indicators of a supplier or customer dealing in counterfeits, as can the person's or company's lack of an obvious or documented connection with the industry sector for the particular IP-related products.
- 10.2 Reliable identification and background information includes correct names, and complete addresses and telephone numbers. Brokers also should obtain and be able to provide this information in respect of the ultimate clients.
- 10.3 "Know your customer and supplier" is simply good business practice. Documentation of the true identity, background and contact details of suppliers and customers is not only a substantial deterrent to counterfeiting and piracy, it helps a company manage other kinds of risks, including supply, payment, quality and similar problems.

11 Required licences. Obtain written proof of material IP rights and required licences, prior to manufacturing, shipping or offering IP-based products or services.

Guidance

- 11.1 Unauthorized copying, distribution, transmission or other dealing in copyright- and trademark-protected goods or services in the course of a business is virtually always infringement absent a licence from all of the relevant IP rights owners.
- 11.2 Licences should be authentic documents and typically specify each protected work or trademark licensed, the time period during which the licence is valid, and the specific uses and quantities licensed.
- 11.3 Needed licences should be in writing. Genuine copyright and trademark licences rarely cover an IP owner's entire range of products, trademarks or rights, or are of unlimited duration. Companies should insist that licences for duplication, manufacturing, or distribution of IP-related products are very specific as to what has been licensed, for what period and for what uses.

12 Due diligence. Inspect documentation and materials for warning signs that infringing material may have been supplied or ordered. Make further enquiries as needed to determine the status of suspicious activity.

Guidance

- 12.1 Ignorance typically is no excuse for counterfeiting and piracy. Many IP infringements are “strict liability” violations, such as reproducing and distributing copyright material or trademark branded goods without a licence, regardless whether the material has been ordered by a customer. Due diligence on licences, goods, masters, orders, information and other items supplied in relation to IP-related goods or services can reduce the risk of infringement.
- 12.2 Supplier and customer information, licences, goods received, production masters and order terms can contain warning signs that infringing material may have been supplied or ordered; an effective regular or spot inspection programme can help turn up such warning signs. If warning signs are discovered, further enquiries may be needed, including consultation with the relevant rights owner or industry anti-piracy body, to determine the status of suspicious activity.
- 12.3 Warning signs vary by industry. These may include, for example, orders for large quantities of unmarked copies of recognized products; use of well-known trademarks or claims of licence by unknown companies; large cash payments; poor-quality workmanship or packaging; removal, recreation or separate shipment of trademark labels or technological protections; or incorrect or inadequate labelling of contents, geographic origin or production plant.
- 12.4 Some rights owners themselves offer information and assistance to help determine whether products or licences are legitimate; others do so through their industry anti-piracy body. Customer and supplier agreements should explicitly allow consultation with the relevant rights owner or industry anti-piracy body if there is a reasonable suspicion of infringement.

Security and confidentiality

13 Physical and network security. Maintain physical and IT security sufficient to ensure the integrity of company records and operations, and to protect IP and confidential material.

Guidance

- 13.1 Companies involved in manufacturing and distributing IP-based goods are well served if their premises are secure and their personnel procedures are adequate to prevent theft, unauthorized access, “third shifts” or other unauthorized manufacture or shipment, disclosure of trade secrets, and other unlawful practices.
- 13.2 Companies involved in using licensed IP often need to be able to prove and account for licensed activity. This requires secure storage of material IP-related contracts, licences, financial records and other documentation – a good business practice in all events.
- 13.3 Copies of IP-based products, trade secrets and other confidential information, and company records increasingly are held on computers and computer networks. Good IT security can help to keep such items secure, and to prevent IP infringement in the form of unauthorized electronic access, storage, copying, posting, transmission or disclosure of third parties’ IP.
- 13.4 Good IT security also typically includes such protections as anti-virus and anti-spyware software, internal computer and network access restrictions, firewalls and other restrictions of access from the internet to the company’s computers and networks (including via peer-to-peer systems), and prohibitions on unapproved installation or distribution of IP-protected material on company computers or networks. For further information on IT security issues related to IP infringement, see the IFPI/MPAA/IVF publication *Copyright and Security Guide for Companies and Governments*.

14 Asset management. Implement asset identification, inventory and control processes sufficient to ensure that material IP-related assets are manageable and traceable.

Guidance

14.1 It is good practice for IP-related products that a business uses in conducting its own operations, such as software and other IT products, to be inventoried and managed like other key assets throughout their life cycle.

15 Trade-secret and confidential-information protections. Use best efforts to protect the company's and third parties' trade secrets and other confidential material.

Guidance

15.1 Companies involved in manufacturing or dealing in IP-based products or services often require or have access to trade secrets or confidential information of the IP owner in the course of such activities. Access to such trade secrets or confidential information typically depends on contractual or other legal obligations to use best efforts to protect and not to disclose or use the IP owner's trade secrets or other confidential information, except as expressly authorized by the rights owner. Such restrictions ordinarily would not apply, however, to the extent that such material has been disclosed by the rights owner or with its permission without such restrictions, or that a government or court order has required such disclosure.

15.2 More generally, it is helpful for confidentiality undertakings with customers and suppliers to be drafted so as to permit legitimate consultation of law enforcement authorities, or relevant anti-piracy bodies or rights owners, in the case of a reasonable suspicion of IP infringement such as in the case of a customer order for an apparently counterfeit product.

16 Technological anti-piracy measures. Respect, not interfere with, and maintain the security of technological anti-piracy measures used by rights owners with their IP-based products and processes.

Guidance

16.1 IP rights owners increasingly rely on various types of technological anti-piracy measures in their products, product packaging and distribution systems, in order to prevent and deter counterfeiting. Companies involved in manufacturing, marketing and distributing such IP-based products should support these goals by following any instructions from the IP owners as to how these technological protections should be applied, and not removing, circumventing, disabling or taking any other action that impairs their effectiveness in any way.

16.2 Licensed IP-based products used in a company's internal business operations also may contain technological anti-piracy measures, which also should be respected. Indeed, modern copyright laws typically make it an offence to circumvent such measures.

Compliance and audit

17 Recordkeeping. Keep material IP-related documentation and related materials for appropriate periods of time.

Guidance

- 17.1 Good business recordkeeping is required by virtually every accounting standard and tax authority worldwide. Material IP-related records and materials should be kept with other business records for a similar time period as such other records, which typically is not less than three years after their expiration (this period is longer in some countries). The records and materials to be maintained should include copies of material IP-related agreements, purchase orders, production records, shipment documents, licences, masters and production samples.

18 Labelling. Label completely and accurately all IP-related products and packaging manufactured or supplied.

Guidance

- 18.1 A common tell-tale sign of counterfeit articles is mislabelling. Articles, packaging or shipping boxes may indicate the wrong contents, or may have no labelling at all. The geographic origin or manufacturer identification on such materials may be missing or incorrect. Content listings of mixed shipments may fail to mention counterfeit articles that have been included with other items.
- 18.2 Although requirements may vary by industry, the labelling for IP-related products manufactured, distributed or shipped should be complete and accurate as to specific products, quantities and origin. This should include applicable identification markings or codes, whether industry-standard or rights-owner specific, as to manufacturing plant, product identification, batch number and other designations.
- 18.3 Individual rights owners may have their own specific labelling requirements. There are also standard labelling requirements applicable in particular industries, for example the IFPI/Philips Source Identification disc and mould codes applicable to manufacturing of all optical discs. It is best practice for everyone in the supply chain to follow the applicable rights-owner and industry-standard labelling practices scrupulously and without exception.

19 Monitoring. Periodically review the company's IP policies.

Guidance

- 19.1 Ongoing monitoring, correction of problems, and refinement of a company's IP compliance policy, are an important part of ensuring that the company's policies, procedures and practices are workable and are followed.

20 Exemplars. Supply exemplars of IP-based products produced on production lines used in the company's operations to relevant rights owners, their industry anti-piracy bodies and law enforcement authorities on request.

Guidance

- 20.1 Legitimate manufacturing plants should have nothing to hide. Providing exemplars, such as sample discs from each of an optical-disc replication plant's production lines, helps both to discourage counterfeiting and to track down infringers when piracy does take place.

21 Cooperation with IP owners and public authorities. Provide reasonable assistance to rights owners, industry anti-piracy bodies and law-enforcement authorities in their investigations of possible IP infringements.

Guidance

- 21.1 Companies dealing in IP-related products and services are well served to cooperate when problems of infringement arise, such as by producing IP licences and other information relating to suspect articles, orders or activity. The fight against the black economy of counterfeit and pirate goods requires diligence and cooperation among IP owners, public authorities and companies in every part of the supply chain.

FAQs – Frequently asked questions

Q. What are the “ICC/BASCAP Intellectual Property Guidelines for Business”?

A. Business Action to Stop Counterfeiting and Piracy (BASCAP), an initiative of the International Chamber of Commerce (ICC), has developed a set of IP Guidelines to provide information to businesses on practical steps they can take to assess the effectiveness of their IP management policies, particularly in the area of copyright and trademark; to help protect their own IP; and to consider new options for improving performance and managing the risks associated with counterfeiting and piracy. The Guidelines address internal IP use, supply chain practices, relations with intermediaries, and the handling of third-party IP. They deal with IP management in all its forms within companies, from IP development to component sourcing, manufacturing, wholesaling, retailing and internal corporate use.

Q. Why is BASCAP doing this?

A. BASCAP developed the Guidelines to help companies of all sizes reduce the risks of IP theft, and to deter piracy and counterfeiting. Piracy and counterfeiting are an economic blight with serious and disruptive consequences for companies found to be engaged in such activity. This is because piracy and counterfeiting have broader consequences: They deter inventiveness and creativity, deprive governments of tax revenue, compete unjustly with legitimate economic activities and jobs, weaken consumer confidence in legitimate branded products, pose serious health and safety risks, and feed organized crime. Business and government together, each playing its part, can reduce IP theft and the business and social damage that it causes.

Q. Why are the Guidelines needed?

A. There is a lot that companies can do to protect their own creativity and innovation in IP-based products and services, as well as to reduce the risks of infringement of other companies’ IP rights. The global economic trend is to increase investment in and reliance on IP as an essential element of economic growth. The problem is that IP is an intangible asset that requires not only legal protection but also good management and use in order to realize its full potential. The Guidelines are designed to raise awareness and provide useful information to companies on how to manage IP.

Q. Who will use them?

A. Companies large and small in virtually every industry increasingly use and rely on IP, and thus can benefit from implementing good IP management policies inspired by the Guidelines. Small- and medium-sized enterprises and large companies involved in the development, manufacture, supply, or distribution of IP-based products and services, as well as the large number of other commercial concerns that use some form of IP-based material in their own business, will benefit.

Q. Is it a mandatory programme?

A. The IP Guidelines are made available as a voluntary guide that businesses can use directly or can draw upon to create or improve company policies, internal procedures or employee manual provisions dealing with IP.

As a reference guide, the terms of the Guidelines can also be included or referenced in contracts between IP owners and suppliers, such as manufacturing plants. They are also suitable for adoption as the basis of a compliance certification or an industry code of practice, whether voluntary or mandatory, in particular industry sectors.

The Guidelines are designed to be useful to a wide range of businesses in different sectors, and are suitable to be tailored to deal more specifically with particular industries or segments of the supply chain.

Q. How were the Guidelines developed?

A. The Guidelines were developed after a survey and review of practices and precedents in various IP-related business sectors, and represent examples of the range of elements that companies in a variety of industries are using to improve their management policies in this area. Included in this survey were the following sources, many of which are cited in the “guidance” sections of the various Guidelines:

- Individual industry guides (the film and music industries’ *Copyright Use and Security Guide and Good Business Practices for Optical Disc Manufacturing*; and the software industry’s COBIT and ISO standards for IT and software management).
- The US Coalition Against Counterfeiting and Piracy’s *No Trade in Fakes: Supply Chain Tool Kit* (<http://www.thecacp.com/portal/truecosts/resources/supplychain.htm>).

Q. How will they be communicated and rolled out?

A. ICC is working with its national committees and member companies to share the Guidelines with industry groups and companies worldwide. ICC is making the Guidelines available on its frequently visited BASCAP website (www.iccwbo.org/bascap), and is also working with governments to promote awareness of the need for good IP management practices as described in the Guidelines.

Q. Why ICC?

A. The mandate of ICC is to present a unified voice for world business, championing the global economy as a force for economic growth, job creation, and prosperity. Since 1919, ICC has worked to create an international market economy based on sound international trade and investment rules. This work includes establishing business codes, rules and model contracts that are used by business worldwide. To date, these have covered a wide variety of areas including international commercial terms, banking rules, and corporate governance, and now have been extended to awareness and assistance in the area of corporate IP management.

How can I get involved?

- 1 Review your company's IP management practices.** The Guidelines provide a useful set of ideas and tools for assessing the effectiveness of your own company's policies, procedures, practices and agreements related to IP management, particularly in the areas of copyright and trademark, and for considering new options for improving performance and managing the risks associated with counterfeiting and piracy.
- 2 Communicate your own IP management policies** to your suppliers, customers and other third parties. You might wish to do so on your website, via e-mail or in your contracts with them. If you prefer, ICC/BASCAP approves and would encourage you to put a link to the Guidelines directly on your own website.
- 3 Publicize the Guidelines** among business and industry groups. You may want to encourage your own or related industry groups to disseminate or endorse the Guidelines themselves.
- 4 Let your government know** that the Guidelines provide useful information to help companies manage IP, which the government may want to promote. Let government know that business is doing its part to combat piracy and counterfeiting.

Please visit the BASCAP website for a copy of the IP Guidelines and information on updates at
www.iccwbo.org/bascap

Business Action to Stop Counterfeiting and Piracy is a business initiative, created, led and funded by world business, specifically brand owners, and organized by the International Chamber of Commerce, to raise public and political awareness about counterfeiting and piracy, encourage government action and promote respect for intellectual property.

To learn more about membership in BASCAP, please contact:

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Photography credit for the cover

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Published in September 2008 by
International Chamber of Commerce

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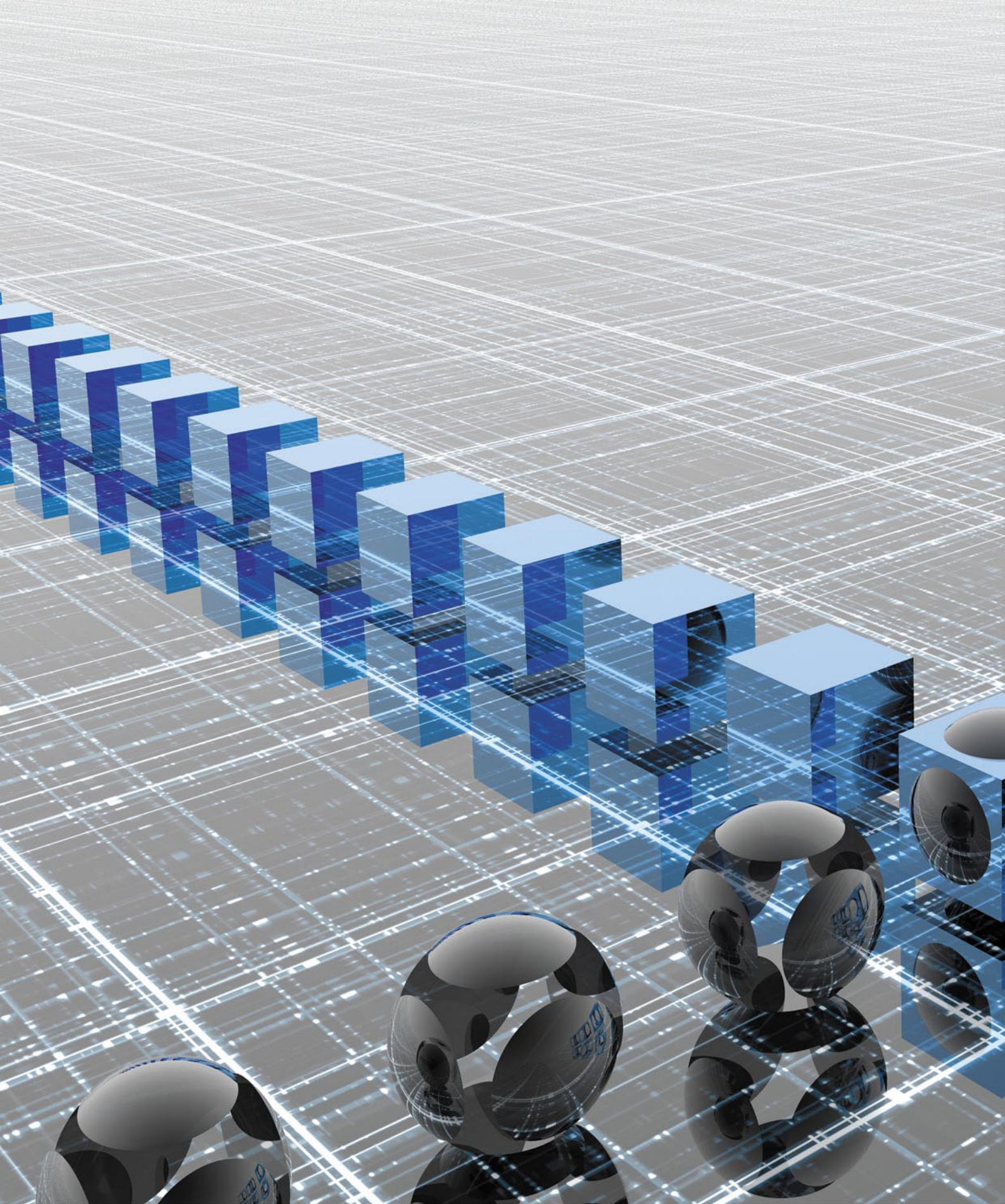
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ICC Publication No. 848

ISBN: 978-92-842-0060-3



International Chamber of Commerce

The world business organization

An ICC initiative

BASCAP

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