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**[You Created It. We Protect It.]**



My Updates:  
**[Crystal's Corner]**

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**Cover Your Assets!**

Do you have an inventory of your company's intellectual property (IP) assets? Do you even know what is considered an Intellectual Property asset?

Intellectual Property is everywhere in the world of business and business owners should make sure they protect their assets since intellectual property is crucial to the success of their business.

The most common types of IP assets are:

- Trademarks
- Copyrights

- Patents
- Trade Secrets

**Trademarks** are brands, logos, service marks, collective marks, and trade names.

**Copyrights** protect the expression of ideas – software code, websites, curriculum, how-to-manuals, paintings, books, sculpture, audio and visual recordings, musical and dramatic works.

**Patents** are for the protection of technical and functional inventions of products and processes that are new and not obvious.

**Trade Secrets** are all forms and types of financial, business, scientific, technical, economic, or engineering information if the owner has taken reasonable measures to keep them secret and the information derives independent economic value from not being generally known.

**Actions you should take:**

Conduct an audit to identify all registered and unregistered trademarks and copyrights. Include all patent registrations and inventions that you intend to patent or keep as a trade secret.

Invest in well written and up to date non-disclosure agreements. Make sure all of your employment and vendor agreements, licensing agreements, sales contracts and technology transfer agreements protect your IP assets.

File trademark applications for all unregistered word marks, service marks, logos, collective marks and trade names.

File copyright applications for materials you have developed such as your websites, software code, curriculum, how-to-manuals, logos that you are using, graphics that you are using to promote products and services, etc.

File patent applications before you publish a new invention. Once you disclose publicly an invention you must file an application within one year or you lose the right to obtain a patent registration.

If you decide you want to keep an invention, process or formula as a trade secret instead of filing for a patent, make sure you actively take reasonable measure to keep the information secret.

Save money in the long run by working with an IP lawyer who can advise you on trademark, copyright and patent registrations, review your business agreements and contracts for the protection of all IP assets. Sometimes what appears to be simple at first turns out to be more complex than you originally considered. A trademark or patent application can be rejected for small details that were not included in the original application.

**Consider the future of your company:**

Properly protected IP assets add value to your company if you intend to sell it in the future.

If your IP assets are protected you are in a better position to protect your company and brands from copycats who infringe on your brands and ideas.

You may decide you would like to license your brand or products to a third party as you expand your business. So you will want to make sure the brand is registered and the products properly protected.

You may expand your sales of products or services to other countries in which case having US trademark registrations in place will help in the trademark application process in with other countries.

Better to act now in protecting your valuable IP assets instead of waiting until it is too late when someone takes your brand, product or client list and opens their own business.

To read the full article on what Intellectual Property is and how it affects your business, [click here](#).

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## "Stairway to Heaven"

Led Zeppelin fans were pleased to hear that a California jury in a copyright infringement case



issued a verdict that the Defendants, members of the Led Zeppelin band and others, did not commit copyright infringement when they wrote and performed the musical composition “Stairway to Heaven”. The exact question answered by the jury on the verdict form was, “Do you find by a preponderance of the evidence that original elements of the musical composition Taurus are extrinsically substantially similar to Stairway to Heaven?” The jury marked “No” on the verdict form.

The Plaintiff in the case was the Trustee for the Randy Craig Wolfe Trust. Randy Craig (a/k/a Randy California) was the founding member of the rock band, Spirit. Randy California wrote a song entitled “Taurus” which was included on Spirit’s self-titled album in 1968 and performed throughout the country. Randy California drowned off the coast of Hawaii in 1997. The Trust was established after his death by his mother. The Trustee of the Randy Craig Wolfe Trust is Michael Skidmore, the Plaintiff.

The Plaintiff alleged that the elements of copyright infringement were established because the Led Zeppelin band had access to the musical composition by having close interaction with the band Spirit and performing as an opening act for Spirit. Plaintiff claimed that to a reasonable observer, the iconic notes, melodies and chord progressions of “Stairway to Heaven” were almost identical to “Taurus” therefore there was a substantially similar element between the two compositions.

James Page and Robert Plant, members of Led Zeppelin, are listed as the writers of the song “Stairway to Heaven” which was released in 1971 and a copyright registration was issued by the US Copyright Office in 1972. The Led Zeppelin band toured the country in 1968 and opened for the band Spirit. The Defendants claimed many affirmative defenses in response to the Amended Complaint filed with the court including, “Stairway to Heaven” was an independent creation, de minimis infringement, fair use, unreasonable delay in the assertion of the claim and prejudice as a result of the delay, and statute of limitations.

According to the court record, the jury listened to recordings of both musical compositions and reviewed the original sheet music that was filed with the US Copyright Office. Defendants James Page and Robert Plant both testified as to events that took place more than 40 years ago based on what they could remember. Experts in musicology testified for the Plaintiff and the Defendants. There were arguments over protected and unprotected elements of the composition. Two years of attorney arguments, three days of witness testimony and presentation of evidence led to a Jury Verdict for the Defendants. Now Plaintiff will have to battle in court when Defendants demand that the Plaintiff pay all of their attorneys’ fees.

The case was filed in May 2014, forty-six years after the creation of “Taurus”, forty-three years after “Stairway to Heaven” was released and seventeen years after the death of Randy California. The case went to a jury trial in June 2016 and lasted three days. If Randy California considered “Stairway to Heaven” to be an infringement of his musical composition, “Taurus” why was a copyright infringement case filed sixteen years after he passed on?

For the full story and case details, visit our blog [here](#).

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## About Crystal T. Broughan

Crystal T. Broughan is an Intellectual Property Law Attorney with Marks Gray, P.A. Her practice primarily focuses on matters such as trademark, patent and copyright infringement cases. She prepares and files trademark and copyright applications, licensing agreements, non-compete and non-disclosure agreements for a wide



variety of clients. In addition, she represents clients before the Trademark Trials and Appeals Board on trademark disputes.

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