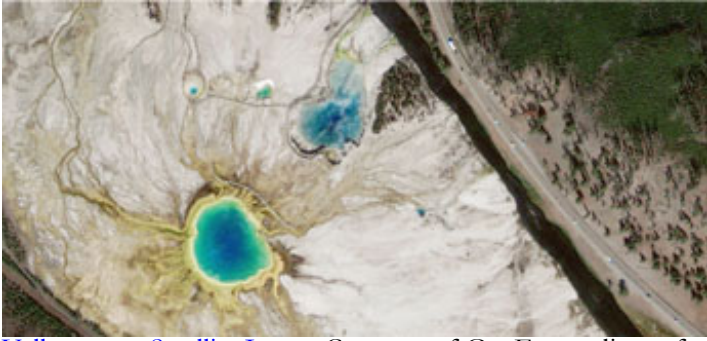


## Intellectual Property Practice



[Yellowstone Satellite Image](#) Courtesy of GeoEye, a client of Fennemore Craig

Most businesses have intellectual property. Many of them don't even know it. For those businesses, intellectual property represents an untapped asset that, if properly protected, could increase their value. The Fennemore Craig lawyers in the Intellectual Property Practice Group know how to identify intellectual property and they know how to protect it. In addition, since our clients present us with a wide range of issues to address, we can be flexible in fashioning fee structures based on the problem to be solved.

The Intellectual Property Practice Group includes lawyers with wide-ranging experience and skills, including registered patent attorneys with specialized technical knowledge; trademark attorneys; litigators; and, lawyers who protect intellectual property through commercial transactions (licensing, joint development agreements, e-commerce strategies). Many of our lawyers have experience in all of these areas and therefore can help clients sort through the proposed mix of IP protections for their individual situations. Representative clients span a spectrum from universities to start-ups to multinational domestic and international businesses in industries such as mining, metallurgy, film coating, geospatial imagery, pharmaceuticals, biotechnology, clean-tech, optics, non-destructive testing, electronics, robotics, computer software and hardware, restaurants, renewable energy, the equine industry, and agriculture. As our clients add intellectual property assets to their portfolios, the Intellectual Property Practice Group continues to thrive and grow.

### Identifying IP to Protect

A first step in any representation is identifying IP worthy of protection, whether it is the name of a business, its sales brochure, its software code or the process for making its key product. A next step is designing an appropriate and effective strategy to protect and leverage IP based on the client's overall objectives, such as those regarding cost and public disclosure. Of course, designing such a strategy requires an understanding of the various aspects of patents, trademarks, copyrights and trade secrets and the interplay between them, which our lawyers have.

Often, the most significant manner in which intellectual property and other business assets can be protected is by avoiding legal entanglements with others. In those situations, we determine the intellectual property rights of others and how our clients can stay in the clear. Thus, where competitors have certain patents, we determine the extent and breadth of third party rights and advise our clients about appropriate design-around or other non-infringement strategies.

### Protecting IP in Business Dealings

IP is at the heart of many commercial transactions today. We help clients to both protect their intellectual property and maximize its value in mergers and acquisitions on the one hand, and in bankruptcy situations, on the other hand. IP audits and due diligence are a significant part of that process, as well as negotiating specific language to benefit our client's IP rights in the relevant agreements. We also help clients protect their intellectual property and financial interests in joint development projects by understanding and appreciating, not only the technology involved, but also the clients' objectives.

Licensing may be a key component in realizing value from intellectual property. No matter whether our clients are the licensor or the licensee, we help to protect their interests. We have extensive experience in negotiating and preparing licensing and distribution agreements, both in the U.S. and around the world.

In addition, we counsel clients on ways in which they can expand their businesses and generate additional revenue, not only

by developing new technologies, but also by expanding existing technologies into new product and geographic markets, including acquisitions of IP assets of distressed companies. To develop new technologies and enhance their existing intellectual property assets, our clients frequently need additional capital. We regularly represent clients in negotiating and structuring public offerings, private placements, joint ventures, corporate reorganizations, mergers and acquisitions, product acquisitions and sales, leveraged lease financings, leveraged buyouts and venture capital financing.

We also work to ensure that intellectual property rights are clearly established and protected with respect to our clients' employees and independent contractors. This is especially important during periods of layoffs and high employee turnover. When employees leave, it is vital that their employer's intellectual property assets do not leave with them. Similarly, when employees arrive, it is vital to set forth clearly what intellectual property will belong to their employer. We prepare appropriate form agreements, as well as custom drafted documents when circumstances warrant. If problems do arise, we work on behalf of our clients to resolve disputes by negotiating with or pursuing claims against former employees and their new employers.

## Patents and Trade Secrets

### Patents

Fennemore Craig has one of the largest pharmaceutical and biotechnology patent practices in Arizona, with attorneys handling matters in such diverse areas as genomics, proteomics, immunology, microbiology, gene therapy, vaccine development, drug discovery platforms, medical devices, diagnostic kits, monoclonal antibodies, drug delivery systems, agriculture inventions, cosmetics, nutraceuticals, and methods for treating diseases such as cancer and diabetes.

We also have considerable experience preparing and prosecuting patent applications in the areas of general mechanical and hydraulic powered machinery; optics; nuclear power systems; radiation detection systems; non-destructive testing systems; firearms; planar and linear sputtering apparatus; power supplies for sputter deposition and film coating systems; high pressure cutting and abrading systems; particle classifiers; sonic nozzle flow meters; ion mobility spectrometers; control systems; wireless networks; video games; solar systems, electronic entertainment devices; electronic motors, bicycles; fishing reels; chemical processes for extractive metallurgy; inorganic chemical compositions and processes; geospatial and radar imagery; geospatial positioning; path planning; stereovision systems; and business methods.

Our registered patent attorneys have also prepared and prosecuted plant patents and design patents. In addition, they have significant experience, not only in prosecuting patents before the U.S. Patent and Trademark Office, but also in maintaining and protecting patent rights once a U.S. Patent has issued. As part of a strategy of worldwide protection, we understand the importance of and timing for obtaining foreign patent rights. We also manage the national and international patent portfolios for a number of clients.

### Trade Secrets

In some cases, although an invention may be patentable, the client would prefer to protect it by maintaining it as a trade secret. Since a trade secret loses its value if it is no longer secret, we help clients develop strategies and policies to keep their trade secrets secret. Again, this is particularly important during periods of high employee turnover.

## Trademarks and Copyrights

With the emergence of global markets, protecting trademarks and brands has become increasingly important. We help our clients register, maintain and license their trademarks both in the U.S. and around the world. As part of that process, we help clients develop branding strategies and select strong marks. We manage significant worldwide trademark and service mark portfolios for clients ranging from large multinational companies to start-ups.

We also develop Internet and e-commerce policies and guidelines for our clients and counsel on these issues, including policies specifically directed to use of social media. We plan and implement strategies for domain name acquisition and protection. We also advise clients regarding copyright protection and registration for creative works ranging from software to sales literature to books and publications.

## Enforcing IP Rights

Of course, protection may mean little without enforcement. And, owners of intellectual property are the ones who must enforce their rights. We have successfully enforced our clients' intellectual property rights and have defended our clients against attacks from others. We have considerable experience in resolving intellectual property disputes through negotiation, mediation, settlement or arbitration. Fennemore Craig attorneys have successfully litigated significant intellectual property cases involving patent and copyright infringement; trade secret misappropriation; trade dress and trademark infringement; nondisclosure and non-competition agreements; computer hardware and software licenses; cyber piracy; domain names; software piracy; false advertising; e-commerce issues; commercial disputes over intellectual property;

and unfair competition, patent misuse and patent-related antitrust allegations. The stakes in these cases often are high, and necessary legal action frequently involves requests for preliminary injunction or temporary restraining orders. We have both obtained such injunctive relief and successfully defended against actions seeking to restrain or enjoin our clients. We have the experience to respond swiftly and effectively in this environment, whether in asserting or defending against claims.

## Intellectual Property Practice Group

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