

Introduction to the 2025–2026 Edition

The purpose of this publication is to provide practical suggestions and guidelines for creating a reliable system that detects and prevents possible violations of intellectual property law. The importance of an intellectual property compliance program is discussed, as well as how to establish and monitor such a program.

What's New in the 2025–2026 Edition:

As for trade secret law, sections of this publication have been amended to include:

- With more widespread use of artificial intelligence to create subject matter, the scope of U.S. patent and copyright protection for this generative artificial intelligence work product will become more nuanced and depend upon the quality of human input provided. But as to trade secret protection, the focus is upon the process of idea creation and maintenance of its secrecy, irrespective of human input. Consequently, trade secret considerations should continue to be a substantial component of a corporate intellectual property program. See § 1:7
- Although it is believed no reported cases have required multi-factor authentication for password protected electronic information to be considered trade secrets, several courts require that there be evidence that those with access to password protected information know the passwords are meant to protect trade secret information. See § 1:125.
- Although the Federal Trade Commission Rule banning noncompetition obligations in employment agreements has been declared unenforceable in several judicial proceedings, a majority of states have legislation curbing noncompetes for lower income workers or for specific service industries (e.g. healthcare), and in four states, banning these provisions in employment contracts. Consequently, confidentiality and nondisclosure of trade secret provisions in employment agreements are more important than ever to a corporate intellectual property program. See § 1:134, § 1:136, § 4:82 (FTC rule as promulgated, effective Sept. 4, 2024 and subject to pending litigation).

- Generative artificial intelligence offers tremendous potential for corporate innovation, as well as substantial risk to corporate trade secrets if not carefully managed and monitored. Legal and information technology (IT) departments need to collaborate in this area, coupled with education and policy implementation affecting all company employees. See § 3:85, § 4:81 (sample policy for employee handbook when third party artificial intelligence tools are used by employees).

As for copyright law, sections of this publication have been amended to include:

- The Copyright Office released the second and third portions of the copyright office guidance on artificial intelligence in January and May 2025, reiterating that authors are entitled to copyright in their works of authorship that are perceptible in AI-generated outputs, as well as the creative selection, coordination, or arrangement of material in the outputs, or creative modifications of the outputs. (See 1:107 - Statutory conditions for copyrightability—Generative Artificial Intelligence).
- Litigation continues in multiple industries regarding the permissible use of generative AI, generative AI training inputs, and the protectability of AI-generated works—including the addition of new lawsuits against music AI generators, like UMG Recordings, Inc. et al. v. Suno Inc. et al., Case No. 1:24-cv-11611 (D. Mass.). (See 1:107 - Statutory conditions for copyrightability—Generative Artificial Intelligence).
- The Copyright Office approved a new group registration option for new websites (GRNW), allowing publications to register a group of updates to frequently-revised news internet landing pages as a collective work. (See 3:63 - Copyright registration and records—Registration process).

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