

## SECURITY INTERESTS IN INTELLECTUAL PROPERTY

1. Debtor owns a patent, a trademark and a federally registered copyright. Debtor granted a security interest to Creditor in "all of its now owned and hereafter acquired general intangible property, including all of its intellectual property." This description of collateral was included in a security agreement signed by Debtor. Creditor properly made all necessary state and federal filings on the date of its loan. Assume Creditor loaned \$100 to Debtor on the date it made its filings. Does Creditor have a perfected security interest in after acquired intellectual property of Debtor?

a. Creditor does not have a perfected security interest in the copyright or the accounts generated by the copyright because its security interest in the copyright is not perfected. The security interest in after-acquired patents, trademarks and their accounts is perfected.

b. Creditor does not have a perfected security interest in the copyright or the accounts generated by the copyright because its security interest in the copyright is not perfected. The security interest in after-acquired patents, trademarks and their accounts is perfected.

c. Creditor will have a perfected security interest in the after acquired patents and trademarks (and their accounts) but not in any after acquired copyrights and accounts from those copyrights.

d. It is not possible to decide, on these facts, whether or not Creditor has a perfected security interest in any after acquired intellectual property.

2. Debtor owns a patent, a trademark and a copyright. Debtor granted a security interest to Creditor in "all of its now owned and hereafter acquired general intangible property, including all of its intellectual property." This description of collateral was included in a security agreement signed by Debtor. Creditor properly filed a UCC-1 financing statement that described the collateral as "all personal property of Debtor." Creditor wants advice about the status of its security interest. Assume Creditor loaned \$100 to Debtor on the date it filed its financing statement. Does Creditor have a perfected security interest in the copyright that will protect it against lien creditors?

a. Creditor does have a perfected security interest in the copyright because the UCC is not preempted by Federal law. However, the UCC filing will not protect Creditor in any after acquired copyrights unless Creditor makes a subsequent filing.

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b. Creditor does have a perfected security interest in the copyright because the UCC is not preempted by Federal law.

c. It is not possible to decide, on these facts, whether or not Creditor has a perfected security interest in the copyright.

d. Creditor does not have a perfected security interest in the copyright because the UCC is preempted by Federal law with respect to copyright filings. Creditor should have made a filing with the Copyright Office to perfect this interest.

3. Debtor owns a patent, a trademark and a federally registered copyright. Debtor granted a security interest to Creditor in "all of its now owned and hereafter acquired general intangible property, including all of its intellectual property." This description of collateral was included in a security agreement signed by Debtor. Creditor properly filed a UCC-1 financing statement that described the collateral as "all personal property of Debtor." Creditor wants advice about the status of its security interest. Assume Creditor loaned \$100 to Debtor on the date it filed its financing statement. Does Creditor have a perfected security interest in moneys owed to Debtor for the license of the copyright that will protect Creditor against lien creditors?

a. Creditor does have a perfected security interest in the accounts because the UCC is not preempted by Federal law with respect to accounts (a different type of collateral altogether) but only with respect to federally registered copyrights.

b. Creditor does not have a perfected security interest because the UCC is preempted by Federal law with respect to copyright filings, including accounts receivable payable for use of the copyright. Creditor should have made a filing with the Copyright Office to perfect its interest in these accounts.

c. It is not possible to decide, on these facts, whether or not Creditor has a perfected security interest in the copyright or the related accounts.

d. Creditor does not have a perfected security interest in the accounts because its security interest in the copyright is not perfected. A security interest in proceeds may not be taken unless the creditor has a security interest in the underlying collateral.

4. Debtor owns a patent, a trademark and a copyright. Debtor granted a security interest to Creditor in "all of its now owned and hereafter acquired general intangible property, including all of its intellectual property." This description of collateral was included in a security agreement signed by Debtor. Creditor properly filed a UCC-1 financing statement that described the collateral as "all personal property of Debtor."

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Creditor wants advice about the status of its security interest. Assume Creditor loaned \$100 to Debtor on the date it filed its financing statement. Does Creditor have a perfected security interest in the trademark that will protect it against lien creditors?

- a. Creditor could have a perfected security interest in the trademark because the UCC is not preempted by Federal law. However, the description of the collateral in this case is not specific enough to describe the trademark for purposes of creation of the security interest.
- b. Creditor does have a perfected security interest in the trademark because the UCC is not preempted by Federal law. However, the UCC filing will not protect Creditor in any after acquired trademarks unless Creditor makes a subsequent filing.
- c. Creditor does have a perfected security interest in the trademark because the UCC is not preempted by Federal law with respect to recording security interests in trademarks.
- d. Creditor does not have a perfected security interest in the trademark because the UCC is preempted by Federal law with respect to trademark filings. Creditor should have made a filing with the Patent and Trademark Office to perfect this interest.

5. Debtor owns a patent, a trademark and a copyright. Debtor granted a security interest to Creditor in "all of its now owned and hereafter acquired general intangible property, including all of its intellectual property." This description of collateral was included in a security agreement signed by Debtor. Creditor properly filed a UCC-1 financing statement that described the collateral as "all personal property of Debtor." Creditor wants advice about the status of its security interest. Assume Creditor loaned \$100 to Debtor on the date it filed its financing statement. Does Creditor have a perfected security interest in the patent that will protect it against lien creditors?

- a. Creditor does have a perfected security interest in the patent because the UCC is not preempted by Federal law. However, the UCC filing will not protect Creditor in any after acquired patents unless Creditor makes a subsequent filing.
- b. Creditor could have a perfected security interest in the patent because the UCC is not preempted by Federal law. However, the description of the collateral in this case is not specific enough to describe the patent for purposes of creation of the security interest.

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- c. Creditor does not have a perfected security interest in the patent because the UCC is preempted by Federal law with respect to patent filings. Creditor should have made a filing with the Patent and Trademark Office to perfect this interest.
- d. Creditor does have a perfected security interest in the patent because the UCC is not preempted by Federal law with respect to recording security interests in patents.