

Preface—How to Use the Book

Not long ago, intellectual property (IP) and bankruptcy seemed like very disparate legal fields, intersecting only now and then. When I first started writing on the subject for West Publications, I set up an automated search that would, monthly, deliver to me a list of all the judicial decisions mentioning IP issues in the bankruptcy context. Today, that search no longer generates useful results. Actually, it generates too much content for Westlaw's systems; all I get now is a monthly e-mail telling me the search has generated too many hits. Even though it sometimes seems that every business case—and many consumer cases as well—involves an IP or Internet issue in some form or another, bankruptcy and intellectual property still generate interesting issues where they intersect.

This book attempts to provide a resource for understanding the issues surrounding IP, the Internet, and bankruptcy. It provides the tools necessary for the bankruptcy practitioner dealing with IP, and the IP expert dealing with bankruptcy and insolvency, to understand the issues and approach them in a practical manner. Although intended to serve as a desktop handbook to provide ready reference, it does provide deeper analysis of some of the more prevalent issues and important cases.

The book consists of three segments. The initial chapters focus on intersections between IP, technology, and bankruptcy, and presume a basic understanding of the underlying legal systems. Chapter 2 discusses bankruptcy treatment of intellectual property assets, while Chapter 3 covers the more involved and complex rules governing bankruptcy treatment of intellectual property licenses. Chapter 4 focuses on intellectual property as collateral, primarily regarding the perfection issues that arise during bankruptcy cases. Chapter 5 discusses bankruptcy and cyber-assets, such as domain names, Internet connectivity, digital currency, virtual assets, and social media accounts. It also discusses privacy rights and their treatment in bankruptcy cases.

The book then contains two chapters providing basic information about the underlying legal fields to assist the reader who might not be conversant in both bankruptcy and IP law (and who is?). Chapter 6 covers basic concepts in bankruptcy law relevant to the materials in the prior chapters. Chapter 7 provides background information on patent, copyright, trademark, and trade secret law, including transfer and licensing rules.

Finally, the book contains ancillary materials to assist the reader. These include a glossary of key terms, substantive checklists, and a listing of additional resources.