

IP Toolbox for Mobile App Developers

1st Philippine International Copyright Summit

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Outline

- I. Mobile Applications: An IP Perspective
- II. Creation: Tools to Build Mobile Applications
- III. Protection: Tools to Protect Different Parts of Mobile Applications
- IV. Dissemination: Tools to Distribute Mobile Applications
- V. Enforcement: Tools to Enforce Protection for Mobile Applications and Licensing Agreements
- VI. Resources

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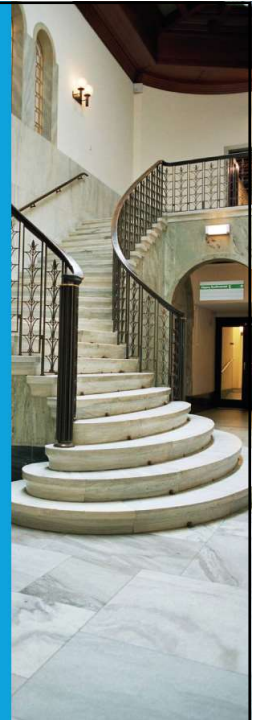
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Part I

Mobile Applications: An IP Perspective



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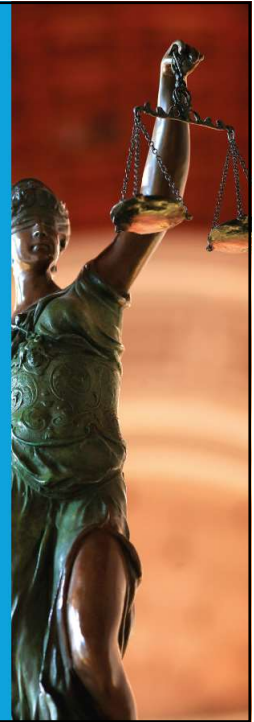
IP tools for various parts of a mobile app

- Mobile app as a whole
- Code and architecture, including functional aspects
- Esthetic and functional aspects of graphical user interfaces (GUIs)
- Built-in creative content

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Part II

Creation: Tools to Build Mobile Applications



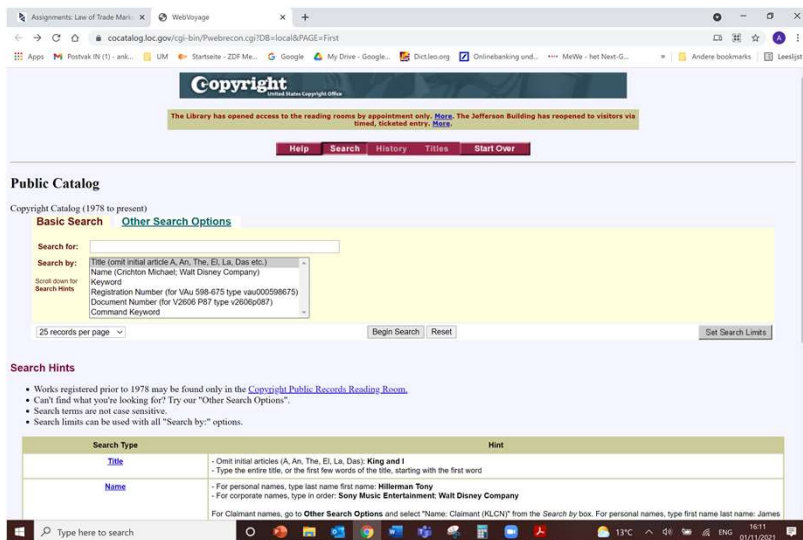
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Determine whether work is IP protected

- In relevant territory
- Public domain v. protected works
 - Ideas are not protected
- Registries for some rights
 - Right holders indicated for registered rights
 - Unregistered rights not included or voluntary for copyright
- Collecting societies (music, images, artworks)

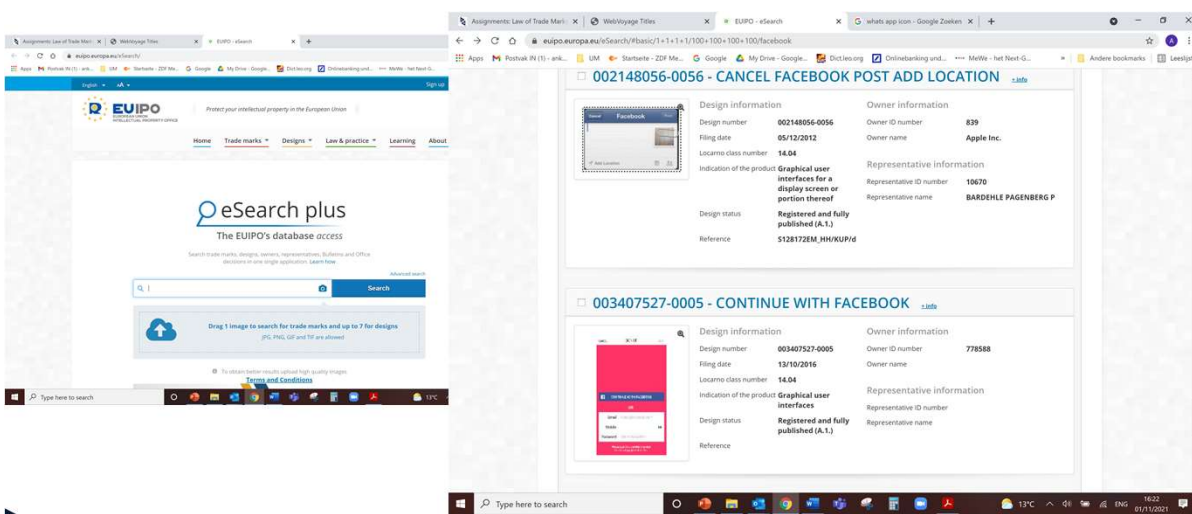
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United States Copyright Office



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https://euipo.europa.eu/eSearch



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<https://pdlindia.org/>

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Seek permission through a license

- Open-source software licenses
- Copyright licenses (music, pictures, video)
- Creative Commons licenses
- Trademark licenses
- Application Programming Interfaces (APIs)

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Open-source software licenses

- Code available royalty-free for various features and functionalities
- Caution: open-source licenses may require same terms for resulting work to make it available under **same conditions** (i.e. allowing use, modification and distribution)
- Repositories: GitHub, Launchpad, Bitbucket
- Widely-used licenses: GNU General Public License, MIT license

Creative Commons licenses

- Free of costs
- Search platforms (Flickr, Bandcamp, Vimeo)
- Different terms of licenses
 - BY
 - BY – SA
 - BY – NC
 - BY – ND

Copyright licenses

- Legal advice on
 - Different preferences of right holders
 - Different strategies
 - What activities (reproduce, modify, distribute)
 - Territory (markets where app will be launched)
 - Costs (for collecting societies, often pre-determined)
- ➔ WIPO Handbook on Key contracts for mobile applications

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Part III IP Tools to protect different parts of mobile applications



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Copyright tools

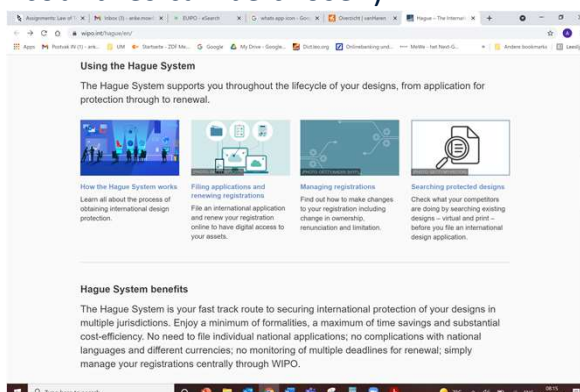
- Registration
- Contracts

“The Employee acknowledges that all IP that the Employee generates, modifies or improves in the course of the Employment Contract is and shall remain the Employer’s sole property during and after the Employment Period within the legal limits.”
- Copyright notice (in app, read-me files, menu section)
 1. The word ‘Copyright’ or © copyright symbol;
 2. The year of creation; and
 3. The name of the copyright owner
- Systematic record keeping

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Design tools

- Registration
 - National offices
 - WIPO Hague System for the **International Registration** of Industrial Designs (92 countries can be chosen)



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Part IV

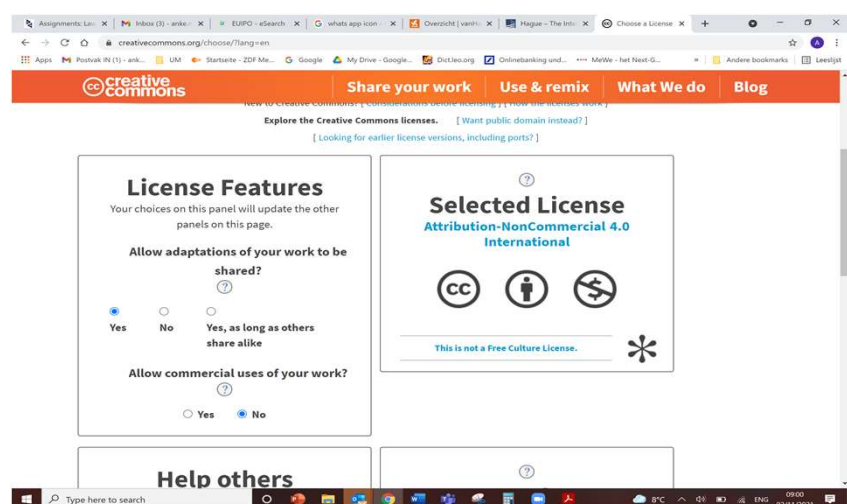
Dissemination: Tools to Distribute Mobile Applications



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Open-source and Creative Commons licenses

- “© 2020. This work is licensed under a CC BY-NC 4.0 License” and a link to the license”



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IP license tools

- **Specific IP rights:** ex. right to use a patented process
- **All IP rights** related to a product, ex. software licenses
- **Royalties:** as lump-sum or calculated on downloads
- **Exclusive vs sole vs non-exclusive licenses**

“The Licensor hereby grants to Licensee a[n] [exclusive/non-exclusive] license in the Licensed Territory to make, use and sell any Licensed Products in the Licensed Field of Use.”

EULA and distribution agreements

- **End-user license agreements (EULA)**
 - Can restrict copying, modifying and disassembling of the app
 - App stores may have certain EULA requirements or standard EULA (Apple) – check for limitation of **liability** and exclusion of **warranties**
- **Distribution agreements with app stores**
 - Mindful to grant **non-exclusive or sole licenses** to distribute rather than transfer ownership
 - Clarify extent of and procedure to process service fees for **in-app purchases**

 **Examples for terms from Google, Microsoft, Apple**

Part V

Enforcement: Tools to Enforce Protection for Mobile Applications and Licensing Agreements



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IP infringement enforcement tools

- Notice-and-take-down procedures for infringing content online
 - Proof of ownership of IPR
 - Links to infringing content, and
 - Proof of identity
- Negotiations
 - Cease-and-desist letters
- Administrative injunctions and fines
 - Chinese local Administrations for Industry and Commerce, and Copyright Office – relatively fast and cost-effective
- Civil litigation
 - Damages, preserving evidence, entering and inspecting premises

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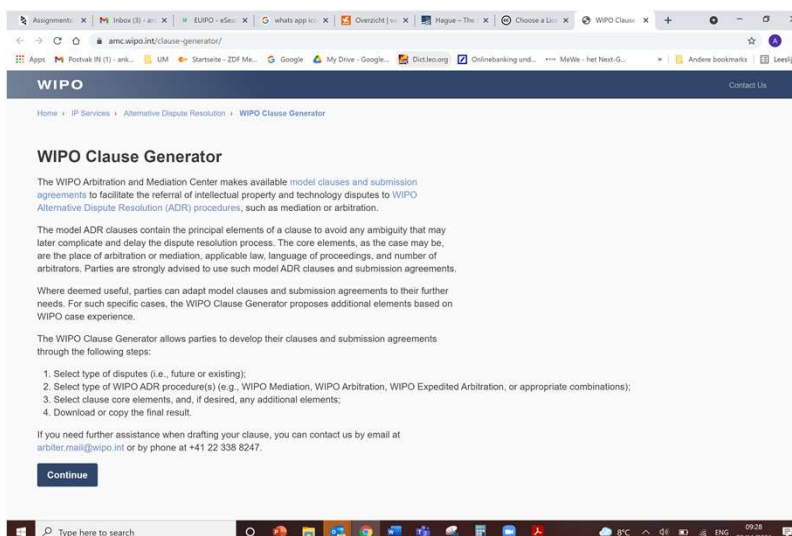
Infringement of contractual terms

- Dispute-resolution clauses in license
 - Judicial procedure
 - Arbitration
 - Mediation
- Example sentence

“This Agreement is governed by, and is to be construed in accordance with, [choose the applicable law] law. The [choose the jurisdiction to settle disputes] Courts will have non-exclusive jurisdiction to deal with any dispute which has arisen or may arise out of, or in connection with, this Agreement.”
- WIPO Clause Generator for Alternative Dispute Resolution

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WIPO Clause Generator



Home > IP Services > Alternative Dispute Resolution > WIPO Clause Generator

WIPO Clause Generator

The WIPO Arbitration and Mediation Center makes available model clauses and submission agreements to facilitate the referral of intellectual property and technology disputes to WIPO Alternative Dispute Resolution (ADR) procedures, such as mediation or arbitration.

The model ADR clauses contain the principal elements of a clause to avoid any ambiguity that may later complicate and delay the dispute resolution process. The core elements, as the case may be, are the place of arbitration or mediation, applicable law, language of proceedings, and number of arbitrators. Parties are strongly advised to use such model ADR clauses and submission agreements.

Where deemed useful, parties can adapt model clauses and submission agreements to their further needs. For such specific cases, the WIPO Clause Generator proposes additional elements based on WIPO case experience.

The WIPO Clause Generator allows parties to develop their clauses and submission agreements through the following steps:

1. Select type of disputes (i.e., future or existing);
2. Select type of WIPO ADR procedure(s) (e.g., WIPO Mediation, WIPO Arbitration, WIPO Expedited Arbitration, or appropriate combinations);
3. Select clause core elements, and, if desired, any additional elements;
4. Download or copy the final result.

If you need further assistance when drafting your clause, you can contact us by email at arbitr@mail@wipo.int or by phone at +41 22 338 8247.

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Part VI Resources



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- China IPR SME Helpdesk, Enforcement of Intellectual Property Rights in China
- China IPR SME Helpdesk, Guide to Understanding and Using China's Design Patent
- China IPR SME Helpdesk, Guide to Using Contracts
- Creative Commons, Licensing Conditions
- Dusollier, S. (2010), Scoping Study on Copyright and Related Rights and the Public Domain (WIPO)
- European Patent Office, Espacenet
- EPO, Overview of the Patent Grant Process
- EU Intellectual Property Office, eSearch Plus
- European IPR Helpdesk, Fact Sheet: Commercialising Intellectual Property: Licence Agreements
- European IPR Helpdesk, Factsheet on Trade Secrets
- European IPR Helpdesk, One Way Non-Disclosure Agreement
- European IPR Helpdesk, Your Guide to IP and Contracts
- GitHub, Open Source Guides
- Open Source Initiative, Open Source Licenses by Category

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- Linux Foundation, Open Compliance Program
- Shemtov, N. (2018), Intellectual Property and Mobile Applications (WIPO)
- UK Intellectual Property Office, Example One-way Non-Disclosure Agreement
- UK IPO, Intellectual property rights in India
- UK IPO, Licensing Intellectual Property
- United States Patent and Trademark Office, Design Patent Application Guide
- USPTO, Nonprovisional (Utility) Patent Application Filing Guide
- USPTO, Patent Database
- WIPO Distance Learning Course on “Arbitration and Mediation Procedure under the WIPO Rules DL-317”
- WIPO Global Brand Database
- WIPO Handbook on Key Contracts for Mobile Applications – a developer’s perspective
- WIPO, Distance Learning Course on “Software licensing including open source (DL-511)”
- WIPO, Global Design Database
- WIPO, Hague Express

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- WIPO, Inventing the Future: An Introduction to Patents for Small and Medium-sized Enterprises
- WIPO, IP Panorama, Trademark Licensing Learning Points
- WIPO, Madrid System
- WIPO, Multiparty confidentiality agreement
- WIPO, Patent scope
- WIPO, PCT Applicant’s Guide, PCT FAQs
- WIPO, Successful Technology Licensing
- WIPO, The Hague System of the International Registration of Industrial Designs: Main Features and Advantages
- WIPO, WIPO Clause Generator
- WIPO, WIPO Lex Database Search

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Thank you for your attention!

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