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The Intersection Between UCC Article 9 and Intellectual Property: The Need for a National, Centralized Filing System for IP, 15 J. Marshall Rev. Intell. Prop. L. 83 (2015) (https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1371&context=ripl)

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Abstract

Intellectual property has emerged as a commercially valuable and dominant asset to our economy promoting innovative technological developments that have and continue to stimulate economic growth promoting our free-enterprise, market-based system. Secured transactions involving intellectual property also promotes and stimulates our economic growth. Such transactions provide innovators with much needed capital to design, develop, and market their intellectual property. Despite the economic benefits derived from secured financing involving such property, legal uncertainty exists whether federal or state law governs how to perfect best security interests in intellectual property. Having a perfected security interest in collateral puts a lender in its best position to protect its interest against competing parties; but, the legal uncertainty surrounding perfection of security interests in intellectual property can make lending more costly and less predictive. To resolve this uncertainty, this Article posits that Congress should enact legislation that establishes a national, centralized, on-line filing system for recording security interests in intellectual property. Lender unease concerning how to perfect a security interest in intellectual property stems from the absence of uniform and comprehensive jurisprudence in the area of secured financing in intellectual property. The establishment of a national recording system would inject predictability and certainty into secured transactions by providing an efficient means of providing constructive notice that would further promote innovation and commercialization in the area of intellectual property.

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