

### ***New Hampshire's Hidden Intellectual Property Laws***

The vast majority of intellectual property issues are generally governed by federal law, and most legal actions are commenced in federal court and are brought under the applicable federal statutes.

But, if you look real hard, NH has some neat little State laws that might save the day.

For example, certain Authors' and Artists' productions are protected under Title 31 Chapter 352 Section 352:1 – "Whenever any person, firm, association or corporation is the owner of any literary, dramatic or musical composition and the rights of the author pertaining thereto, and such composition has not been copyrighted, printed or published, or of any map, charter, engraving, cut, print, photograph or negative thereof, statue, statuary, model or design, which has not been copyrighted or offered for sale, it shall be unlawful for any other person to publish, produce, print, or sell or offer to sell the same without first obtaining the consent of the owner thereof."

It is true that federal copyright law trumps or preempts any state law – but if the works are not covered under the federal law – a state action may be one way of protecting works from unauthorized copying and exploitation. This law dates back to 1895 when federal copyright protection was very limited, but there are situations where material may not fit within the present federal guidelines and state law may be applied.

If you deal with molds, forms, patterns and dies, you should take a look at Title 31 Section 350-C. There are some very specific regulations regarding ownership of these works. The molders and craftsmen are given a statutory opportunity to claim ownership rights provided they follow the step of the statute.

Has a former employee jumped ship to a competitor and taken proprietary data? The Uniform Trade Secret Act (Title 31 Chapter 350B) will be your best friend. Misappropriation of company secrets is a big deal and this statute has some real teeth.

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Did someone steal your domain name and holding it hostage? Trademark law may not help you if the user merely holds the name hostage without using it, but a NH statute might be the golden ticket. Unfair competition claims are possible, but under the Criminal Code Title 62, Chapter 637 it may be possible to slap the scoundrel with criminal charges for taking property that rightfully belongs to you.

Is someone copying your sound or images and selling them? A charge of criminal counterfeiting might stop them in their tracks. See Title 62 Chapter 638 for forgery and fraudulent practices.

There are some great advantages to using federal laws, but Federal courts tend to be more formalistic and expensive than their state counterparts. If the parties both have NH contacts, the NH statutes should be examined to see if a state claim would provide adequate relief.

The NH RSA's are available in most libraries and on-line at the state homepage <http://www.state.nh.us>