

# REVIEW OF THE LAW ON PERSONAL PROPERTY SECURITIES

Intellectual property issues

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# Types of IP

- Copyright
- Patents
- Trade marks
- Designs
- Plant breeders rights (PBR)
- Eligible layouts (EL rights)

# Copyright

- Protection is automatic
- There is no registration
- The rights are divisible:
  - by territory
  - by time
  - by “acts” comprised in the copyright

# Patents, trade marks, designs, PBR and EL rights

- Protection depends on registration
- Registration follows “examination”
- A search of the register can ascertain the identity of the registered proprietor
- However, the rights of the registered proprietor can be challenged

# Using IP as collateral

- Identifying the item of IP
- Verifying its ownership
- Determining its “value”

# Identification issues

- Is the proposed collateral the subject matter of copyright?
- Are there rights already granted (such as partial assignments or licences)?

# Ownership issues

- In the case of IP that can be registered, the issue is the security of the register
- In relation to copyright, the issues are:
  - authorship of the work; and
  - chain of title (from author to “owner”)

# Valuation issues

- Finding comparable items
- Measuring actual or likely use
- Assessing existing or potential threats