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Attorneys

3D Printing Issues Across Practices: Maya Eckstein, Hunton & Williams LLP



3D printing, the process of creating three-dimensional objects from a digital file, is rapidly being integrated into many industries, ranging from aerospace to healthcare.

Bloomberg BNA's Alexis Kramer posed questions to Maya Eckstein, a partner and head of Hunton & Williams LLP's intellectual property practice group, on the firm's newly formed 3D printing team and how it will address legal issues arising from the technology across various areas of law.

BLOOMBERG BNA: What inspired your firm to take the lead in this area by developing a cross-practice 3D printing team?

Maya Eckstein: As head of the IP Practice Group at Hunton & Williams, I am always on the lookout for emerging technologies. The more I learned about 3D printing, the more I realized it was more advanced than a typical "emerging" technology and, in fact, its use has been growing exponentially.

And, the more I learned about 3D printing, the more I came to understand that it posed significant legal questions in various legal disciplines, including intellectual property, products liability, regulatory, insurance, environmental and even tax. While some of these legal questions involve the application of old law to new technology, other legal questions require new thinking and a deep understanding of the technology.

BLOOMBERG BNA: How will your team collaborate to address issues across various areas of law, including intellectual property, product liability, insurance and tax?

Eckstein: Our lawyers collaborate on numerous issues regularly, so this cross-disciplinary team is an extension of that ethos. And, being familiar with the technology and legal issues relating to 3D printing, we all are attuned to keeping an eye out for issues that go beyond our own individual legal expertise.

For example, one of my colleagues who handles tax litigation matters approached me after reading a few of the articles we'd published about the IP and products liability issues. She noted that there are state and local tax implications to 3D printing. For example, will states consider 3D printing manufacturing? If so, how will that affect businesses who print and sell 3D printed goods to the public? Will those businesses be taxed as manufacturers, retailers or both?

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BLOOMBERG BNA: What are the main intellectual property issues arising from 3D printing and how can companies avoid them?

Eckstein: The most significant IP issue arising from 3D printing is how companies can protect their IP—whether trademark, patent, or copyright—when the availability of desktop and commercial 3D printers will make it easier for consumers and sophisticated counterfeiters to copy their products. For the simplest of products, like small toys and figurines, consumers can download CAD files from various online sites or even create their own CAD files, and then print the products without ever receiving permission from the corporate manufacturer.

For more complex products, sophisticated counterfeiters will improperly obtain access to manufacturers' CAD files and print counterfeit copies of the products, which will be largely indistinguishable from the legitimate product to the typical consumer.

This poses significant IP and business issues for companies. Diligent policing of the marketplace is required to identify counterfeit goods. DMCA takedown notices

should be issued to online sites that offer CAD files for download. And companies need to consider new technologies for identifying their products as the legitimate products.

BLOOMBERG BNA: How can 3D printing manufacturers avoid and manage the risks of product liability?

Eckstein: Manufacturers need to ensure that their upstream and downstream agreements provide proper provisions regarding products liability and indemnification. A manufacturer that provides CAD files to distributors or retailers who will print products upon customer requests needs to ensure that the agreements with their distributors and retailers properly allocate liability. In addition, manufacturers need to ensure that those distributors and retailers are properly trained and have the proper knowledge for the printing of their products.

BLOOMBERG BNA: Is 3D printing something that you ever envisioned yourself being interested in? Is this a practice area or expertise you would encourage law students and young lawyers to get involved with?

Eckstein: I don't think I could have envisioned anything about 3D printing when I began practicing law more than 20 years ago. It's extremely exciting, though, and I encourage law students and young lawyers to investigate it along with other "new" technologies. There is little more exciting than being involved in the development of something that will truly revolutionize the way we do and make things.