Cryptocurrency and Blockchain

Blockchain is transforming how we do business. A popular cryptocurrency called Bitcoin helped prove the blockchain concept. In fact, many people equate cryptocurrency and Bitcoin. However, cryptocurrency is broader and covers any digital “coin” or token transferrable from one party to another without a central ledger (like a bank) recording the transfer. Companies have recently seized upon cryptocurrencies to raise money with “initial coin offerings” or ICOS outside the traditional, highly regulated IPO framework. With the rise of ICOS, the cryptocurrency market is booming. Today, thousands of blockchain-based cryptocurrencies vie for investors.

Legal services supporting cryptocurrencies and ICOS are also expanding. Regulatory compliance of ICOS, for example, is a hot topic in light of recent SEC scrutiny. And even though cryptocurrencies are rooted in open-source technologies built on the principle of transparency, innovators are also concerned with protecting their unique IP in this space. For example, as of mid-July 2018, there are 575 published patent applications and 95 issued patents referencing cryptocurrencies—over double the number of published applications and triple the number of patents referencing cryptocurrencies this time last year. Cryptocurrency technology is still young, and this technology space is still relatively uncrowded with incremental improvement patents. Nevertheless, protecting new improvements can be challenging. For example, innovators must successfully navigate the U.S. Patent Office’s stringent guidelines for examining subject-matter eligibility in business method and software technologies.

Recognizing the rapid growth of blockchain and the unique challenges faced by its innovators, the Chamber of Digital Commerce recently launched the Blockchain Intellectual Property Council (BPIC) to help members promote innovation and navigate IP decision-making processes. The BPIC is also exploring efforts to combat patent trolling proactively with nonaggression agreements, patent pools and license-on-transfer arrangements.

Although skillful application of regulatory law remains crucial to a successful ICO and cryptocurrency launch in the short-term, strategic application of IP law is also critical to a robust future for cryptocurrency and other blockchain-based technologies. Protecting IP rights and avoiding potentially infringing activity will become increasingly important both to innovators and prospective investors as blockchain continues to disrupt business as usual.

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