

### Identifying Information

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### Paper Information

Title:	(Re)Verbing Intellectual Property
Abstract:	<p>In ordinary language, “work,” “mark,” and “design” are verbs as much as they are nouns. Likewise, although the word “invention” is a noun, it represents a thing that people do at least as much as it represents their results. And yet, intellectual property doctrines almost exclusively use "work," "mark," "design," and "invention" as nouns representing static things rather than the processes of creating those things. Copyright law assigns exclusive rights regarding “a work.” Trademark law assigns exclusive rights regarding “a mark.” Design patent law (and to some extent, copyright and trademark law) assigns exclusive rights regarding “a design.” Patent law assigns exclusive rights regarding “an invention.” This paper argues that these linguistic limitations have far-reaching implications not only for the way that law operates, but also for the way in which law shapes discourse about the value of creative and inventive activities and those who engage in them. By valuing products over processes, intellectual property law disregards the dialogic and communicative nature of creation and invention, implying that value lies only in the results of creative and inventive processes, not in the activities that lead to them or follow from them. By assigning value to one step in a multi-stage process of creation and consumption, the law freezes products and processes in time, downplays the roles of pre-existing influences and contexts in creation and invention, and devalues the roles of users, consumers, and re-users in generating the value of products. In addition, the law “thingifies” communicative activity, situating governance of that activity partially in the realm of property rather than solely in tort. A handful of scholars have noted the dual verb/noun nature of the word “work” in copyright law; this project delves further into the implications of that observation and expands it to other intellectual property areas. Specifically, it explores the doctrinal and discursive impacts of treating creative and innovative activities as nouns, and considers the possible impacts of reconceptualizing those activities as verbs.</p>