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Intellectual Property

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What Does the Louvre Art Heist Tell Us About the Permanence – and Impermanence – of Intellectual Property?

Theft of physical artworks and jewels is a vivid reminder that while creative value can be timeless, its embodiments are not. That contrast frames a core truth about intellectual property ("IP"): its relative permanence rests on legal constructs that outlast any single object, yet its impermanence still exists in practical, economic, and doctrinal ways.

HOW THE HEIST HIGHLIGHTS IP'S RELATIVE "PERMANENCE."

- **Separation of idea and embodiment.** Intellectual creations exist both as intangible expressions and as tangible objects. A stolen painting or piece of jewelry deprives the owner of the object, but the underlying copyrightable expression (for artworks), design authorship, brand goodwill, or trade-secret know how may persist. The legal right is not extinguished by the loss of the physical item.

- **Durability of rights vs. vulnerability of artifacts.** IP rights are recorded, licensed, enforced, and valued independently of the physical copy. Records, registrations, and contracts provide a paper and digital trail that outlives theft or destruction. A museum can still assert copyright (if not expired), moral rights (in jurisdictions that recognize them), and provenance-based claims even when an object is missing.

- **Ownership and authorship are legal assets.** The documentation that establishes authorship, authenticity, and chain of title is often more legally "permanent" than the object itself. Insurance, restitution claims, and police cooperation rely on these intangible proofs, underscoring that information about the work can be more enduring than possession of it.

WHERE IP MAY BE "IMPERMANENT" IN THE REAL WORLD.

- **Time-limited protection.** Copyright and design rights expire; patents have fixed terms; even moral rights vary by jurisdiction and scope. Trademarks can be perpetual, but only with continuous use and proper policing. Time-limited protections for IP law place a ceiling on "permanence."

- **Fragility of trade secrets.** Unlike registered rights, trade secrets evaporate once they are publicly disclosed. A single breach might permanently destroy exclusivity. In this sense, trade secrets may be less durable than copyright or patent and are more akin to the vulnerability of a stolen object.

- **Market-based erosion.** The value of IP depends on many factors, including enforceability and demand. Counterfeiting, unauthorized reproductions, or

technological shifts can rapidly degrade an IP portfolio's practical worth – even though formal IP rights still exist.

- **Enforcement realities.** Rights endure on paper, but remedies hinge on jurisdiction, resources, and cross-border cooperation. After a heist, asserting rights (*e.g.*, against illicit sales or reproductions) can be slow, expensive, and uncertain, tempering the notion of "permanence."

- **Digital abundance and non-rivalry.** Unlike a stolen jewel or piece of jewelry, digital works can be copied perfectly and infinitely. In one sense, this makes IP in digital works economically resilient (loss of one copy is trivial) but also exposes rights in digital works to rapid, widespread infringement, which can dilute exclusivity and reduce effective control.

LESSONS FOR CREATORS, MUSEUMS, AND IP RIGHTS HOLDERS.

- **Invest in the IP "scaffolding."** Maintain meticulous authorship, provenance, registration, and chain of title records. Secure clear licenses and assignment agreements. These outlast and outmaneuver the loss of a particular object.

- **Harden secrecy where it matters.** For protectable know-how, prioritize trade secret hygiene (*e.g.*, access controls, NDAs, and incident response).

- **Use layered protection.** Combine copyright and design rights with trademarks (for brand identity), technological measures, and contractual controls. Layering reduces reliance on any single – impermanent – protection.

- **Plan for continuity and monetization independent of the artifact.** Catalog raisonné projects, high fidelity digitization, licensing programs, and exhibition rights can preserve and monetize value even if the original is missing.

- **Prioritize insurance and recovery ecosystems.** Specialized coverage, participation in art loss registers, and relationships with law enforcement and restitution bodies can help convert intangible documentation into more practical remedies.

BOTTOM LINE

Art heists dramatize that physical objects are precarious, while intellectual assets can be more enduring. Yet IP's durability is conditional: it depends on time limits, secrecy, enforcement, and market dynamics. The most resilient strategy treats IP not as inherently permanent, but as an asset whose longevity must be engineered through documentation, registration, layered rights, and proactive stewardship.

For more information or assistance, please contact Jillian M. Taylor, or another member of Blank Rome's Intellectual Property group.

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