

USING ARTICLES WITH NOUNS IN LEGAL ENGLISH

A *noun* is the name of a person, place, or thing.

It is not easy to know whether to place **the**¹, **a** / **an**², - or nothing at all – before a noun.

For **lawyers**, the first question to ask yourself is:

Am I discussing law or facts?

When discussing **law**, we often use nouns in a **general**, or **definitional** sense.

When discussing **facts**, we use nouns in a **specific** sense, or **specific** instance.

LAW

Determine whether you are using a **countable** noun, or a **non-countable** noun.

Countable Nouns

Countable nouns refer to persons, places, or things that you can count.

For example:

patent	contract	affidavit	requirement
trademark	allegation	claim	condition
fee	element	witness	provision
deed	clause	fine	judgment

You can *count*, or determine the number of all of the above.

RULE:

When using a **countable** noun in the **general sense**, to state a **rule of law**, or to give a **legal definition**, use the singular, and place **a** in front of the noun, or **an** in front of a noun starting with a vowel.³ **For example:**

A patent is a grant of privilege, property or authority, made by the sovereign of a country to one or more individuals.⁴

¹ the *definite article*

² the *indefinite article*

³ Vowels – a, e, i, o, u. **An agreement**, for example.

A contract is **a** promise or **a** set of promises for the breach of which the law gives **a** remedy, or the performance of which the law in some way recognizes as **a** duty.⁵

In English, we normally state precise legal definitions of countable nouns as above, using the indefinite article (a/an).

When discussing persons, places or things in a *general* sense, you can also use the plural - **without** an article – when using countable nouns.

For example:

- **Houses** cost more money in New York than they do in Alabama.
- I often eat in **restaurants** because I work far from where I live.

Both **houses** and **restaurants** are *things*⁶ you can count.

Non-Countable Nouns

Non-countable nouns typically represent:

- **tangible things** that you cannot count,⁷ - **or** -
- **intangible things** – **ideas**.

For example:

water	research	information	truth
happiness	evidence	advice	hope
land	testimony ⁸	perjury	corruption
property ⁹	justice	knowledge	transparency

⁴ BLACK'S LAW DICTIONARY 1125 (6th ed. 1990).

⁵ *Id.* at 322 (*citing* RESTATEMENT (SECOND) CONTRACTS § 3).

⁶ Nouns

⁷ *Note* that just because you cannot “count” these things, does not mean that you cannot *weigh* or *measure* them. “Happiness” may be great, for example. “Evidence” is material or immaterial. “Corruption” may be endemic (widespread) or uncommon.

⁸ *Note* that *evidence* and *testimony* are both non-countable nouns. Thus, you may not use them in the plural. *Witness*, on the other hand, is a countable noun. The plural is *witnesses*.

RULE: When using a *non-countable* noun to state a rule or legal definition, do **not** place any article in front of it.

For example:

Property is an aggregate of rights that are guaranteed and protected by the government.¹⁰

Note that the word *property* does not have an article of any kind before it. *Property* is (i) a *non-countable* noun, and (ii) is *defined* above.

Further examples of how to use non-count nouns in the law:

Intangible property is property that cannot be touched because it has no physical existence.

Goodwill is property.¹¹

Note that the addition of an adjective, such as *intangible*, in the above example, does not require you to place *the* before the noun. This is because you are still speaking of *property* in the general, definition, or rule sense.

Note the following example carefully:

Intangible property is property that cannot be touched because it has no physical existence. It still has claims, interests, and rights, however.¹²

Note that *claims*, *interests*, and *rights* – all **countable nouns** – do not require *the*, either, when used **generally** as examples to **clarify** a definition.

Contrast this with how you **define a countable noun** (a + singular).

For example:

A claim is a means by or through which a claimant obtains possession or enjoyment of a privilege or a thing.

⁹ With the exception of the real estate business. People who work in the real industry refer to “properties” to mean specific buildings, or tracts of land in their *inventory*. It is the *inventory* concept that allows *property* to be used in the plural. Ordinarily, *property* is not countable.

¹⁰ BLACK’S LAW DICTIONARY, *supra* note 4 at 1216.

¹¹ *Id.* at 1217.

¹² *Id.*

FACTS

Facts, in legal usage, are always specific. *Our* facts, or *our client's* facts are always specific to our case or transaction.

The rule for specific instances, or factual situations in a legal setting, is easy.

RULE: Use **the** before the noun, whether **countable** or **non-countable**.

For example:

- **The** trademark at issue has been identified with my client's products for over a decade.
- **The** contract between Yao Ming and Peng Kai is probably enforceable.
- **The** information that they gave us was outdated.
- **The** I.R.S.¹³ will almost certainly challenge **the** value (that) they assigned to **the** intellectual property in that deal.

RULE: Use one of the following two grammatical constructs to describe specific instances, or factual instances of nouns:

1. **the + noun + adjective phrase**¹⁴
2. **the + noun + adjective clause**¹⁵

The + Noun + Adjective Phrase

- the trademark *at issue*
- the contract *between Yao Ming and Peng Kai*
- the intellectual property *in that deal*

¹³ Internal Revenue Service – the U.S. taxing authority. We place **the** before administrative agencies because it is implied that the agency is *specific* to the country in question. Use the with both the abbreviated and full forms.

¹⁴ A *phrase* is a set of words – often only two words – which form an idea or image. A *phrase* does not contain a subject and a verb. [*Clauses* contain subjects and verbs.] **Prepositional phrases** are most commonly used for this purpose. Prepositions are words that *place* the noun in *time*, or *space*. Prepositions are words such as *at*, *in*, *about*, *between*, *near*, *with*, *on*, *over*. **Examples of prepositional phrases are:** *at issue*; *at home*; *in question*; *with me*; *between the parties*; *between you and me*, *under the regulations*, *pursuant to the contract terms*.

¹⁵ An adjectival clause is also called a relative clause. **A clause contains a noun and verb.** A *phrase*, as explained in the prior footnote, does not. These clauses are called *adjectival* because they *describe* nouns. They are called *relative* because they begin with a *relative* pronoun such as *who*, *which*, *that*, *whose*, *whom*. The pronoun is directly *related to* the noun that precedes it.

The + Noun + Adjective Clause

- the information *that they gave us*
- the value *that they assigned*
- the evidence *that the judge admitted*

Tricky and Fixed Phrase Situations

The word **law** can be used in both a countable and a non-countable sense.

Mary studied **law** after she got an undergraduate degree in engineering. She wanted to be a patent lawyer.

[*law- non-countable sense of “philosophy”*]¹⁶

Their legislature passed **a law** banning the import of certain toxic chemicals.

[*a law – sense of “statute” – you can count the number of them*]

The noun **legislation** is permanently **uncountable**.
Rules and **regulations**, however, are **countable** nouns.

Attorneys: When first setting forth your facts, you will often have to give a **general description** of the transaction that has given rise to the dispute or transaction at issue. The pattern of **a followed by the** is typical as follows:

Smith Co. and Jones, Inc. entered into **a contract** dated June 1, 2003 whereby Smith agreed to sell and Jones agreed to buy 10,000 widgets for US\$1,000. **The contract** was the first one between these companies.

Thomas Corp. filed **a claim** for patent infringement against Williams Corp. In **the claim**, Thomas alleged that Williams

- **First usage – definition** – *describing* the contract or the claim.
- **Second usage – specific**. We now know which one.

¹⁶ All “fields” of study are treated as non-countable nouns in this sense. For example: “Joe is interested in studying *biology*.” **Note, however** – “Joe wants to be *a biologist*.” This is a statement of his profession. You can count the number of biologists. “I am *a lawyer*.” Do **not** say: “I am lawyer” – or “I am one lawyer.” “One” is used only as opposed to “two” or “five.” The correct statement is: “I am a lawyer.”

Fixed Phrases with “The”

“INSTITUTIONS” that Govern Our Lives

- the government
- the economy
- the market
- the law
- the court / the judiciary
- the Illinois Supreme Court / the U.S. Supreme Court
- the 7th Circuit / the Northern District of Illinois
- the State’s Attorney / the Attorney General
- the Public Defender
- the (Public) Prosecutor
- the White House / the Pentagon
- the police / the military / the army / the navy
- the bar / the tax bar / the practicing bar / the New York bar
- the president / the governor / the mayor
- the Bush Administration / the Obama Administration
- the church
- the constitution
- the people
- the public
- the press
- the newspapers
- the media

For example::

- **The government** needs to do something about
- People are very worried about **the economy**.
- **The law** is still evolving in many fields related to intellectual property and anti-trust.
- **The public** will not accept tax hikes at those rates.
- **The press** will make a lot of noise about these amendments to the statute.

Use “the” with laws ¹⁷ containing **specific names**.

For example:

- The Sherman Act ¹⁸
- The Sarbanes-Oxley Act
- The Magnusson-Stevens Fisheries Act
- The Administrative Procedures Act
- The McDonnell-Douglas Test ¹⁹
- The Reid Test
- the *effects* doctrine ²⁰

¹⁷ Case law or statute.

¹⁸ *Acts* refer to legislation. Typically, an “act” covers a group of statutes enacted to govern a specific legal issue or subject.

¹⁹ *Tests* refer to case law.

²⁰ *Doctrines* typically refer to case law as well. The *effects* doctrine is judge-made law established in anti-trust, securities and commodities cases, for example.

Names of Governmental Agencies

Use “the” before the names of agencies, whether federal or state, in their full form or their shortened (abbreviated) form:

Full Form	Abbreviated / Short Form
The Patent and Trademark Office	The PTO
The Federal Trade Commission	The FTC
The Securities and Exchange Commission	The SEC
The Internal Revenue Agency	The IRS ²¹
The Equal Employment Opportunity Commission	The EEOC
The Department of Justice	The DOJ
The Illinois Department of Revenue	The IDR
The Federal Bureau of Investigation	The FBI
The United States Department of Agriculture	The USDA
The Food and Drug Administration	The FDA
The Department of the Interior	The DOI

Exception:

When pronouncing the abbreviated forms of most agencies, such as the ones above, we simply state the *letters*. We say **the “F” “B” “I”** when pronouncing the abbreviated form of **the Federal Bureau of Investigation**.

A few agencies are pronounced differently, however.

One example is the shortened form of **the Office of Foreign Asset Control**. ²²

²¹ You will hear lawyers and accountants refer to the IRS as “Uncle.” This is slang, but widespread. Do not use this term in writing.

²² The Office of Foreign Asset Control is part of the U.S. Department of the Treasury.

- We do not refer to this office as “the **O-F-A-C**”
- We pronounce the shortened form as a *word*, in two syllables.

- **O - FAK**

Another example of agencies where we pronounce the shortened / abbreviated form as a *word*, rather than by the letters is **NOAA**. **NOAA** stands for **the National Oceanic Atmospheric Administration**.²³

- We do not refer to this office as “the **N-O-A-A**”
- We pronounce this shortened form as a *word*, in two syllables:

- **NO – UH**

When using the *abbreviated* form of agencies that are pronounced as words, such as the two above, we do not use “the.”

Thus, we state these agencies as follows:

Full Form	Abbreviated / Short Form
The Office of Foreign Asset Control	OFAC
The National Oceanic Atmospheric Administration	NOAA
The World Intellectual Property Organization	WIPO ²⁴
The United Nations Educational, Scientific and Cultural Organization	UNESCO ²⁵
The United Nations Convention on the Law of the Sea	UNCLOS ²⁶

If these exceptions to the rule seem to be “more information than you can handle,” don’t worry about it!

Just remember the general rule: **use “the” before the names of agencies.**

²³ Part of the Department of Commerce.

²⁴ Pronounced **WHY-po**.

²⁵ Pronounced **you-NES-ko**.

²⁶ Pronounced **UN-klos**. (“Un” here is stressed and pronounced the same as “uncle.”)

Fixed Phrases: International Reference

- the + name of an international treaty
- the + name of international tribunal
- the + name of international organization

For example:

The Vienna Convention on the Law of Treaties

Use “the” when naming the full treaty/tribunal/organization, or when using the abbreviated name.

For example:

Full Name	Abbreviated Name or Short Name ²⁷
The Single European Act	The SEA
The Treaty of Amsterdam	The ToA
The Universal Declaration of Human Rights	The Universal Declaration – <i>or</i> – The UDHR
The Rio Declaration on Environment and Development	The Rio Declaration
The International Court of Justice	The ICJ
The International Criminal Court	The ICC
The World Trade Organization	The WTO
The General Agreement on Tariffs and Trade	The GATT
The Organization of American States	The OAS
The United Nations	The U.N.
The International Labour Organization	The ILO
The International Monetary Fund	The IMF
The International Maritime Organization	The IMO

²⁷ **Note** that the *abbreviated* forms of the aforementioned treaties are pronounced “the + abbreviating letters,” with one exception: (i) the “GATT,” which rhymes with “cat.”

Protocols are also preceded by *the*:

- the Madrid Protocol
- the Cartagena Protocol

Peculiarity - NATO

When discussing the treaty itself, we say either:

- the NATO Treaty, *or*
- the North Atlantic Treaty

The *North Atlantic Treaty*, is actually the correct legal name of the treaty.

“*The NATO Treaty*” is a very common way of discussing it, however.

When referring to the organization that has developed out of this treaty, do not use any article. Simply say **NATO**.

For example:

- The United States is opposed to the EU’s military development. The US thinks all defense should be handled through NATO.

Codes

Use “the” before legal expressions containing the word “code,” whether abbreviated or in full form.

For example:

Full Form	Abbreviated Form
The United States Code	The USC
The Code of Federal Regulations	The CFR
The Illinois Code of Civil Procedure	The ICCP
The Uniform Commercial Code	The UCC
The Illinois Compiled Statutes	The ILCS

Note that you will often hear U.S. attorneys refer to the Code of Federal Regulations as “**the regs.**” This is lawyer’s slang, and is not appropriate for the written language.

Something Tricky

Note that when we refer to specific code **numbers**, we do **not** use “the.”

For example:

7 U.S.C. §321
8 C.F.R. §19

These can also be written as: 7 U.S.C. Sec. 321 – *or* – 8 C.F.R. Sec. 19

- **§** and **Sec.** stand for **Section**.
- The section number refers to the specific provision ²⁸ within the code.

When describing the provisions of a statute or section by number, do as follows:

- **Section 321 requires all parties to**

The same is true *whenever* referring to *section* numbers, whether in federal law (statutes and regulations) or state law (statutes and regulations).

Professional Organizations

Use “**the**” before the names of professional organizations, whether using the full name or the shortened/abbreviated form.

For example:

Full Form

Abbreviated Form

The American Bar Association

The ABA

The Illinois State Bar Association

The ISBA

The Chicago Bar Association

The CBA

The International Bar Association

The IBA

Pronounce all the abbreviated forms above using their letters. **For example:**

- the **A-B-A**
- the **I-S-B-A**

²⁸ specific provision = statute for the USC or regulation for the CFR

Expressions of Time

When describing **decades** or **centuries**, use the definite article.

- In the 1990s
- During the 1950s
- In the 18th century²⁹
- In the 21st century
- In the first half of the 20th century

Days of the month use the definite article as well.

- On the 30th
- On the 26th of this month
- On the 1st of next month
- We're leaving on Monday, the 3d of June

Place the before the **following fixed expressions** also:

- the day after tomorrow
- the day before yesterday³⁰
- the first week in June
- the second Monday in July

For example:

- Americans celebrate one of their national holidays, called "Thanksgiving," on the fourth Thursday of November.
- I am leaving the day after tomorrow.

²⁹ Remember that the 18th century comprises the years 1700 through 1799. This is because the very first century, the very first one hundred years, of the "modern era" (also known as the first century "A.D.") starts with the year 1. Therefore, the year 132, for example, is in the *second* century. "A.D." is the abbreviation of a Latin term: *Annus Domini*, meaning "Year of Our Lord."

³⁰ **But note:** **not** - *today*, *tomorrow*, or *yesterday*, when used alone. **E.g.**, "We met them earlier today, and we'll see them again at the luncheon tomorrow. They have to go back to New York **the** day after tomorrow." In the first sentence, *today* and *tomorrow* were used alone.

Place *the* before **parts** of the day:

- in the morning
- in the afternoon
- in the evening

Do not use “the” before days of the week!

- On Monday
- Next Tuesday
- Every Wednesday
- On Thursday, at 10:00
- On Saturday morning
- On Saturday morning, around 9:00
- On Sunday afternoon
- Every Sunday afternoon
- Every other Sunday afternoon

But –

- On **the first** Monday of the New Year
- On **the last** Friday of the month

Internet / The Internet

RULE: Use *the* before the word *internet* when you use it as a **noun**.

For example:

- He often works at home since he can do his research **over the internet**, and then transmit his documents and opinions **via the internet** as well.

When using “internet” as an adjective,³¹ however, follow the rules governing the noun in question.

For example:

- We are not satisfied with their services. We want **a new internet service provider**.³²
- **Internet-based research**³³ is great. In the law, however, it is a companion to paper-based research, not a replacement for it.

Name of This Country

Remember to use **the** as part of the name of the United States.

Use **the** in both the full and the abbreviated forms of the country’s name.

INCORRECT: in United States / in U.S.A.³⁴

CORRECT:

- **in the United States**
- **in the U.S.**

³¹ Remember that unlike many languages, you can use nouns freely as adjectives in English. You can talk about “a new development” (adjective + noun) or about “management development” (noun + noun). “Trial advocacy” is a course that all J.D. students take. “Trial” is a noun. It can function as an adjective modifying the noun, “advocacy.” The same is true of the term “trial lawyer.”

³² “Service providers” are countable. They are companies. Here, both new and internet are simply adjectives that describe the fixed noun phrase: service provider.

³³ “Research” is a non-countable noun, like *information*, and *advice*. The term “internet-based” is an adjective describing the noun *research*. **Follow the rules governing how to use the noun.**

³⁴ Avoid “U.S.A.” altogether. This term is often used in advertising. (For example: “See the U.S.A. in your Chevrolet.”) It is inappropriate for lawyers to speak like advertising companies.

Use: **the U.S.** and / or **the United States**.

Be careful not to make a mistake such as “the United State.” I warn you with all kindness that this very mistake will cost you an interview with any American law firm. Do yourself a favor and learn how to spell the name of the country. Also, when writing to law firms or to governmental agencies, use the form “**the U.S.**” rather than “the US”.

Why? Simply because “the U.S.” is the preferred form amongst educated people. It’s not whether it’s right, wrong, fair, or even “silly” (you may think). It’s whether you get an interview.

Other Countries and Entities

We do not use “the” before the names of most countries. Following are the exceptions:

- the United Kingdom (the U.K. / the UK)
- the People’s Republic of China (the P.R.C. / the PRC)
- the Netherlands
- the United Arab Emirates (the UAE)
- the Philippines
- the Dominican Republic

Use “**the**” as well when discussing –

- the European Union (the EU)