

As reported by [NBC SanDiego.com](http://NBCSanDiego.com), professional skate boarder Tony Hawk recently [filed for divorce in North San Diego County](#). Hawk filed for divorce from third wife Lhotse Merriam. Hawk and Merriam were married in 2006; they have one child.

Raised in San Diego, Hawk is well known for a videogame series based on his skateboarding. Tony Hawk: Ride, a game which involves riding on a skateboard shaped controller, was launched in 2009. Because the game was launched during Hawk's marriage to Merriam, one question that may arise during the divorce process is whether any intellectual property rights Hawk may have in the game are community property to be divided in the divorce.

Absent a prenuptial agreement to the contrary, intellectual property rights (e.g. patents, copyrights, trademarks, trade secrets) are property to be classified and, if appropriate, divided in a divorce. In a divorce, property is generally classified as either separate property or community property. Property that is classified as community property is then divided between the spouses.

For intellectual property rights to be classified as community property to be divided in a divorce, they must be acquired from work that was done during the marriage.

But what if the rights were acquired from work only partially done during the marriage? For example, a spouse begins to write a book during marriage, but doesn't finish the book until after the divorce? In this case, the community would have a proportional interest in the property.

What if additional time and effort is then needed to market the book? Such post-marital efforts generally decrease the community's interest in the property.