Intellectual property basics

Revised: March 2022
Notice

This content is for informational purposes only and is not legal advice. Please consult with appropriate sources for legal authority and guidance on these matters.
What is the USPTO?

The USPTO is the federal agency that grants U.S. patents and registers trademarks. The agency also advises the president and federal agencies on intellectual property (IP) policy, protection, and enforcement, and promotes stronger and more effective IP protection around the world.

Mission

Fostering innovation, competitiveness, and economic growth, domestically and abroad, to deliver high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.
USPTO offices

Detroit
- Operational since July 2012

Denver
- Byron G. Rogers Federal Building
- Operational since July 2014

Silicon Valley
- San Jose City Hall Building
- Operational since October 2015

Dallas
- Terminal Annex Federal Building
- Operational since November 2015
What is intellectual property?

Real property

Intellectual property
Types of intellectual property

- **Patent**: New, inventive ideas
- **Trademark**: Identifies the origin of goods or services
- **Copyright**: Creative expression stored in a tangible form
- **Trade secret**: Any information that is valuable & kept confidential
Patents
What is a patent?

- A property right
  - Right to **exclude others** from making, using, selling, offering for sale, or importing the claimed invention
  - Limited term
  - Territorial: protection only in territory where granted
  - **NO** world-wide patent

- U.S. government grants the property right in exchange for disclosure of the invention
Types of patents

Utility
Protects how an invention works, functions, or is made for 20 years from filing date
• Process
• Machine
• Article of manufacture
• Composition of matter

Design
Protects the way a product or article looks, the ornamental expression for 15 years from the date of grant

Plant
Protects newly invented strains of asexually reproducing flowering plants, fruit trees, and other hybrid plants for 20 years from filing date
Benefits of a patent

• Gain entry into a market
• Deter others from entering a market
• Assert/enforce rights against an infringer
• Collateral to obtain funding
• Develop a business around an invention
• A marketing tool, to promote unique aspects of a product
• Create revenue—sell or license, like other property
What is patentable?

New, nonobvious, useful, and clearly described
USPTO resources

Path to a Patent

The Path to a Patent quarterly series covers everything from intellectual property basics, to patent searching, to what you’ll need to draft and submit your patent application. The series is part of our ongoing intellectual property training for independent inventors, entrepreneurs, and small businesses.

https://www.uspto.gov/about-us/events/path-patent
Trademarks
What is a trademark?

- Word, name, symbol, color, sound or scent (or a combination thereof)
- Identifies the source of products or services

Note: A trademark is not a business license. Check state and local regulations regarding requirements for business formation and operation.
Federally registered trademarks

• Right to enforce nationally and bring legal action in federal courts
• Right to use ®
• Right to record mark with Customs and use anti-counterfeiting remedies
• May serve as basis for foreign filing
• Publication in U.S. Trademark database
Trademark Basics Boot Camp

This free USPTO event series provides a comprehensive overview of the process for federal trademark registration and maintaining a federal trademark. If you’re a small business owner or entrepreneur seeking to protect your brand and product identities, Trademark Basics Boot Camp is for you.

Trademark Basics Boot Camp is offered regularly throughout the year. During each series run, we cover one module weekly for eight weeks, with each module focusing on different aspects of trademarks and the registration process, from filing and examination to post-registration requirements for keeping your registration alive. Each module concludes with a question-and-answer period where you can ask our USPTO trademark experts questions.

You can attend the entire series or just the modules that best match your interests, but you must sign up for each module to attend. If you attend all eight modules, you can request a certificate of attendance. To learn more and sign up, select an individual module from the listing below.

https://www.uspto.gov/about-us/events/trademark-basics-boot-camp
Copyright

- Protects original works of authorship, including literary, dramatic, musical, artistic, and other works fixed in a tangible medium.
- Library of Congress administers registration; USPTO advises the executive branch on IP issues, including copyright.
- © symbol can be used without registration.
Things protected by copyrights

- Songs
- Books
- Movies
- Sculptures
Trade secrets
What is a trade secret?

• Any information that derives economic value from being not publicly known or ascertainable
• Can be formulas, patterns, compilations, programs, devices, methods, techniques, or processes
• All states have some sort of trade secret protection
• Defend Trade Secrets Act of 2016
• Theft of trade secrets 18 USC 1832

FOR IMMEDIATE RELEASE

Former Uber Executive Sentenced To 18 Months In Jail For Trade Secret Theft From Google

Defendant Stole Google’s Confidential Information on Self-Driving Car Technology
Examples of trade secrets

- Coca-Cola
- KFC
- WD-40
- Listerine
- McDonald's
- Krispy Kreme
Why are trade secrets useful?

- Protects **commercially valuable proprietary information**, e.g., formulas, recipes, or business information that gives a competitive advantage
  - Customer lists
  - Product formulations
  - Search algorithms

- Trade secrets are not generally known and must be subject to reasonable efforts to preserve confidentiality
- Prevent employees and contractors from disclosing your secrets to competitors and the public
- No set term for protection
How to lose a trade secret

• Failure to take adequate steps to prevent disclosure
  – failure to protect the secret (locked cabinets, encrypted files, double pass words)
  – Lack of non-disclosure agreements, contracts, or written policies with employees and contractors

• Owner or owner-authorized disclosure
• Reverse engineering
• Independent development
### Overview of intellectual property

<table>
<thead>
<tr>
<th>What’s protected?</th>
<th>Examples</th>
<th>Protection lasts for:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utility patent</strong></td>
<td>Inventions</td>
<td>iPod, chemical fertilizer, process of manipulating genetic traits in mice</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20 years from the date of filing regular patent application</td>
</tr>
<tr>
<td><strong>Design patent</strong></td>
<td>Ornamental (non functional) designs</td>
<td>Unique shape of electric guitar, design for a lamp</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15 years</td>
</tr>
<tr>
<td><strong>Plant patent</strong></td>
<td>Newly invented strains of asexually reproducing flowering plants</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>20 years</td>
</tr>
<tr>
<td><strong>Copyright</strong></td>
<td>Books, photos, music, fine art, graphic images, videos, films,</td>
<td>Michael Jackson’s Thriller (music, artwork and video), Windows operating system</td>
</tr>
<tr>
<td></td>
<td>architecture, computer programs</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The life of the author plus 70 years (or some works, 95 years from pub., and others 120 years from creation)</td>
</tr>
<tr>
<td><strong>Trade secret</strong></td>
<td>Formulas, methods, devices, or compilations of information which is confidential and gives a business an advantage</td>
<td>Coca-Cola formula, survey methods used by a pollster, new invention for which patent application has not been filed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>As long as information remains confidential and functions as a trade secret</td>
</tr>
<tr>
<td><strong>Trademark</strong></td>
<td>Words, symbols, logos, designs, or slogans that identify and distinguish products or services</td>
<td>Coca-Cola name and distinctive logo, Pillsbury doughboy character</td>
</tr>
<tr>
<td></td>
<td></td>
<td>As long as mark is in continuous use in connection with goods or services – renew by year 6, then at year 10, then every 10 years</td>
</tr>
</tbody>
</table>

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IP as a business strategy
IP strategy is a business strategy

• IP ownership:
  – Is a property right that can add value to a company’s assets
  – Is attractive to investors and buyers
  – Can deter infringement lawsuits
  – Can increase leveraging power for mergers and acquisitions
Developing an IP Strategy

• Assess your company’s IP assets and prioritize
• Know your competition & what they’re up to
• What’s the pace of innovation & opportunities for growth?
• Determine the best way to protect your IP
  – Patents (utility, design, plant),
  – Trademarks (trademark, service marks, geographic certification, etc.)
  – Copyrights
  – Trade secrets
• Develop a plan, set goals and implement
• Get help!
Help for applicants

Signature programs
Where to find programs?

- Search for all events at: www.uspto.gov/about-us/events
- Link at the bottom to subscribe for notifications.

- Trademark Basics Boot Camp
  - https://www.uspto.gov/about-us/events/trademark-basics-boot-camp

- Path to a Patent
  - https://www.uspto.gov/about-us/events/path-patent
Invention-Con

Invention-Con is the USPTO's annual conference for independent inventors, entrepreneurs, and small business owners whose success depends on guarding their creative work.
USPTO events offering CLE credits

The United States Patent and Trademark Office (USPTO) regularly organizes or participates in continuing legal education (CLE) credit offerings across the country. Offerings cover a variety of topics. Select an individual event from the calendar below for more information. A full listing of USPTO events can be found here.

Upcoming events

MAR 29, 2022 - VIRTUAL
Patent Trial and Appeal Board presents Appeals 101
An overview of appeals.

APR 6, 2022 - VIRTUAL
Using petitions effectively in patent prosecution
Topics covered will include an overview of the Office of Petitions, publicly available electronic resources, petitions data and statistics, a brief discussion of e-Petitions, and petitions related news and updates.

Past events

FEB 13, 2022 - VIRTUAL
USPTO guidance and policy: Subject matter eligibility
Help for applicants

USPTO resources
IP Awareness Assessment Tool

Welcome to the Intellectual Property Awareness Assessment Tool. The IP Assessment includes the below five general categories, that are included in all assessments.

- IP Strategic & Best Practices
- International IP Rights
- IP Asset Tracking
- Licensing Technology to Others
- Raising Intellectual Others

There are five additional categories that can also take or, which may be customized through a Pre-assessment. These five categories include:

- Copyrights
- Design Patents
- Trademarks
- Trade Secrets
- Utility Patents

Not all businesses have all categories of IP assets as they have an opportunity to opt out of certain categories by using the customer or Pre-assessment or may opt to take the full assessment of ten categories containing 52 questions.

The full assessment requires about 20-30 minutes to complete. The customer or Pre-assessment can reduce the required time by 10-15 minutes.

Before starting the assessment, please note:
- Save this link as a favorite/bookmark on your browser.
- In the “mutual setting” of your browser, clear/refresh History option. This will allow you to return and resume the assessment session. In case you cannot find it in one website, this will allow you to access your training materials and assessment results at your convenience.
- As you are completing the assessment questions, choose the answer that best applies to your business or circumstances as an independent Inventor or individual. Where applicable, choose all the responses that apply to your situation.
- Responses or data collected in the assessment are not stored or used by the USPTO or NIST NIST.

www.uspto.gov/inventors/assessment
Patent Public Search Tool

- Provides more convenient, remote, and robust full-text searching of all U.S. patents and published patent applications.
- Replacing legacy search tools like PubEAST, PubWest, PatFT, and AppFT.
- Allows the public to access search tools used by our patent examiners.
Patent Public Search Tool Benefits

- Free, cloud-based platform is available to all users via the internet, with no account necessary.
- Text searching optical character recognition (OCR) scanned US patents issued prior to 1976 is now available.
- Gives users the option of multiple layouts with multiple tools to view more data at once.

**Patent Public Search tool:**
https://ppubs.uspto.gov/pubwebapp/

**Resource webpage:**
https://ppubs.uspto.gov/pubwebapp/static/pages/landing.html
Access our free services

The United States Patent and Trademark Office (USPTO) offers a wide range of intellectual property (IP) resources, including application assistance, education and training, and other services that support the full spectrum of customers—from independent patent and trademark filers, to attorneys and business advisors in both the private and public sectors.

Using the icons below, select a category to filter the list by your area of interest.

<table>
<thead>
<tr>
<th>Title</th>
<th>Description</th>
<th>Resource category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Assistance</td>
<td></td>
<td></td>
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<tr>
<td>Application Assistance Unit (AAU)</td>
<td>Provides assistance with questions and issues pertaining to pre-examination</td>
<td></td>
</tr>
<tr>
<td></td>
<td>processing of patent applications and the post-examination processing of patent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>applications.</td>
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