Intellectual property basics

Revised: October 2020
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

- Method of using
- Chemical composition
- Method of making
- Improvements thereof
- Product
Patent claim scope

What should a patent application claim?

Invention

Too specific

Too broad/general

Not valuable

Not patentable
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
Copyrights
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 publically 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

Tuesday, August 4, 2020

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
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><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><strong>Plant patent</strong></td>
<td>Newly invented strains of asexually reproducing flowering plants</td>
<td>Michael Jackson’s Thriller (music, artwork and video), Windows operating system</td>
</tr>
<tr>
<td><strong>Copyright</strong></td>
<td>Books, photos, music, fine art, graphic images, videos, films, architecture, computer programs</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><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 name and distinctive logo, Pillsbury doughboy character</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>
</tbody>
</table>
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!
Signature programs

Help for applicants
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

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

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

**APRIL 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

**FEBRUARY 13, 2022 - VIRTUAL**
USPTO guidance and policy: Subject matter eligibility
Office of Innovation Outreach

The Office of Innovation Outreach (OIO) develops awareness and outreach programs and training for inventors, organizations, and universities. The OIO is located in the Office of the Chief Communications Officer of the United States Patent and Trademark Office (USPTO) and supports the mission of the agency by providing relevant intellectual property (IP), innovation, and invention resources to independent inventors, small businesses, entrepreneurs, and underrepresented or underserved populations. The OIO creates annual programming and works with partners from other federal agencies, organizations, and universities to help everyone better understand, secure, and utilize IP.

Work with OIO

If you would like to work with our expert staff on a program, please contact us at InnovationOutreach@uspto.gov or 571-272-8033.

Programs managed by OIO

- AANHPI Innovation and Entrepreneurship
- Black Innovation and Entrepreneurship
- Hispanic Innovation and Entrepreneurship
- Invention-Con
- LGBTQ+ Innovation and Entrepreneurship Program
- Veterans Innovation and Entrepreneurship
- Women’s Entrepreneurship Symposium

www.uspto.gov/InnovationOutreach
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
- Hiring Technology of Others

There are five additional categories that can also 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 so they also 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 82 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 the link for this page as a favorite/bookmark on your browser.
- If "Do not track" option of your browser, do not clear browsing history. This will allow you to return and resume your assessment session. In case you cannot finish it in one sitting, this will also allow you to access your training materials and assessment results at your convenience.
- If you are answering 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 NRR.

Learn more

Feedback
Your feedback and comments are crucial for improving the IP Awareness Assessment.

Inventor assistance program

Important Notice
Please note that any information provided here does not constitute legal advice, is intended to increase your IP awareness. When filing an application for obtaining specific rights, it is recommended that you obtain professional legal assistance. The IP Awareness Assessment contains links to external websites, USPTO does not maintain those external sites and is not responsible for the materials found therein.

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>
</tr>
<tr>
<td>Application Assistance Unit (AAU)</td>
<td>Provides assistance with questions and issues pertaining to pre-examination processing of patent applications and the post-examination processing of patent applications.</td>
<td>Patents</td>
</tr>
</tbody>
</table>
Non-USPTO resources for businesses

- US SBA
- SCORE
- Local incubators and accelerators
- Inventors’ organizations
- State resources–SBDC