Objectives

• Overview of Intellectual Property (IP)
• Resources
Overview of IP: types

- **Trademarks**
  - Protects marks in commerce that indicate the source or origin of goods or services
  - Source: Federal, State, and Common Law

- **Copyrights**
  - Protects original (art) works fixed in a tangible medium
  - Source: U.S. Const., Art. I, Sec. 8

- **Trade Secrets**
  - Protects commercially valuable information
  - Source: State and Common law

- **Patents**
  - Protects inventions
  - Source: U.S. Const., Art. I, Sec. 8
# Overview of intellectual property

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

Key purposes:

• Allow consumers to identify the source or producer of different products and services – helps their buying decisions

• Encourage trademark owners to provide goods and services of consistent quality and to build goodwill in the trademark
Federally registered trademarks

• Right to enforce nationally and bring legal action in federal courts
• Use of federal trademark registration symbol ®
• Right to record mark with customs
• Serve as basis for foreign filing
• Publication in U.S. trademark database
Examples of trademarks

Trademarks can be **WORDS**

STARBUCKS

NIKE

TARGET

Trademarks can be **DESIGNS**
Overview of IP: 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 intellectual property issues including copyright

- © symbol can be used without registration
Copyright registration

• Copyright protection is secured automatically upon creation (fixation)
  – A work is “created” when it is fixed in a copy for the first time

• No publication or registration is required
  – There are, however, advantages to registration
Things protected by copyrights

Songs

Books

Movies

Sculptures
Overview of IP: trade secrets

- Any information that derives economic value from not being generally known or ascertainable
- Can be formulas, patterns, compilations, programs, devices, methods, techniques or processes
- Protection stems from common law dating to the 1800’s
- All states have some sort of trade secret protection
- Most laws based on the Uniform Trade Secrets Act
- Defend Trade Secrets Act of 2016
- In 2014 Congress considered, but did not pass, federal versions of the UTSA
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
- No set term for protection
How to lose a trade secret?

• Failure to take adequate steps to prevent disclosure
• Owner or owner-authorized disclosure
• Reverse engineering
• Independent development
Overview of IP: 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 that granted patent; NO world-wide patent

• Government grants the property right in exchange for the disclosure of the invention
What is a U.S. patent?

• A property right granted by the United States government to an inventor
• To exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States
• For a limited time
• In exchange for public disclosure of the invention
Types of patents

**Utility**
New and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof

**Design**
Any new, original and ornamental design; protects the way an object appears

**Plant**
Whoever invents or discovers and asexually produces any distinct and new variety of plant
The role of the patent system

• Protect inventions
• Encourage inventions
• Promote commercialization and application of invention
• Accelerate the commercialization of invention to the whole society
Why get a patent?

• A patent can:
  – Help to gain entry into, and deter others from entering into, a market
  – Attract investors
  – Be used as a marketing tool to promote unique aspects of a product
  – Be asserted against an infringer
  – Be used as collateral to obtain funding and increase leveraging power
  – Create revenue – sell or license like other property

• Patents are a form of property that can add value to a company’s assets
Who can apply for a patent?

- Inventor(s)
- Assignees
- Obligated assignees
- A person with a sufficient proprietary interest
What happens after I get my patent?

• Licensing
• Enforcement
• More innovation and competition
• Etc...
Overview of IP: a mobile phone

**Trademarks:**
- Made by “Apple” (logo)
- Product “iPhone”
- Software “iOS”, “Safari”

**Patents:**
- Semiconductor circuits
- Touch Screen
- Battery/Power Control
- Antenna
- Speaker
- Device Housing

**Copyrights:**
- Software code
- Instruction manual
- Ringtone

**Trade secrets:**
- ???

**Designs (some of them patented):**
- Form of overall phone
- Placement of button & speaker
- Color pattern of trim
- Surface finish