



Patents Trademarks, and Copyrights: An overview of intellectual property

Invention-Con 2019

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UNITED STATES
PATENT AND TRADEMARK OFFICE



Objectives

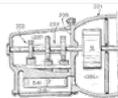
- Overview of Intellectual Property (IP)
- Resources

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

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



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**



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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

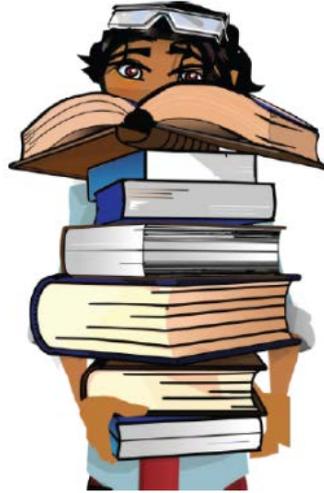
Copyright registration

- 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?

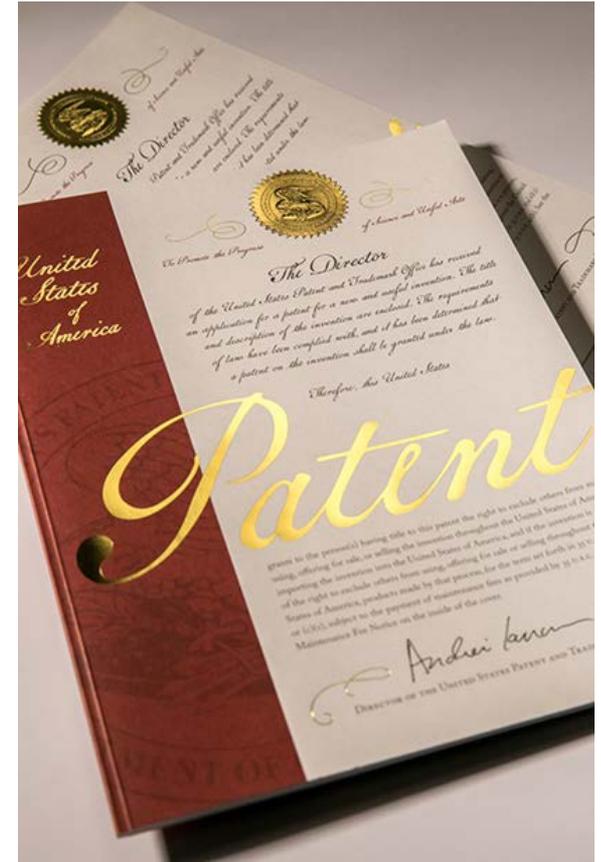
- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development

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?

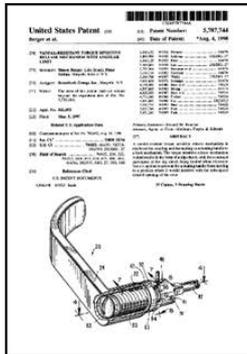
- A property right granted by the United States government to an inventor
- To exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States
- For a limited time
- In exchange for public disclosure of the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



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