Understanding the Basics of Intellectual Property

Office of Innovation Outreach
Office of the Chief Communications Officer
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

<table>
<thead>
<tr>
<th>What's protected?</th>
<th>Utility/Plant patent</th>
<th>Design patent</th>
<th>Trade secret</th>
<th>Copyright</th>
<th>Trademark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventions — process, machine, or composition of matter</td>
<td>Ornamental characteristics embodied in, or applied to, an article of manufacture.</td>
<td>Commericially valuable information (e.g., formulas, techniques, processes)</td>
<td>Art, in an all-encompassing sense — original works fixed in a tangible medium</td>
<td>Marks in commerce that indicate the source or origin of goods or services.</td>
<td></td>
</tr>
<tr>
<td>Protects against...</td>
<td>Making using, selling, offering for sale, and importing into the U.S.</td>
<td>Making using, selling, offering for sale, and importing into the U.S.</td>
<td>Stealing or unauthorized disclosure</td>
<td>Copying, performing, displaying, and creating derivative works</td>
<td>Using a mark in a way that causes likelihood of confusion</td>
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<tr>
<td>Endures until...</td>
<td>Generally, from the patent grant date to 20 years from the earliest effective U.S. filing date.</td>
<td>15 years from issuance of patent for applications filed on or after May 13, 2015</td>
<td>Publically disclosed</td>
<td>The life of the author + 70 years for works created on or after January 1, 1978</td>
<td>Abandoned or loss of distinctiveness or secondary meaning</td>
</tr>
<tr>
<td>Rights of independent third party creators</td>
<td>None</td>
<td>None</td>
<td>Full</td>
<td>Full</td>
<td>None</td>
</tr>
</tbody>
</table>
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
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
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: 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
Examples of things protected by copyrights

- Songs
- Books
- Movies
- Sculptures
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
Overview of IP: Trademarks

Key purposes:

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

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

• TM symbol can be used without registration
Examples of trademarks

Trademarks can be **WORDS**

STARBUCKS

NIKE

Trademarks can be **DESIGNS**

TARGET
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
USPTO resources for independent inventors, small business owners, and entrepreneurs

Office of Innovation Outreach
Office of the Chief Communications Officer
USPTO offices

East Coast Regional Office
Alexandria, VA
- USPTO Headquarters

Midwest Regional Office
Detroit, MI
- Stroh Building
- www.uspto.gov/Detroit

Rocky Mountain Regional Office
Denver, CO
- Byron G. Rogers Federal Building
- www.uspto.gov/Denver

Silicon Valley Regional Office
San Jose, CA
- San Jose City Hall Building
- www.uspto.gov/SiliconValley

Texas Regional Office
Dallas, TX
- Terminal Annex Federal Building
- www.uspto.gov/Texas
New to IP? Visit us at www.uspto.gov
Find help in your area

- Resources and assistance in your state for filing for a patent or registering a trademark
- Free patent and trademark legal assistance
- Learn to search inventions and trademarks
- Attend events in your region
- Network with inventor and entrepreneur organizations in your state
- Accessible via uspto.gov homepage
  - New to IP? Find help in your area

There are lots of resources and assistance to make filing for a patent or registering a trademark easier, more affordable, and ultimately result in strong legal protection for your invention or brand. For example, if you can’t afford an attorney, there are several programs that provide free legal representation. Use the map below to find out what is available in your state.

And remember, our Inventor and entrepreneur resources page is the USPTO hub for resources and information for inventors, entrepreneurs, and small businesses.

Select your state below to find resources

This map derived from commons.wikimedia.org

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<th>List of State Names</th>
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<td>Alabama</td>
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<td>Delaware</td>
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Inventor and entrepreneur resources

- USPTO’s hub for resources and information for inventors, entrepreneurs, and small businesses.
- www.uspto.gov/inventors
Pro Se Assistance Program

- Hours of operation
  - 8:30 a.m. to 5 p.m. ET
  - Monday through Friday
- Email
  - innovationdevelopment@uspto.gov
- Phone
  - (866) 757-3848
- Webpage
  - www.uspto.gov/ProSePatents
Trademark Assistance Center (TAC)

- Provides general information about the registration process
- Responds to your status inquiries
- Hours of operation
  - 8:30 a.m. to 8 p.m. ET, Monday through Friday
- Phone
  - (571) 272-9250 or (800) 786-9199
- Email
  - TrademarkAssistanceCenter@uspto.gov
- Webpage
  - www.uspto.gov/TrademarkAssistance
Nationwide network of public, state, and academic libraries that are designated by the USPTO to disseminate patent and trademark information and to support intellectual property needs of the public.

[www.uspto.gov/ptrc](http://www.uspto.gov/ptrc)
Free legal assistance*

- Patent Pro Bono Program
- Law School Clinic Certification Program

*Applicant(s) must pay for all USPTO fees
Patent Pro Bono Program

This program matches financially under-resourced inventors and small businesses with registered patent attorneys.

Learn more about how to apply for patent pro bono assistance:

www.uspto.gov/probonopatents
USPTO law school clinic certification program

www.uspto.gov/LawSchoolClinic
Prioritized Patent Examination Program

• Fast track your utility and plant patent applications
• Final disposition within about **12 months** of status being granted (fiscal year 2019 average: 7.8)
• **Special status** with fewer requirements than accelerated examination program and without having to perform a pre-examination search
MyUSPTO

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4. Create links to commonly used items
5. Read latest USPTO information

- Use uspto.gov account to access MyUSPTO and other USPTO applications (e.g., Public Pair, EFS-Web, Financial Manager, Certified Copy Center, TEAS, etc.)
Your IP: A power tool for building success.

- Hear a motivational keynote address from Sam Zaid, CEO and Founder of Getaround
- Learn from experts how to use your IP successfully as an inventor or entrepreneur
- Discover helpful resources available to you at the national, state, and local levels
- Hear about IP strategies vital to any innovator
- Learn about IP networks

Register today or learn more at www.uspto.gov/InventionCon
Thank you!

Office of Innovation Outreach

innovationoutreach@uspto.gov

571-272-8033

www.uspto.gov