Identifying and Protecting Your Intellectual Property

• What exactly am I protecting?

• What types of intellectual property are best-suited for my business?
## Overview of Intellectual Property

<table>
<thead>
<tr>
<th>What is protected</th>
<th>Utility Patent</th>
<th>Design Patent</th>
<th>Trade Secret</th>
<th>Copyright</th>
<th>Trademark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventions – Process, machine, manufacture, or composition of matter</td>
<td>Ornamental characteristics embodies in, or applied to, an article of manufacture</td>
<td>Business-related information (formulas, techniques, information)</td>
<td>Art, in an all-encompassing sense</td>
<td>Marks that indicates the source or origin of goods or services</td>
<td></td>
</tr>
<tr>
<td>Requirements</td>
<td>Utility, Novelty, and nonobviousness</td>
<td>Novelty and nonobviousness</td>
<td>Commercial value, generally not known, and reasonable efforts of secrecy</td>
<td>Original, authorship, and fixation in a tangible medium</td>
<td>Use in commerce and either distinctiveness or secondary meaning</td>
</tr>
<tr>
<td>Protects Against...</td>
<td>Making, selling, offering for sale, and importing</td>
<td>Making, selling, offering for sale, and importing</td>
<td>Stealing</td>
<td>Copies, performances, displays, and derivative works</td>
<td>Use of a mark that causes the likelihood of confusion</td>
</tr>
<tr>
<td>Endures until...</td>
<td>20 years from filing date</td>
<td>15 years from issuance</td>
<td>Publicly disclosed</td>
<td>The life of the author +70 years</td>
<td>Abandoned</td>
</tr>
</tbody>
</table>
Consider the IP in a Mobile Phone

Trademarks:
• Made by "Nokia"
• Product "N8"
• Software by Microsoft “Windows“

Patents:
• Data-processing methods
• Semiconductor circuits
• Chemical compounds
• Battery/Power Control
• Antenna
• Optics

Trade secrets:
• ???

Copyrights:
• Software code
• Instruction manual
• Ringtone
• …

Designs:
• Form of overall phone
• The graphic user interface
• The appearance in various positions of use
What is a Trademark?

Any word, name, symbol or device (or any combination thereof) used to identify and distinguish goods and services and to indicate their source (15 U.S.C. § 1127)

TM  SM  ®
Advantages of Federal Trademark Registration

- Provides notice of your claim to own the mark in the US
- Can use the federal registration symbol “®”
- Serves as prima facie evidence of validity, ownership, and exclusive right to use the mark on the goods/services specified in the certificate
- Can record the registration with U.S. Customs and Border Protection to stop infringing imports
- Provides access to anti-counterfeiting statutes
- Provides a basis to obtain registration in foreign countries
Why Use a Trade Secret?

Trade Secret Basics:
- Protects **commercially valuable proprietary information**, e.g., formulas or business information that gives a **competitive advantage**
- Trade Secrets are not generally known and must be subject to reasonable efforts to preserve confidentiality

Common Ways to Lose a Trade Secret:
- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development
Copyright

Maintained by the Library of Congress

• Protects “original works of authorship” including literary, dramatic, musical, artistic and certain other intellectual works
• Term - Author’s life + 70 years
• Copyright.gov
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 – 20 Years
  – Territorial: protection only in territory that granted patent; NO world-wide patent
Why get a patent?

• To gain entry into, and deter others from, a market
• As a marketing tool to promote unique aspects of a product
• To assert/enforce rights against an infringer or competitor
• As collateral to obtain funding
• To create revenue, i.e., sell or license like other property
Utility Patents

Protect any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof.
Design Patents

Protect the way a product or article looks, the ornamental expression
Plant Patents

Protect newly invented strains of asexually reproducing flowering plants, fruit trees, and other hybrid plants.
Startup Resources

Many startup businesses face unique IP-related challenges, such as IP portfolio prerequisites to secure funding, and the possibility of costly patent infringement demand letters and lawsuits. We have tailored this area of our website to suit the specific needs of startup businesses, a segment of our stakeholders that continues to be recognized as an outsized engine of job creation, economic growth, and unparalleled innovation in the United States.

This portal is part of our Startup Partnership Initiative—putting key resources and critical information for startups in a single place so it’s easier to find what you may need when you need it.

Patents for Startups

The patent process can be challenging if you are not familiar with it. Here is basic information on the patent process.

- Patent Process Overview
- Inventors Assistance Center
- Patent FAQs
- Patent Homepage
- Search for Patents
- Official Gazette for Patents

Trademarks for Startups

The trademark process can be confusing for a beginner, so here is basic information on registering a trademark.

- Trademark Basics
- Search for Trademarks
- Filing online
- Trademark Homepage

Startup Assistance

The Inventors Assistance Center and Trademark Assistance Center provide information and services to the public. Center staff can answer questions on patent and trademark processes, but cannot provide specific legal advice.

- Inventors Assistance Center
- Trademark Assistance Center
- Patents Ombudsman Program
- BasicUSA (link is external)

Current Events

Information about conferences, conventions and other opportunities to engage.

- Upcoming Events
- Inventors Eye | Events & Announcements

www.uspto.gov/startups
Thank You