Intellectual Property Management in the Information Age

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What is IP?

Unique items conceived by human ingenuity

For most IP, you cannot reproduce or use the work without the permission of the owner.

What is IP?

Such as…

- Patents
  - U.S.
  - International
- Copyrights
- Trademarks
- Domain names
- Trade Secrets
- Contracts

US Patent 7,635,294

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US Patent:
- right granted “to exclude others from making, using, offering for sale, or selling the invention throughout the US or importing the invention into the US” for a limited time in exchange for public disclosure of the invention.
- Grant is for 20 years from the earliest filing date
- Invention: 1) must be Novel 2) Non-Obvious 3) have Utility
- Life: 20 years from the earliest filing date

This right was established over 200 years ago in Article 1, Section 8 of the US Constitution: “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”
US application must be filed within one year of the date the invention was first*:

- Patented anywhere
- Described in a “printed publication” anywhere
- In “public use” in the United States
- “On sale” in the United States

* Need to watch: America Invents Act (H.R. 1249)
• US Provisional Patent Application
  
  – lasts 12 months from the date the provisional application is filed
  
  – must file a corresponding non-provisional application during the 12-month pendency period - **NO extensions**
  
  – provisional applications are not examined on their merits
  
  – If not converted the provisional application automatically becomes abandoned
Patent Cooperation Treaty

- The PCT is an international treaty between 125+ countries that makes it possible to seek patent protection for an invention by filing a single “international” patent application.
- However, you must still pursue a patent in the countries of choice.
- May need to translate application for certain countries.

- Why a PCT application?
  - Review is usually quicker than US patent office.
  - Applicant has 30 months from the filing date for evaluating the chances of obtaining patents.
  - Use time to evaluate the invention commercially in the countries of interest.
Recent Developments 2011

• *America Invents Act* (S. 23/HR. 1249), a bill to modernize and reform the patent system. Similar to legislation supported overwhelmingly by the Senate.

  **First Inventor to File:** Adopting a first-inventor-to-file standard.

  **Post-Grant Review:** Establishes a new post-grant opposition review system.

  **Business Method Patents:** Authorizes a special reexamination of business-method patents.

  **Third-Party Submission of Prior Art:** Permits third parties to submit information regarding a patent application that may be relevant for the patent examiner to review.

• *Inventors and Bayh-Dole*  
  1) Title to federally funded inventions do not automatically vest in contractors. 2) Bayh-Dole does not displace rule that rights in invention belong to inventor.

Copyrights

Protects expressive works

- Protection automatic
- Work must be in a tangible media
- Easy to obtain federal registration
- Includes computer software

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What is a trademark?

• A trademark can be:
  – a word or phrase
  – a personal name
  – a figure
  – a sound
  – a color
  – or combinations of these

Which Identifies a Good or Service

Tyson Fresh Meats, Inc.

American Meat Science Association
Monitoring Your Trademarks
Monitoring Your Trademarks
Trade Secret

Derives value from not being known or ascertainable

• Key is effort used to protect the secret
  • Limit the distribution of trade secret information to “Need-to-know”
  • Keep information under lock and key or password protected
  • Use code rather than actually describing
  • Have confidentiality agreements when information is shared
The invention disclosure describes the invention. All important documents which support the IDF such as lab reports, photos, drawings, etc should be included.

Sufficient information should be provided to understand the technical merits of the work and the potential commercial applications.

The form is used to evaluate whether patent protection should be sought.

The form is a legal document, so prepare carefully.
Protecting the New Product/Process

- Limit to “need to know”
- Use a code term when talking about process/product
- Mark relevant documents “Confidential & Proprietary” and use confidentiality agreements
- File registrations and applications early
- Contact IP counsel or university technology office early
Questions?