

Information you can use

Intellectual Property

**Product of the mind or intellect as opposed to physical property.
Original works by authors, musicians, artists and inventors.**

Assets

- Need to be protected from unauthorized use.
- These works may be protected in a number of ways.

Types of Intellectual Property

- Patents
- Trademarks
- Copyright
- Trade Secrets

Federal Vs State Intellectual Property

- Patents, Copyrights and Trademarks are protected on the federal level.
- Most states offer Trademark protection on the state level.
- These will be discussed in the Trademark portion.

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Copyrights

Musical Works

Literary Works

‘Original Works of Authorship’ that are fixed in a tangible form of expression.

Movies and Films

Pictorial & Sculptural

(Life of the Author Plus 70 years after death.)

Architectural Works

Sound Recordings

Choreographic Works

Dramatic Works

Do I need to register my Copyright?

- No, Protection is given at moment of the works creation.
- But, in order to bring a lawsuit a copyright has to be registered.

Many people choose to register their copyright

- Matter of public record and a certification of registration.
- This enables you to put the copyright symbol on a publication
- Statutory damages and attorney's fees are possible with litigation

How to Register

- Application form, filing fee of \$45 for an online filing.
- \$125 for paper filing
- Information available on www.copyright.gov

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Trademarks

Uber

Facebook

Google

FedEx Office

Nike

Coca-Cola

Jaguar

Louis Vuitton

Word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.

Service Mark

- A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than a product.

Federal Trade & Service Marks

- Registered with the US Patent & Trademark Office (www.uspto.gov).
- Can use the TM or SM symbol to assert a claim, even if not registered.
- AKA Common Law Marks
- MUST be federally registered to use the Registered trademark symbol:



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Trademarks 2

Do I need to register my Trademark?

- Easier to get a foreign trademark if you already have a US registered mark.
- Having that trademark will give constructive notice to the public that this is your claim and your ownership of this mark.
- Registering your US trademark with US Customs Service can prevent foreign “knock offs” of your brand.



It is up to you to police your mark and make sure no one else is using it.

Filing for a Trademark

- Information as well as filing instruction, fees and forms at uspto.gov.
- Filing is \$250 or \$350 per class depending on options.
- Broad categories of goods or services, as determined by international agreement.

State Trade & Service Marks

- State Mark is only valid in the state of Ohio.
- File an application to the Ohio Secretary of State's office.
- Cost is \$125.00 for an Ohio trademark/service mark.

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Trademarks 3

Good Trademark Creation

Distinctiveness:

It should stand out and isn't easily confused with existing trademarks in your industry. Don't be generic.

Clarity:

Choose a mark that is easy to spell, pronounce, and remember.

Any identifying name or phrase can be a trademark. However it doesn't give the company general rights to the word or phrase.

Flexibility:

Consider how the mark can be used across different marketing materials and mediums.

Relevance:

Ensure the trademark reflects the nature of your goods or services.

"Let's Get Ready To Rumble!!"

-trademarked in 1992 by Michael Buffer

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Patent

- Period of up to 20 years.
- Inventor must disclose how to make the invention.
- Does not guarantee the market-worthiness of your invention.
- Don't need a patent to sell an invention.

Type - Utility

New and useful process, machine, article of manufacture, or composition of matters, or any useful improvements thereof.

- Granted for 20 years
 - Process (*manufacturing polyester*)
 - Machine (*upright forklift truck*)
 - Composition of Matters (*formula for medication*)
 - Useful Improvement (*mechanical pencil*)

Type - Design

- New, original and ornamental design for an article of manufacture.
- Granted for 15 years.
 - Shape of a car (*Toyota Prius*)
 - Contain Shape (*OXO vegetable peeler*)

A government-granted right to “exclude others from making, using, offering for sale, or selling” your invention or “importing” it into the U.S

Type - Plant

Invents or discovers and **asexually** reproduces any distinct/new variety of plant.

- Granted for 20 years
 - Varieties (*The Honeycrisp Apple*)
 - Varieties (*Rose colors*)
 - Varieties (*Medicinal potency*)

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Patent 2

Coverage

- U.S. Patents are protected throughout the U.S. only.
- There are no state patent equivalents.
- International Patents must be filed separately. It helps to have a US one



Application Process

- **Determine patentability**
 - (Meets the requirements for something to be patented)
- **Conduct a search**
 - (Find similar inventions the have already been patented)
- **Choose the type of patent**
 - (Decide what kind of patent you need)
- **Prepare/submit your application**
 - (Description, claims, drawings, fees)
- **Work with an examiner**
 - (Reviews your application and search for prior art)
- **Receive approval:**
 - (If approved, you'll need to pay final fees)
- **Maintain your patent:**
 - (Pay maintenance fees to keep your patent in force)

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Patent 3

Approval Factors

- Novelty / Uniqueness
- Non-obviousness
- Utility / Usefulness (utility patents)

“Prior Art”

- Critically important
- Time consuming
- Can be specialized
- Attorneys / Patent Agents and you!

Remember

- Patents are filed by class/subclass not by keywords or titles.
- The USPTO recommends following a search strategy (www.uspto.gov).

**“DON’T FORGET OUR CLASS ON
SEARCHING FOR PATENTS!”**

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USPTO

What do they do?



- Examines applications
- Provides copies of patents to public
- Maintains PTRC program
- Publishes issued patents
- Provides public search facility
- Provides 24 hour help line
 - 1-800-786-9199



- Give legal advice
- Recommend an Attorney
- Take action against promotion firm scams
- Do the patent search for you
- Promote or encourage use of a patent

Cost

- Patents cost an average of \$5000 over the life of the patent if you meet the qualifications for micro entity status.
- Includes maintenance fees 3.5, 7.5, 11.5 years.
 - Current fee schedule available on website.

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Trade Secrets

Examples

- Coca-Cola's Coke Syrup Formula
 - The company has kept its formula a closely guarded secret for over 100 years.
- KFC's Original Recipe
 - KFC has never publicly revealed the exact ingredients that make up the famous flavor, and it is believed that only a few people in the entire company know the full recipe.

Information, or process, that derives independent economic value from being secret. AND Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

- Tesla's Dry-Electrode Battery
 - Maintains a competitive edge in a fast-moving industry with their TS.

A Word About Enforcement of Intellectual Property

- In the U.S., the IP rights-holder is responsible for civil enforcement of its rights.
- Using online tools and information provided by the USPTO.
- Reporting IP theft through the National Intellectual Property Rights Center.
- Seeking legal advice from a licensed attorney.

Information you can use

Further Research

Copyright Information	www.copyright.gov
Patent and Trademark	www.uspto.gov
Ohio Secretary of State	www.ohiosos.gov
Trade Secrets	"Trade Secrets IP Toolkit" via USPTO
Small Business & Nonprofit Resource Center	1st Floor Main Library
Small Business Administration	www.sba.com
Akron Score Chapter 81	www.akron.score.org
Akron Makerspace	http://akronmakerspace.org
Akron-Summit County Public Library	www.akronlibrary.org

Disclaimer

Please note, this program has been prepared for informational purposes only and does not constitute legal advice. Attendees should not act upon this information without seeking professional counsel. If you have any questions regarding the adoption or use of any form of intellectual property, it is strongly recommended you consult an attorney.