Introduction to Intellectual Property

Trademarks, Patents, Copyright, Trade Secrets

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Marian Armour-Gemmen, Patent & Trademark Librarian
West Virginia University Libraries
Evansdale Library at WVU is the only U.S. Patent and Trademark Resource Center in the state of West Virginia.

We have DVDs, and other products from the USPTO as well as access to their databases.

Access to PubWEST and PubEAST

Provide reference assistance throughout the state.

Assist users to learn how to search
“A category of intangible rights protecting commercially valuable products of the human intellect.” “A commercially valuable product of the human intellect, in a concrete or abstract form...”—Black’s Law Dictionary
Types of Intellectual Property

1. Trade Secrets
2. Copyright
3. Trademarks
4. Patents
“a device or technique used in a particular trade or (transf.) occupation and giving an advantage because not generally known.” --Oxford English Dictionary

“something (as a formula) which has economic value to a business because it is not generally known or easily discoverable by observation and for which efforts have been made to maintain secrecy”—Merriam Webster Dictionary
Advantages to Trade Secrets

- An inventor is not required to obtain a patent. They may choose that the benefits of keeping the invention secret outweigh the benefits of a patent.

- Property of its owner as long as it remains secret; patents have a limited term (the oldest known trade secret has been kept since 1623 for manufacturing cymbals)

- Can be exploited on a global basis, patents are only valid in the country in which they were obtained
Disadvantages of Trade Secret

- Once they become public, the owner has limited legal remedies to prevent others from making, selling, or using the invention.

- Owner takes on the responsibility of protecting it and preventing its disclosure, which may cost a lot of money.
“A form of protection provided to authors of ‘original works of authorship’ including literary...and certain other intellectual works, both published and unpublished.”

Exclusive right to reproduce the copyrighted work, prepare derivative works, and to distribute copies (among other things).

Currently a work does not have to be registered to be protected. But you cannot bring suit unless the work is registered.
Copyright protects form of expression rather than the subject matter of the writing.

For example, a description of a machine could be copyrighted, but this would only prevent others from copying the description; it would not prevent others from writing a description of their own or from making and using the machine.
Copyright (cont.)

◆ Copyrights are administered by the Library of Congress.

www.copyright.gov

◆ Term of copyright longer than patent.

- For Works Originally Created on or after January 1, 1978:
  - life plus an additional 70 years after the author's death.
  - For works made for hire, 95 years from publication or 120 years from creation, whichever is shorter.

◆ Public Domain

- “Therefore, the U. S. copyright in any work published or copyrighted prior to January 1, 1923, has expired by operation of law, and the work has permanently fallen into the public domain in the United States.”

1. Literary works (books, magazines, web pages)
2. Musical works (songs, musical plays)
3. Dramatic works (plays, dramatic readings)
4. Pantomimes and choreographic works
5. Pictorial, graphic, and sculptural works
   (paintings, photographs, cartoon characters, maps, technical drawings, boat hull designs)
6. Motion pictures and other audiovisual works
   (films, videos, slides)
7. Sound recordings (discs, tapes, records)
8. Architectural works (building design, blueprints)
Each registration must include a properly completed application form, a nonrefundable filing fee, and a nonreturnable deposit.

- $35 Electronic registration through eCO (available on the website)
- $65 Registration on Form TX, Form VA, Form PA, Form SE, and Form SR (available by regular mail only)
Information Circulars and Factsheets
- http://www.copyright.gov/circs/
- provide basic information about registration, fees, compulsory licenses
- Including current fees

Forms
- http://www.copyright.gov/forms/
- Electronic Filing Strongly Recommended
Copyright Law of the United States

- [http://www.copyright.gov/title17/](http://www.copyright.gov/title17/)

Fair Use

- [http://www.copyright.gov/fls/fl102.html](http://www.copyright.gov/fls/fl102.html)

Mandatory Deposit

- [http://www.copyright.gov/circs/circo7d.pdf](http://www.copyright.gov/circs/circo7d.pdf)
  - All works under copyright protection that are published in the United States are subject to the mandatory deposit provision of the copyright law.
  - Two copies of the best edition must be sent to the Copyright Office within three months of publication.
  - Mandatory deposit applies to foreign works distributed in the United States.
Recent Copyright Developments

◆ Dept. of Commerce’s *Copyright Policy, Creativity, And Innovation In The Digital Economy* (Green Paper)

◆ Register of Copyright’s *Priorities and Special Projects*
  ■ [http://www.copyright.gov/docs/priorities.pdf](http://www.copyright.gov/docs/priorities.pdf)

◆ Marrakesh Treaty *To Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled*
Searching Copyrighted Works

Prior to 1978 records only at the Copyright Office

Catalog of Copyright Entries at the Internet Archive
A word, name, symbol, or device that is used in trade with goods to indicate the source of goods and to distinguish them from the goods of others.

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

◆ Last indefinitely as long a fees are paid
◆ Must meet statutory deadlines
◆ Section 8 declaration
  ■ Between the 5th and 6th year after the registration date
    the owner must file a Declaration of Use or Excusable Nonuse under Section 8.
  ■ This declaration requires a fee.
◆ Combined Section 8 declaration and Section 9 renewal
  ■ Between the 9th and 10th year after the registration date
    and every 10 years thereafter
  ■ Application for renewal under §9, per class $400.00
Patent—

- a property right granted by the Government of the United States of America 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 when the patent is granted.
Questions?

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