Introduction to Intellectual Property

Trademarks, Patents, Copyright, Trade Secrets

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West Virginia University Libraries
IP @ Evansdale Library

- Evansdale Library at WVU is the only U.S. Patent and Trademark Resource Center in the state of West Virginia.

- Assist users to learn how to search

- We provide access to PubWEST and PubEAST

- Provide reference assistance throughout the state.
“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
Trade Secret

“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authors of ‘original works of authorship’ including literary...and certain other intellectual works, both published and unpublished.”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.
Copyrights are administered by the Library of Congress.

[www.copyright.gov](http://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.”
Copyright (cont.)

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)
Basic Registration Fees

- 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)
Online Registration

For general questions about copyright, please see Circular 1: Copyright Office Basics and the Frequently Asked Questions section of the Copyright Office website.

Read More
Publications  http://www.copyright.gov/pubs.html

◆ 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

◆ Compendium of U.S. Copyright Office Practices
  ■ http://copyright.gov/comp3/

◆ 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
Searching Copyrighted Works

Catalog of Copyright Entries at the Internet Archive

Prior to 1978 records only at the Copyright Office
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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