Intellectual Property 101

Stephen Yanchuk
Eastern Regional Special Advisor
Eastern Regional Outreach Office
Discussion Topics

• IP is a business strategy

• What is intellectual property (IP)?
  – What is the U.S. Patent and Trademark Office
  – Trade secrets, copyrights, trademarks, patents

• USPTO Resources - Introduction
IP-intensive industries are a critically important component of the U.S. economy

- 45.5 million jobs
- 38.2% of U.S. GDP
- 46% higher pay
IP strategy IS a business strategy

IP:
- Is attractive to investors and buyers
- Deters infringement lawsuits
- Can increase leveraging power
  - Mergers and acquisitions
- Is a property right that can add value to a company’s assets
- Is Global
Patents can:

- Promote innovation and help safeguard your inventions
- Help companies grow
- Benefit the community by making new goods and services available
- Provide personal growth, development, and advancement

Why invention matters/what this means to you
What is intellectual property?

Real property

Intellectual property
What is the U.S. Patent and Trademark Office?
The USPTO is America’s innovation agency

Committed to:

• Fostering innovation and economic growth
• Creating a reliable, predictable, and high-quality IP system
The USPTO in FY19

12,652 employees
- 9,614 patent examiners
- 701 trademark examining attorneys
- 383 Patent Trial and Appeal Board team
- 73 Trademark Trial and Appeal Board team

Patents
- 665,231 applications filed
- 370,434 patents issued

Trademarks
- 673,233 trademark applications
- 297,774 Certificates of Registration
## Types of intellectual property

<table>
<thead>
<tr>
<th>Patent</th>
<th>Trademark</th>
<th>Copyright</th>
<th>Trade secret</th>
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<td>New, inventive ideas</td>
<td>Identifies the origin of goods or services</td>
<td>Creative expression stored in a tangible form</td>
<td>Any information that is valuable &amp; kept confidential</td>
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## Overview of intellectual property

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<tr>
<th>What’s protected?</th>
<th>Utility patent</th>
<th>Design patent</th>
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<td>Newly invented strains of asexually reproducing flowering plants, fruit trees, and other hybrid plants</td>
<td>Original works of authorship, including literary, dramatic, musical, and artistic works</td>
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Let’s talk Trade Secrets!
Trade secrets
Ways to lose a trade secret

- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development
Let’s talk Copyrights!
Copyright

• Library of Congress
• Protects “original works of authorship” including literary, dramatic, musical, artistic, and certain other intellectual works
• Term: Author’s life + 70 years
• www.copyright.gov
Things protected by copyrights

- Songs
- Books
- Movies
- Sculptures
Let’s talk Trademarks!
What is a trademark?

• Any word, slogan, symbol, design, or combination of these that:
  1. Identifies the source of your goods or services and
  2. Distinguishes them from the goods and services of another party
Examples of trademarks

Trademarks can be **WORDS**

- STARBUCKS

- NIKE

Trademarks can be **DESIGNS**

- TARGET
Nontraditional marks – colors
Nontraditional marks – scents
Nontraditional marks – sounds
Likelihood of confusion

• Are the marks confusingly similar?
  – Look alike? Sound alike? Have similar meanings? Create similar commercial impressions?

• Are the goods and/or services related?
  – Encountered in the same channels of trade? Complementary?
Let’s talk Patents!
What is a patent?

The right to exclude others from:

– making, using, selling, offering for sale, or importing the claimed invention

• Limited term

• Territorial: A U.S. patent provides protection only in the United States

– No worldwide patents
Types of patents

**Utility**
Protects how an invention works, functions, or is made for 20 years from filing date
- Process
- Machine
- Article of manufacture
- Composition of matter

**Design**
Protects the way a product or article looks, the ornamental expression for 15 years from the date of grant

**Plant**
Protects newly invented strains of asexually reproducing flowering plants, fruit trees, and other hybrid plants for 20 years from filing date
Anatomy of a patent

• Abstract
  – A short summary of the invention.

• Written description
  – How does it work?
    – How is it made or used?

• Drawings
  – What does it look like?

• Claims
  – The claim(s) define(s) the legal boundaries of the invention, similar to a deed to a property.
Is your idea eligible for protection?

35 U.S.C. § 101
What Is patentable?

Products
- Physical Thing
- Manufacture
- Composition of Matter

Processes
- Means to an end
  - Means of doing something new
  - New way of doing something old

NOVEL NONOBVIOUS UTILITY
Hurdles to Patenting

Is your invention:

- “Novel”: e.g., your invention is new, was not described in the prior art or known
- “Non-obvious”: e.g., the differences between your invention and prior art would not have been obvious to someone in that field
- Does it have “utility”: e.g., does it function as intended

35 U.S.C. §§ 101, 102 and 103
What is NOT patentable?

- **Cannot** patent an idea
  - Must be able to be developed into a *new*, *nonobvious* and *useful* *machine*, *manufacture*, *process*, or *composition of matter* that can actually accomplish the task

- **Cannot** patent natural phenomena

- **Cannot** patent abstract ideas
The path to a patent

New Idea?  →  Provisional application (optional)  →  Non-provisional application  →  Patent!

One year  ↔  Twenty years
# Provisional vs. non-provisional patent applications

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<tr>
<td>• Not examined or published</td>
<td>• Examined</td>
</tr>
<tr>
<td>• One year time limit</td>
<td>• Published 18 months from earliest filing date (unless a request for a non-publication at filing)</td>
</tr>
<tr>
<td>• Only for utility patents</td>
<td>• Can become a patent</td>
</tr>
<tr>
<td>• A low-cost way to establish an early effective filing date (priority date) in a non-provisional patent application with few formalities</td>
<td></td>
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The patent application roadmap

Back and forth with the USPTO
USPTO resources
www.uspto.gov

Entrance into education for inventors, entrepreneurs, start-ups, kids, and teachers.

Find direct resources in your geographic location.

Inspiring stories of invention and innovation.

Easy access to COVID-19 relief and support.

Includes demystifying the patent system toolkit.
Find help in your area

USPTO offices:
- Headquarters:
  - Alexandria, VA
- Regional offices:
  - Detroit
  - Denver
  - Silicon Valley
  - Dallas

Additional resources:
- Inventors Assistance Center
- Patent Pro Bono Program
- Law school clinics
- Patent and Trademark Resource Centers

uspto.gov
East Coast region – USPTO headquarters
600 Dulany Street, Alexandria, Virginia

Core Functions:
• Receipt and examination of patent and trademark applications
• U.S. and international IP policy development
• Oversight and management of USPTO operational functions
• Stakeholder engagement and training

Office hours: 8:30 a.m. – 5 p.m. ET, M – F
Services
  – Public search facility hours 8 a.m. - 5:30 p.m.
  – Examiner interview room
  – Hearing room
  – Public meeting space
  – National Inventors Hall of Fame Museum, 10:00 a.m. – 5:00 p.m.
USPTOvideo Library
USPTO Subscription Center

12 available subscriptions

• Patent Alerts
• Trademark Alerts
• Copyright Alerts
• Patent Trial and Appeal Board
• USPTO Regional Office Updates
• USPTO Press Releases
• USPTO Director’s Forum Blog
• USPTO Monthly Review
• FYI at the USPTO
• Inventors Eye
• Intellectual Property for K-12 Educators
• USPTO Awards

Patent Alert

USPTO announces COVID-19 Prioritized Examination Pilot Program for small and micro entities

The United States Patent and Trademark Office (USPTO) today announced a new COVID-19 Prioritized Examination Pilot Program.

Under this new pilot program, the USPTO will grant requests for prioritized examination to applicants that qualify for small or micro entity status without payment of the typical fees associated with other prioritized examination. In addition, the USPTO will endeavor to reach final disposition of applications in this program within six months if applicants respond promptly to communications from the USPTO.

Read the full press release on the USPTO website.
Learn how to draft patent claims - virtual only

Claim drafting may be the most important part of protecting your invention. Learn the basics of claim drafting from USPTO experts in this interactive workshop. You will develop a better appreciation of how a patent examiner views a claim during the course of examination. This event is free and open to the public, so register early.

The May 15 session will be offered virtually via WebEx for those that have registered for the class.

To get the most out of this workshop, you should have an intermediate knowledge of the intellectual property system and of patents specifically. We recommend that you complete the previous sessions: “Learn the Basics of Intellectual Property with a Focus on Patents” and “Learn How to Draft Your Patent Application” before attending.

Please note that the Silicon Valley USPTO is a federal facility. Attendees are required to present a valid form of government-issued identification (driver license or passport) and may be subject to screening to gain access.

This event is accessible to individuals with disabilities. To request a reasonable accommodation, including captioning, sign language interpreting, or other, please email siliconvalley@uspto.gov or call 408-918-9900.

Register today!
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.

### 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

### 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

### Current events

Information about conferences, conventions and other opportunities to engage.

- Upcoming USPTO Events
The Inventors Assistance Center (IAC) provides patent information and services to the public. The IAC is staffed by former supervisory patent examiners and experienced former primary examiners who answer general questions concerning patent examining policy and procedure.
Trademark Assistance Center (TAC)

- Provides general information about the registration process
- Responds to status inquiries
- Hours of Operation
  - 8:30 a.m. – 8 p.m. (ET), Monday through Friday
- Phone
  - (571) 272-9250 or (800) 786-9199
- Email
  - TrademarkAssistanceCenter@uspto.gov
- Webpage: www.uspto.gov/TrademarkAssistance
USPTO Patent Pro Bono Program

Nationwide network that assists financially underresourced independent inventors and small businesses.

- Coverage in all 50 states achieved and maintained since August 2015
- Program participants must:
  - Have income of 300% below federal poverty guidelines
  - Pay USPTO filing fees and costs
  - Demonstrate knowledge of the patent system
  - Take training course at [www.uspto.gov/video/cbt/certpck/index.htm](http://www.uspto.gov/video/cbt/certpck/index.htm)
  - Have application prescreened to ensure that there is more than an idea
Pro Bono Program organizations

- Washington Pro Bono Patent Network
- Idaho Patent Pro Bono
- CLA
- ProBoPat
- Arizona Public Patent Program
- LegalCorps (MN)
- Pro Bono Patent Project (MI)
- Gateway Venture Mentoring Service
- TALA
- The Ela Project
- Chicago-Kent Patent Hub
- PatentConnect for Hoosiers (IN KY)
- Ohio Invents
- BBVLP Patent Program (MS AL)
- New England Program
- New York Tri State Program
- Delaware Program
- FCBA (Mid-Atlantic)
- PA Patent
- NC Leap
- Georgia Patents
- Patent Pro Bono FL
Patent and Trademark Resource Center (PTRC) locations
Thank you!

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Stephneyanchuk@uspto.gov
Easternregionaloutreachoffice@uspto.gov
571.270.7100
www.uspto.gov