

Intellectual Property (IP)

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Intellectual Property 101



Technology
Commercialization 101

WHAT IS IP?



- Ideas are NOT IP. Ideas are not protectable, except by confidentiality



- Embodiments of ideas are protectable.
- Intangible (intellectual property)



- Patents
- Copyrights
- Trademarks



- Trade Secrets

- Tangible (materials, etc.)

FORMS OF IP PROTECTION



	 Patents	 Trade Secrets	 Trademarks	 Copyrights
Protects	Innovation	Anything	Brand Source	Works In Tangible Media
Terms	20 Years	Forever, As Long As Kept Secret	Forever Based On Use	Life of Author Plus 70 Yrs.
Protects Against	Make, Use, Or Sell	Illegal Disclosure	Confusingly Similar Mark	Copying

WHAT IS A PATENT?



Provides a legal right to **exclude** others from:

- Making
- Using
- Selling or offering for sale
- Importing the claimed invention

A document that provides a limited monopoly, not the right to practice the invention.

GRANT OF EXCLUSIONARY RIGHTS

Caveman A



Got patent on a bucket

- Caveman B cannot use his own invention because it will infringe Caveman A's patent.

Caveman B



Got patent on a bucket with a handle

- But, Caveman B can stop Caveman A from using his invention of a bucket with a handle.

WHAT KINDS OF THINGS ARE PATENTABLE?



NEW PROCESS, MACHINE, MANUFACTURE, COMPOSITION

Examples:

- New chemical entities, including new intermediates, new salts, and enantiomers.
- Methods of making new compounds.
- Kits containing a new combination of materials or comprised of materials and equipment used for diagnosis or treatment.

WHAT IS NOT PATENTABLE?

- Laws of nature $\vec{F} = m\vec{a}$
- Naturally occurring things such as minerals, plants, human DNA, and unaltered organisms



WHAT ARE THE REQUIREMENTS?

A patent must:

- Have utility
 - Does what it intends to do
- Disclosed and enabled
- Novel
- Non-obvious
 - To one of ordinary skill in the art
 - Combine 2 or more references

LOSS OF PATENT RIGHTS

- A public disclosure of the invention without filing an application with the USPTO will destroy patent rights
- Public disclosure = public access:
 - Poster presentations
 - Online publication of manuscripts
 - Oral paper presentations
 - Grant submissions (if made available online, for example)
 - Public thesis/dissertation defense or placing it in library

PATENT DUE DILLIGENCE

- Understand the patent claims providing protection of the envisioned product
- Access Patent Landscape
 - Questions to Ask*
 - 1. Who is working in this area and are they blocking patents?
 - 2. What part of the market does the patent provide protection for?
 - 3. Analyze breath of claims -- can competitor design around easily?

WHAT IS COPYRIGHT

Copyright protection subsists....in **original works of authorship fixed in any tangible medium** of expressionotherwise communicated, either directly or with the aid of a machine or device.
(17 U.S.C. § 102)

Applicable for:

Software

Schematics/drawings

Firmware

Publications (technical/journal articles, etc.)

THINGS TO CONSIDER IN COPYRIGHT

1. Are there pre-existing License Requirements?
 - Open Source (GPL, LGPL, BSD, etc.?)
 - 3rd Party Contributions?
 - Royalty Sharing Agreement in place?
2. Are there reach-through license requirements stemming from the compiler?
3. Are There Related Patents?

WHY BOTHER WITH IP?

IP provides a unique and proprietary advantage

A FEW EXAMPLES OF UNIVERSITY IP LICENSES

YAHOO!

PROCRIT®
EPOETIN ALFA

Google™



allegra
fexofenadine HCl

LYRICA®
PREGABALIN



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