Intellectual Property 101 – an IP Primer

or "Everything you wanted to know about IP (but were afraid to ask)"

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February 18, 2015

UT System Office of General Counsel's Educational Seminars

If you don’t understand why this is funny, you need this webinar

Types of Intellectual Property (IP) in General

1. Patents
   - Protect Inventions
2. Trademarks
   - Indicate Source of Goods or Services
3. Copyrights
   - Protect expression, not ideas, from being copied
4. Trade Secrets
   - Protect “secret” information – think “formula for Coke"

Basis for IP Law is Found in Constitution at least for patents and copyrights

- The Patent / Copyright Clause, United States Constitution, Article 1, Section 8
  - The Congress shall have power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Patents

What is a patent?

- The right to exclude others from making, using, selling, or importing the invention (35 USC § 154(a)) or to obtain a reasonable royalty from anyone who makes, uses, sells or imports the invention (35 USC § 154(d)).
- There is no right granted to practice your own invention!

Patents

Patent Grant

The United States of America

The Director of the United States Patent and Trademark Office

Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.

Therefore, this

United States Patent

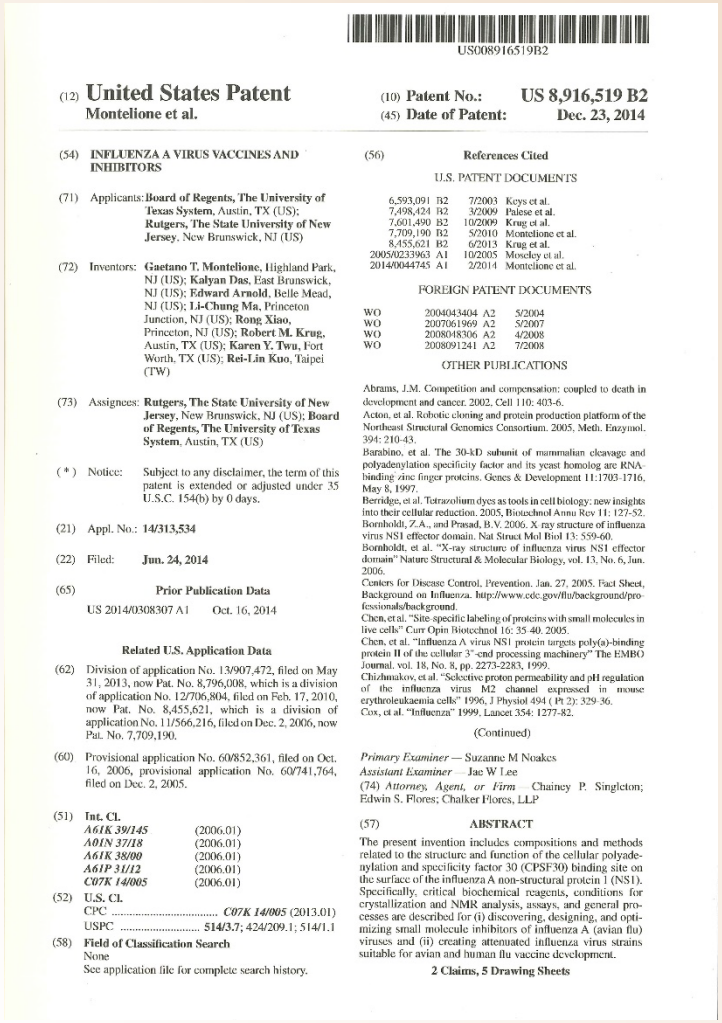
Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America, and if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States of America, or importing into the United States of America, products made by that process, for the term set forth in 35 U.S.C. 154(a)(2) or (c)(1), subject to the payment of maintenance fees as provided by 35 U.S.C. 41(b). See the Maintenance Fee Notice on the inside of the cover.

Michelle K. Lee

Deputy Director of the United States Patent and Trademark Office

Patents

First Page of Patent



US008916519B2

(12) **United States Patent**
Montelione et al.

(10) **Patent No.: US 8,916,519 B2**
(45) **Date of Patent: Dec. 23, 2014**

(54) **INFLUENZA A VIRUS VACCINES AND INHIBITORS**

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(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/313,534**

(22) Filed: **Jun. 24, 2014**

(65) **Prior Publication Data**

US 2014/0308307 A1 Oct. 16, 2014

Related U.S. Application Data

(62) Division of application No. 13/907,472, filed on May 31, 2013, now Pat. No. 8,796,008, which is a division of application No. 12/706,804, filed on Feb. 17, 2010, now Pat. No. 8,455,621, which is a division of application No. 11/566,216, filed on Dec. 2, 2006, now Pat. No. 7,709,190.

(60) Provisional application No. 60/852,361, filed on Oct. 16, 2006, provisional application No. 60/741,764, filed on Dec. 2, 2005.

(51) **Int. Cl.**

A61K 39/145	(2006.01)
A01N 37/18	(2006.01)
A61K 38/00	(2006.01)
A61P 31/12	(2006.01)
C07K 14/005	(2006.01)

(52) **U.S. Cl.**

CPC ***C07K 14/005*** (2013.01)

USPC **514/3.7**; 424/209.1; 514/1.1

(58) **Field of Classification Search**

None

See application file for complete search history.

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(Continued)

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(57) **ABSTRACT**

The present invention includes compositions and methods related to the structure and function of the cellular polyadenylation and specificity factor 30 (CPSF30) binding site on the surface of the influenza A non-structural protein 1 (NS1). Specifically, critical biochemical reagents, conditions for crystallization and NMR analysis, assays, and general processes are described for (i) discovering, designing, and optimizing small molecule inhibitors of influenza A (avian flu) viruses and (ii) creating attenuated influenza virus strains suitable for avian and human flu vaccine development.

2 Claims, 5 Drawing Sheets

Patents

Parts of a Patent Document

- **Summary Page**
  - Patent #, Title, Names of Inventors, Assignee (Owner), Abstract, Prior Art, Representative Drawing
- **Drawings**
- **Background of the Invention**
  - Describes general nature of problem solved by invention and state of the existing technology (MPEP 608.01(c)).
- **Brief Summary of the Invention**
  - A condensed version of the detailed description
- **Brief Description of the Drawings**
- **Detailed Description of the Invention**
  - Describes the invention in detail so as to enable one of ordinary skill in the art to practice the invention without undue experimentation. (MPEP 608.01(g)). This requirement ensures that the public is able to use the invention after expiration of the patent's term.
- **Claims** (most important part of the patent)
  - The claims define the metes and bounds (i.e., scope) of patent protection afforded under the patent. The claims must particularly point out and distinctly claim the subject matter which the inventor regards as his/her invention. (MPEP 608.01(i); 37 CFR 1.75).

Patents

Types of Patents

- Utility
  - Useful process, machine, manufacture, or composition of matter. 35 USC §101
  - What people normally think of when they think of patents
- Plant
  - Distinct and new variety of plant, other than that found in an uncultivated state 35 USC §161
- Design
  - New, original and ornamental design 35 USC §171
  - Has cross-over aspects with trademark and copyright

Patents

Life and duration of a Patent

- Pre-1995: 17 years from issue date
- Post-1995: 20 years from filing date
- Assuming all maintenance fees paid

Patents

What can you patent?

- Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor. 35 USC §101.

Patents

What can you patent?

Requirements of 35 USC §101

- Be statutorily patentable subject matter
- Be new (novelty)
- Be non-obvious
- Be useful

Patents

Four Categories of Statutorily Patentable Subject Matter

1. **Process** – an act, or a series of acts or steps.
2. **Machine** – a concrete thing, consisting of parts, or of certain devices and combination of devices.
3. **Manufacture** – an article produced from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand labor or by machinery.
4. **Composition of matter** – all compositions of two or more substances and all composite articles, whether they be the results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids, for example.

Patents

You cannot patent

- **Naturally occurring things** (although you can patent man-made things). So while you could not patent the leaves of different plants, you could patent a pharmaceutical made out of those leaves (as well as the process of making it).
- **Living things** (generally), although you can patent certain live matter, such as genetically engineered animals, plants, etc., or the process of extracting a natural product.
- **Laws of nature, mathematical formulas and abstract ideas**. Thus, Isaac Newton could not have received a patent for discovery the connection between force and mass (one of those equations you learned in basic physics, $F = ma$). However, you might be able to patent an application of a mathematical formula or a law of nature, if it otherwise meets the patent requirements.
- **A simple idea or suggestion**. Rather, the invention must be something real and concrete. So while you can patent a machine, you can not obtain a patent simply for the idea of some machine.

Patents

Novelty – 35 USC §102

- Invention must be “new: as defined in the patent law. 35 USC § 102 is complicated and often requires a detailed analysis of the facts and the law.
- An invention will not normally be patentable if:
    1. the invention **was known to the public before it was "invented**" by the individual seeking patent protection;
    2. the invention was **described in a publication more than one year prior to the filing date**; or
    3. the invention **was used publicly, or offered for sale to the public more than one year prior to the filing date**.
- In the United States there is a one year period after the first public disclosure or offer for sale of an invention during which a patent application must be filed.
    - This "statutory bar" is unforgiving, which means that an inventor who does not file for patent protection on her new invention within this one year grace period will lose all right to obtain patent protection on the invention. In fact, it may be that by simply explaining your invention to friends and co-workers without any obligation of confidentiality, you may have started the "ticking" of this one-year clock.
- Although the United States grants the one year grace period described in the last two rules above, most other countries do not grant such a period. Therefore, it is almost always preferable to file a patent application before any public disclosure of the invention. **Contact your campus Office of Technology Commercialization before disclosing any invention!**

Patents

Non-Obvious – 35 USC §103

- An invention must not only be novel, it must also be a nonobvious improvement over the prior art.
    - Would the invention sought to be patented have been obvious to a "**person having ordinary skill in the art**" (**PHOSITA**)?
- Obviousness is one of the most difficult determinations in patent law.
    - Patent review to find most relevant art
    - If all the features of the invention can be **found in a single patent, patent lacks novelty**
    - If no patent contains all of the features, **combine two or more prior patent**s and attempt to find all of the **features in a combination** of those prior patents
    - If successful in finding such a combination, the patent is generally **rejected as an obvious combination** of items known in the prior art.
    - However, there **must be some reason to combine the two references**, and often a rejection based on such a combination can be overcome.
- Some modifications which would not normally be patentable are:
    - the substitution of one material for another, or
    - changes in size.

Patents

Useful

- The patent law specifies that the subject matter must be "useful."
- The term "useful" in this connection refers to the condition that the subject matter has a useful purpose and also includes “operativeness”;
    - that is, a machine which will not operate to perform the intended purpose would not be called useful, and therefore would not be granted a patent.
- In most cases, the usefulness requirement is easily met

Patents

How do you acquire, enforce and license a patent?

That is a subject for another webinar.

The short answer for now is

Contact your campus Office of Technology Commercialization

Patents

The Patenting Pace Proceeds Prodigiously

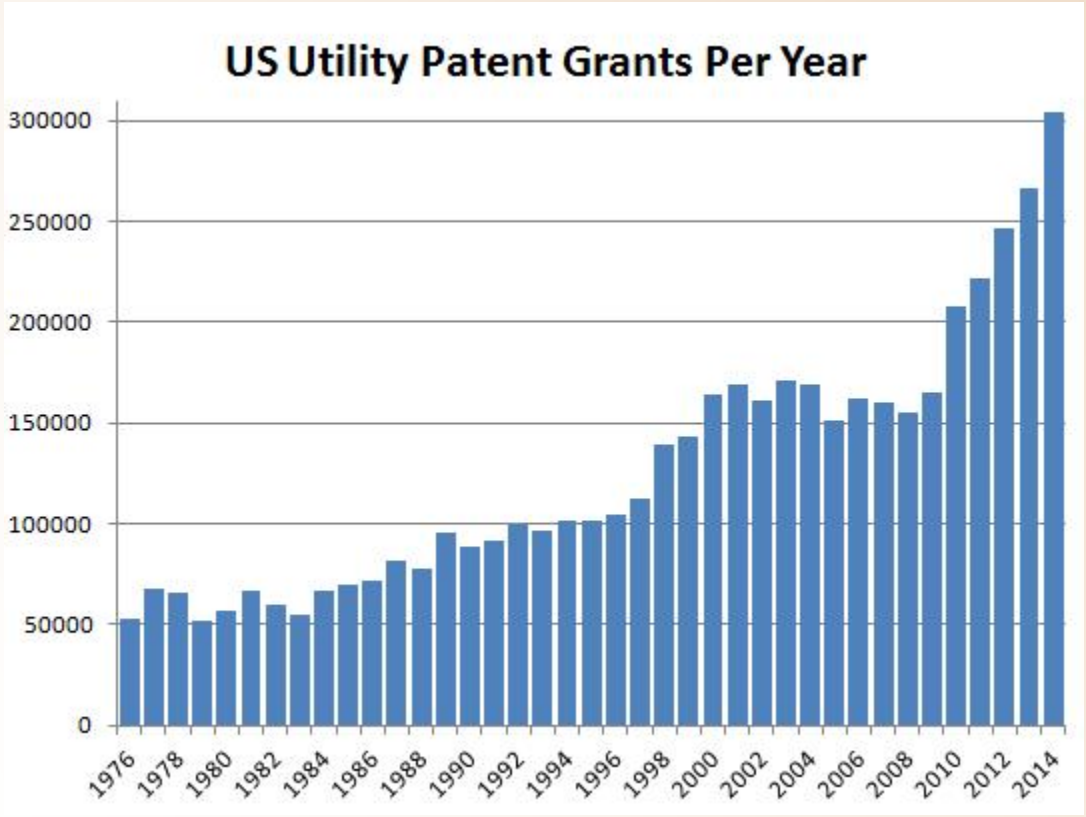
Millions of Patents - http://www.uspto.gov/news/Millions_of_Patents.jsp

The first patent was issued in 1838

- # 1,000,000 in 1911 (Δ 73 years)
- # 2,000,000 in 1935 (Δ 24 years)
- # 3,000,000 in 1961 (Δ 26 years)
- # 4,000,000 in 1976 (Δ 15 years)
- # 5,000,000 in 1991 (Δ 15 years)
- # 6,000,000 in 1999 (Δ 8 years)
- # 7,000,000 in 2006 (Δ 7 years)
- # 8,000,000 in 2011 (Δ 5 years)
- This week, the USPTO was issuing patents above number 8,950,000 . . . So # 9,000,000 isn't far from issuing (Δ 4 years?)

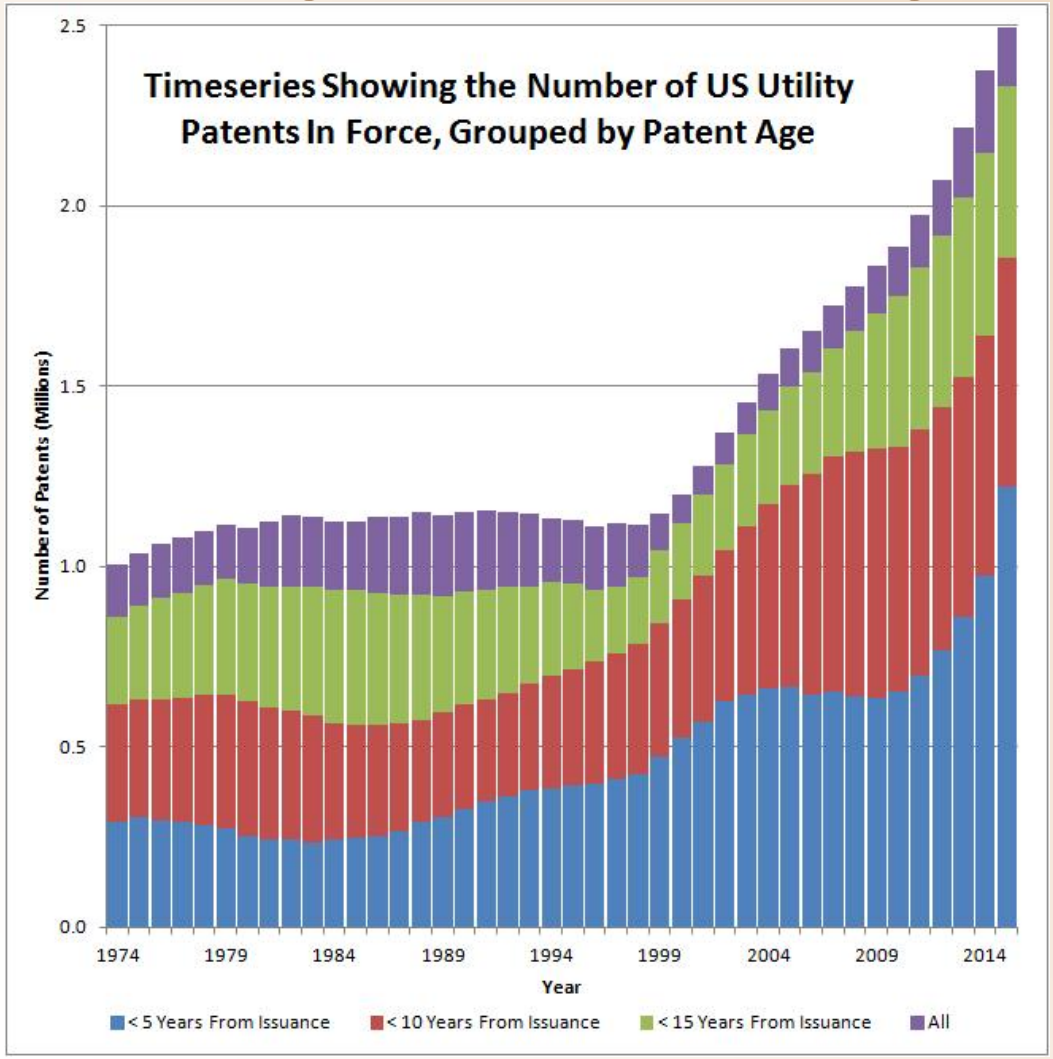
Patents

The Patenting Pace Proceeds Prodigiously



Patents

The Patenting Pace Proceeds Prodigiously



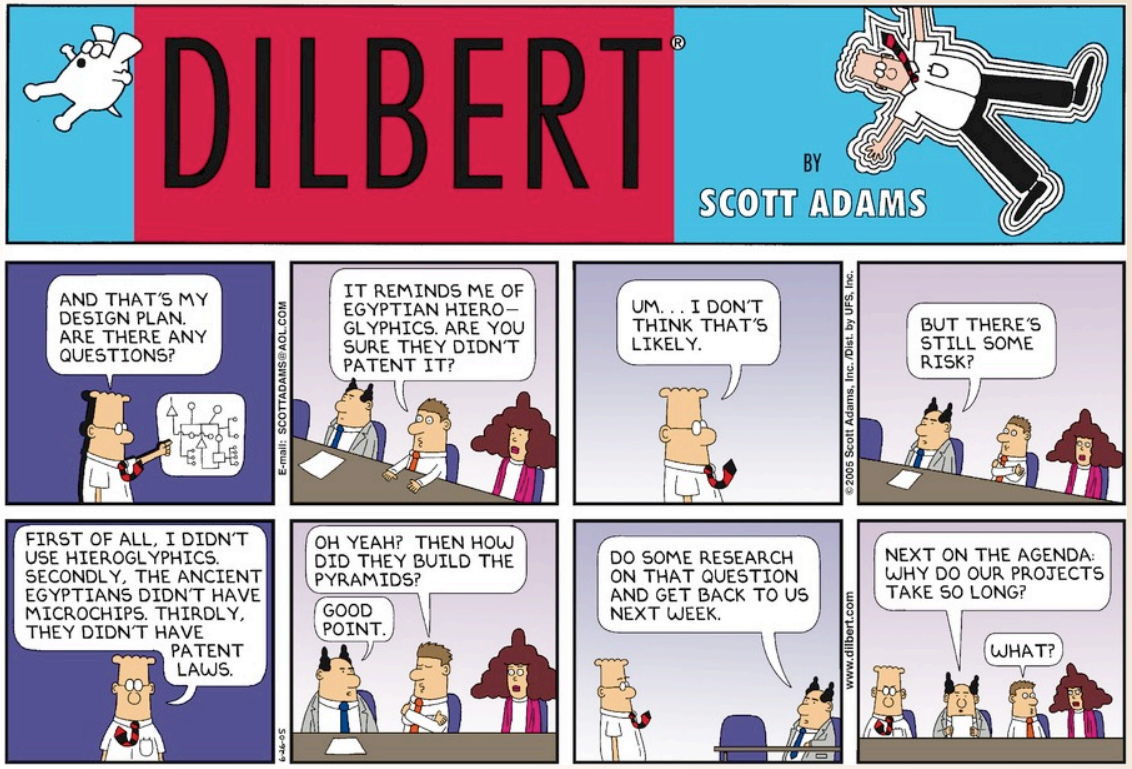
Patents

Pop Quiz

1. **Can you patent a mouse?**
   - Generally No, but Yes if it is genetically engineered.
   - NY Times – April 13, 1988 http://www.nytimes.com/1988/04/13/us/harvard-gets-mouse-patent-a-world-first.html
2. **Can you patent DNA?**
   - You cannot patent isolated DNA (which is naturally occurring and therefore is a product of nature), but you can patent cDNA (synthetic versions of DNA that omit non-coding portions). *Association for Molecular Pathology, et al. v. Myriad Genetics, Inc., et al.* ***569 U. S.*** ____ (2013), Docket No. 12-398.
3. **Can you patent a perpetual motion machine?**
   - No – perpetual motion is impossible (since such a machine would violate either the first or second law of thermodynamics – or both), so such a "device" would be in the "not useful" category, and therefore not patentable.

Patents

Questions on Patents?



Trademarks

What is a trademark?

- A trademark is a brand name.
- A trademark or service mark includes any word, name, symbol, device, or any combination, used or intended to be used **to identify and distinguish** the goods/services of one seller or provider from those of others, and **to indicate the source** of the goods/services.

Trademarks

Some examples of famous trademarks

How many do you recognize?

Trademarks

Examples of some University of Texas Trademarks

Even without words, can you determine the affiliation?

Trademarks

- Trademarks are the one type of IP **designed to protect consumers**, not the owner of the mark.
- Trademarks make it easier for consumers to **quickly identify the source** of a given good or service.
    - Instead of reading the fine print on a can of cola, consumers can look for the Coca-Cola trademark.
- **Trademarks make goods easier to identify**, and give manufacturers an incentive to make quality goods.
    - After all, if a consumer tries a can of Coca-Cola and finds the quality lacking, it will be easy for the consumer to avoid Coca-Cola in the future and instead buy another brand.
- **Purpose of trademark law – prevent likelihood of confusion by consumers as to the origin, source, sponsorship or affiliation of goods and services**

Trademarks

What Sources of Law Govern Trademarks?

- Trademarks are governed by both state and federal law.
- Originally, state common law provided the main source of protection for trademarks.
- However, in the late 1800s, the U.S. Congress enacted the first federal trademark law. Since then, federal trademark law has consistently expanded, taking over much of the ground initially covered by state common law.
- The main federal statute is the **Lanham Act**, which was enacted in 1946 and most recently amended in 1996. 15 U.S.C. §§1051, *et seq.*.
- Today, federal law provides the main, and by and large the most extensive, source of trademark protection, although state common law protection is still available.

Trademarks

Requirements

- In order to serve as a trademark, a mark must be distinctive -- that is, it **must be capable of identifying the source of a particular good**.
- In determining whether a mark is distinctive, the courts group marks into four categories, based on the relationship between the mark and the underlying product:
    1. **arbitrary or fanciful,**
    2. **suggestive**
    3. **descriptive**
    4. **generic**
- The requirements for, and degree of, legal protection afforded a particular trademark will depend upon which category the mark falls within.

Trademarks

Arbitrary or Fanciful

- An arbitrary or fanciful mark is **a mark that bears no logical relationship to the underlying product**.
- For example, the words "Exxon," "Kodak," and "Apple" bear no inherent relationship to their underlying products (respectively, gasoline, cameras, or computers).
- Similarly, the Nike "swoosh" bears no inherent relationship to athletic shoes.
- **Arbitrary or fanciful marks are inherently distinctive** -- i.e. capable of identifying an underlying product -- and are given a high degree of protection.

Trademarks

Suggestive

- A suggestive mark is **a mark that evokes or suggests a characteristic of the underlying good**.
- For example, the word "Coppertone" is suggestive of sun-tan lotion, but does not specifically describe the underlying product. Some exercise of imagination is needed to associate the word with the underlying product.
- At the same time, however, the word is not totally unrelated to the underlying product.
- Like arbitrary or fanciful marks, **suggestive marks are inherently distinctive** and are given a high degree of protection.

Trademarks

Descriptive

- A descriptive mark **is a mark that directly describes, rather than suggests, a characteristic or quality of the underlying product (e.g. its color, odor, function, dimensions, or ingredients)**.
- Examples that all describe some aspect of the underlying product or service:
  - Holiday Inn – hotel rooms
  - All Bran – breakfast cereal
  - Vision Center – optical services
- Descriptive marks are terms that are useful for describing the underlying product, and giving a particular manufacturer the exclusive right to use the term could confer an unfair advantage.
- **Descriptive marks are not inherently distinctive and are protected only if they have acquired "secondary meaning**."
  - A descriptive mark acquires secondary meaning when the consuming public primarily associates that mark with a particular producer, rather than the underlying product.

Trademarks

Descriptive (Secondary Meaning)

- "Holiday Inn" has acquired secondary meaning because the consuming public associates that term with a particular provider of hotel services, and not with hotel services in general.
- The public need not be able to identify the specific producer, only that the product or service comes from a single producer.
- Secondary meaning factors:
    1. **the amount and manner of advertising;**
    2. **the volume of sales;**
    3. **the length and manner of the term's use;**
    4. **results of consumer surveys.**

Trademarks

Generic

- A generic mark is **a mark that describes the general category to which the underlying product belongs**. Generic marks are entitled to no protection under trademark law.
- Example - "Computer" is a generic term for computer equipment. A manufacturer selling "Computer" brand computers (or "Apple" brand apples, etc.) would have no exclusive right to use that term with respect to that product.
- **Generic terms are not protected by trademark law** because they are simply too useful for identifying a particular product. Giving a single manufacturer control over use of the term would give that manufacturer too great a competitive advantage.
- Under some circumstances, terms that are not originally generic can become generic over time and thus become unprotected. Some examples include:

Aspirin	Linoleum
Escalator	Mimeograph
Kerosene	Thermos
Laundromat	Videotape

Trademarks

How do you acquire a trademark?

- Use the mark – this confers common law trademark rights.
- The use of a mark generally means the actual sale of a product or service to the public with the mark attached.
- For Federal Registration, use must be in "interstate commerce."

Trademarks

Federal Registration of Trademark

- Although **registration with the PTO is not required for a trademark to be protected, registration does confer a number of benefits** to the registering party. 15 USC § 1051.
  - Gives the owner the **right to use the mark nationwide** 15 USC § 1072 (subject to some limitation if mark is already being used by another).
  - Constitutes **nationwide constructive n**otice to others that the trademark is owned by the party.
  - Enables owner to bring an **infringement suit in federal court**. 15 USC § 1121.
  - Allows the owner to potentially recover **treble damages, attorneys fees, and other remedies**.
  - Registered trademarks can, after five years, become "**incontestable**," at which point a third party may no longer claim the mark was improperly registered or challenge the owner's rights to the mark. 15 USC §1065.
- Applications for registration are subject to approval by the USPTO.
- USPTO rejection of a mark does not necessarily mean that it is not entitled to trademark protection; it means only that the mark is not entitled to the additional benefits listed above. 15 USC § 1125.
- **Contact the Office of Trademark Licensing if you want to file an application to register a mark with the USPTO - http://www.utexas.edu/trademarks/**

Trademarks

Duration

- Common law trademark rights remain in force as long as the owner continues to use the mark.
- Federal trademark registration remains valid for 10 years after filing, with optional 10-year renewal periods. To maintain active registration, the owner must file a "Declaration of Use" between the fifth and sixth year following the initial registration and between the 9th and 10th year of every 10-year renewable period.
- The rights to a trademark can be lost through abandonment, improper licensing or assignment, or genericity.
- **Always contact the Office of Trademark Licensing about use and licensing of marks - http://www.utexas.edu/trademarks**

Trademarks

Marking

- You can use the ™ for any trademark
- You can only use the ® for a mark registered with the USPTO.
    - Do not use during application process – only after mark is registered.
- **Again, <u>always</u> contact the Office of Trademark Licensing about use and licensing of marks - http://www.utexas.edu/trademarks**
- Your campus should also have a published "Style Guide" on how to use that institution's particular marks.

Trademarks

Trademark Infringement

- If consumers are likely to be confused, there is infringement.
- "Digits of Confusion" test in 5th Circuit:
  - Type of mark allegedly infringed (fanciful, suggestive, descriptive, etc.)
  - Similarity between the marks
  - Similarity of products or services
  - Identity of the retail outlet and purchasers
  - Identity of the advertising media used
  - Defendant's intent
  - Any evidence of actual confusion
  - Care exercised by potential purchasers

  Xtreme Lashes, LLC v. Xtended Beauty, Inc., 576 F.3d 221 (5th Cir. 2009).

  – List of factors is non-exhaustive

  – No single factor is dispositive, and test does not require a positive finding on a majority of factors.

  – If likelihood of confusion analysis is closely balanced, courts usually award "tie" to senior user.

Trademarks

Pop Quiz

So, how can the Washington Redskins continue to use the name "Redskins" even after USPTO refused to renew their trademark registrations?

- A federal registration is not needed to use mark.
- The mark is can still be protected under under common law.
    - They just lose certain benefits of federal registration.
- And, the case still has to go to Appeals Court (where the Redskins won on similar grounds 10 years ago).

Trademarks

Questions on Trademarks?

Copyrights

What is a copyright?

- Copyright is a form of protection grounded in the U.S. Constitution and granted by law for **original works of authorship fixed in a tangible medium** of expression. Copyright covers both published and unpublished works.

Copyrights

What does copyright protect?

- Copyright protects **original works of authorship** including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture that are **captured in a tangible medium**. 17 USC §102.
- Copyright does not protect ideas, methods or systems
- For more information, See Circular 1, *Copyright Basics*, http://www.copyright.gov/circs/circ01.pdf and Circular 31, *Ideas, Methods or Systems*, http://www.copyright.gov/circs/circ31.pdf

How is a copyright different from a patent or a trademark?

- Copyright protects original works of authorship captured in a tangible medium, while:
  - A patent protects inventions or discoveries. Ideas and discoveries are not protected by the copyright law, although the way in which they are expressed may be.
  - A trademark protects words, phrases, symbols, or designs identifying the source of the goods or services of one party and distinguishing them from those of others.

Copyrights

The Copyright Act (17 USC §106) generally gives the owner of copyright the exclusive right to do, and to authorize others to do, the following:

- **reproduce** the copyrighted work in copies or phonorecords;
- **prepare derivative works** based upon the copyrighted work;
- **distribute copies** or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- **perform** the copyrighted work **publicly**, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
- **display** the copyrighted work **publicly**, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work; and
- **perform the work publicly** (in the case of sound recordings) by means of a **digital audio transmission**.

Copyrights

When is a work protected?

- A work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.

Does one have to register with the U.S. Copyright Office to be protected?

- No. In general, registration is voluntary.
- Copyright exists from the moment the work is created.
- The copyright owner does have to register, however, to bring a lawsuit for infringement of a U.S. work. See Circular 1, *Copyright Basics*, http://www.copyright.gov/circs/circ01.pdf, section "Copyright Registration."

Copyrights

Copyright Ownership in General

- The copyright in the work of authorship immediately becomes the property of the author who created the work.
- Only the author or those deriving their rights through the author can rightfully claim copyright.
- In the case of works made for hire, the employer and not the employee is considered to be the author.
- The authors of a joint work are co-owners of the copyright in the work, unless there is an agreement to the contrary.
- Copyright in each separate contribution to a periodical or other collective work is distinct from copyright in the collective work as a whole and vests initially with the author of the contribution.
- Regents Rule 90101 provides more details about ownership of copyright within the UT System.

Copyrights

Works Made for Hire

- Section 101 of the copyright law defines a “work made for hire” as:
  - a work prepared by an employee within the scope of his or her employment; *or*
  - a work specially ordered or commissioned for use as:
    - a contribution to a collective work
    - a part of a motion picture or other audiovisual work a translation
    - a supplementary work
    - a compilation
    - an instructional text
    - a test
    - answer material for a test
    - an atlas
  - If the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

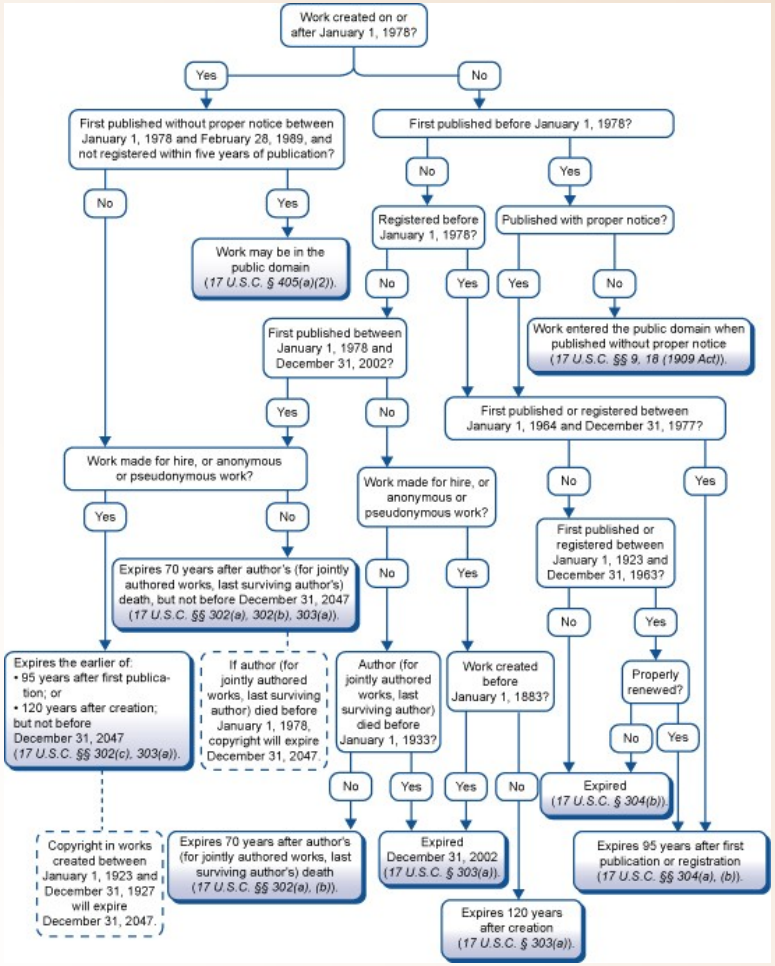
Copyrights

Marking

- Mark copyrighted material with the ©, whether registered or not.
- Format for marking is
  - ©, Year Published, Owner Name
    - See Circular 1, *Copyright Basics*, http://www.copyright.gov/circs/circ01.pdf, section "Notice of Copyright"
  - So, the marking for this slide show would be:
    - © 2015 Board of Regents, The University of Texas System
- Marking is required for protection of registered copyrights

Copyrights

What is the Duration of a Copyright? Just refer to this "simple" chart . . . ?
Or contact your campus legal office for assistance.



Copyrights

Fair Use

- The Copyright Code (17 USC §107) contains a list of the various purposes for which the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research.
- Section 107 also sets out **four factors** to be considered in determining whether or not a particular use is fair use:
    1. The **purpose and character of the use**, including whether such use is of commercial nature or is for nonprofit educational purposes;
    2. The **nature of the copyrighted work**;
    3. The **amount and substantiality of the portion used** in relation to the copyrighted work as a whole;
    4. The **effect of the use** upon the potential market for, or value of, the copyrighted work.
- For a much more detailed discussion of fair use, please see
    - Georgia Harper's Copyright Crash Course on the UT Library website - http://copyright.lib.utexas.edu/
    - Stanford's Copyright and Fair Use website - http://fairuse.stanford.edu/

Copyrights

Copyright in the Classroom

- **An educator may show or perform any work related to the curriculum, regardless of the medium, face-to-face in the classroom** - still images, music of every kind, even movies. There are no limits and no permission required. 17 USC §110(1).
- The TEACH Act authorizes an educator to digitize works for use in digital distance education, but only to the extent one is authorized to use those works in Section 110(2), and so long as they are not available digitally in a format free from technological protection.
- For course packs, electronic reserves, etc.
    - Every UT institution is covered by an academic license UT has acquired from the Copyright Clearance Center.
    - If the material you want to use is listed as included in the "Academic" license library on the CCC website (http://www.copyright.com/ just put the title in the "Get Permission" search box) then you can use it as part of your teaching – up to and including making electronic and paper copies for your class.
    - Fortunately for me – this includes Dilbert Cartoons.
    - If our CCC license did not include Dilbert Cartoons, I would have to rely on fair use to allow me to use these cartoons in this presentation

Copyrights

Pop Quiz

- Hypothetical – a guitar soloist does an improv riff at a local club. Does any copyright exist for his music?
    - No copyright if it is not captured in a tangible medium.
- What if an audience member records video on iPhone and posts the video to YouTube? Does a copyright exist now?
    - Yes, since the performance was captured in tangible medium.
- Who would own the copyright(s) the musician who performed or person who recorded?
    - The musician owns the copyright to the music performance, while the audience member owns a copyright of the video capture. The problem is, to show the video the audience member would need the permission of the musician since the musician owns the underlying copyright to the music and performance.
- And no, you shouldn't copy music off the internet or off your friend's iPod.
    - As of July 2006, the Recording Industry Association of America (RIAA) has sued over 20,000 people for copyright infringement - https://www.eff.org/wp/how-not-get-sued-file-sharing

Copyrights

Questions on Copyrights?

Trade Secrets

What is a trade secret?

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, process, financial data, or list of actual or potential customers or suppliers, that:

(A) derives **independent economic value**, actual or potential, **from not being generally known** to, and **not being readily ascertainable** by proper means by, other persons who can obtain economic value from its disclosure or use; and

(B) is the subject of **efforts that are reasonable** under the circumstances **to maintain its secrecy**.

Texas Uniform Trade Secrets Act, Texas Civil Practice and Remedies Code, Title 6, Sec. 134.001 (6)

Trade Secrets

- **In General**
  - Trade Secrets must remain “secret”
  - “Reverse Engineering” does not violate trade secret law
- **Trade Secrets and UT**
  - The Texas Public Information Act does not allow the University of Texas to claim something as a “trade secret” in order to prevent disclosure
  - Universities are in the business of publishing research.
  - Therefore, unlike private businesses, UT does not engage in trade secret practice to any great extent
- **Questions on Trade Secrets?**

Resources

- Series 90000 : Intellectual Property of Regents Rules http://www.utsystem.edu/bor/rules/
- United States Patent and Trademark Office http://www.uspto.gov/
  - Patent Basics http://www.uspto.gov/patents-getting-started/general-information-concerning-patents
  - Search Patents http://www.uspto.gov/patents-application-process/search-patents
  - Trademark Basics http://www.uspto.gov/trademarks-getting-started/trademark-basics
  - Search Registered Trademarks http://www.uspto.gov/trademarks-application-process/search-trademark-database
- United States Copyright Office http://www.copyright.gov/
  - Circulars, including Copyright Basics http://copyright.gov/circs/
- Georgia Harper's Copyright Crash Course on the UT Library website - http://copyright.lib.utexas.edu/
- Stanford's Copyright and Fair Use website - http://fairuse.stanford.edu/
- Copyright Clearance Center http://www.copyright.com/

Wrap Up

- More QUESTIONS? (if time!)
- This is one presentation in a series of seminars that OGC will be offering this year.
- For more on patents, trademarks, copyrights, trade secrets or IP in general, please contact Jim Cox at 512-499-4337or jcox@utsystem.edu.
- We will be emailing you a written set of all of the questions (and answers) we didn't get through today.

Thank you for your support

- We hope you will tune in again next month!
- This session is being recorded, and will be available on the System-wide Academy website at http://www.utsystem.edu/offices/systemwide-compliance/event/intellectual-property-101-ip-primer-or-everything-you-wanted-kno
- If would like to set up a training on another legal topic through the UT System Office of General Counsel, please contact Tamra English (tenglish@utsystem.edu) or Jason King (jking@utsystem.edu).