Intellectual Property: Patents, Copyrights, and Trademarks

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- Manages IP for the UW
- Established in 1925 by Dr. Harry Steenbock; 1st organization of its kind
- A tax exempt, not-for-profit corporation
- Independent world-class Board of UW alums

1925 – Harry Steenbock
Vitamin D by Irradiation
WARF’s Mission

To support scientific research at the UW by:

- protecting patentable inventions
- licensing inventions
- investing licensing revenue to fund further UW research
- moving inventions to the market place, for the benefit of the UW, the inventor, and society as a whole
Intellectual Property
What is Intellectual Property?

Intellectual Property (IP) can be any product of the human intellect, such as:

- invention
- expression
- unique name
- business method
- industrial process
- chemical formula
How do we protect IP?

Patents

Trademarks

Copyrights
Trademark, Patent or Copyright

- A **trademark/service mark** identifies and distinguishes the source of a good/service.

- A **patent** protects an invention – i.e., a process, machine, article of manufacture or composition of matter.

- A **copyright** protects an original artistic or literary work... an expression of an idea, not the idea itself.
What are you protecting?

PATENTS

COPYRIGHTS

TRADEMARKS
Patents
Patentable Inventions

Patents protect new, useful, and non-obvious:

- Machines
- Processes or methods (including algorithms)
- Compounds or compositions of matter
- Articles of manufacture
- Improvements on technologies listed above
Patent Rights

Patents provide the nationwide right to **exclude** others from:

- **Making**
- **Using**
- **Selling**
- **Offering to Sell**
- **Importing**

… the patented invention.
Patent Process

- Inventor conceives of the invention
- Invention is made and tested (as appropriate)
- Patent application is prepared
- Application is filed in the U.S. Patent Office
- Application is examined by the Patent Office (2-3 years)
- Application Issues as a Patent
  - Patent expires 20 years from filing date
First to Invent

- The U.S. awards the patent to the “first to invent”, whereas the rest of the world rewards the “first to file”

- Critical events for determining “first to invent”:
  - Conception: the idea for the invention
  - Reduction to practice: make & test invention

- Bottom line: keep a laboratory notebook
Grace Period v. Absolute Novelty

- If the invention is sold, used in public, or publicly disclosed/described:
  - For U.S. patent, there is a 1-year Grace Period in which the inventor must file a patent application.
  - For countries that require Absolute Novelty, there is no grace period.
Public Disclosures

Examples of typical public disclosures of an invention:

- Non-confidential department seminar
- Journal publication
- Professional meeting presentation
- Poster session
- Description on an internet site
- Offer for sale, or use of the invention in public
Trademarks
Elements of a Trademark

- Word/Phrase
  - Standard or stylized characters
- Symbol/Design
- Sound
- Color
- Scent/Taste
- Shape
- Any combination of the above
Earning Trademark Rights

- The first person to **use** a mark in connection with the sale of goods or services.
- Adopting a trademark begins with performing a search of what trademarks are already registered or in use.
- Owners don’t have to register the trademark, but there are legal advantages to federal trademark registration.
- Trademark registration can be renewed every 10 years, for as long as the trademark is used.
Fair Use – When You Can Use Another’s Trademark

- Nominative use (e.g., mentioning it in fiction or a product review)
- Comparative advertising
- Parody
- Journalistic uses
- Compatibility of aftermarket goods (e.g., what is this gadget compatible with?)
Copyrights
Copyrights

- Copyrights protect an **EXPRESSION** of an idea

- Copyrights encourage creative efforts by giving the author(s) the exclusive right to:
  - reproduce the copyrighted work
  - derive income from the copyrighted work
Copyrightable Subject Matter

- Literary Works
- Musical Works
- Dramatic Works
- Pictorial, Graphic and Sculptural Works
- Web pages

- Software and computer programs
- Mask works and semiconductor chips
- Architectural Works
- Motion Pictures and other Audiovisual Works
Copyright does not protect:

- Ideas
- Titles, names, short phrases, logos and slogans
- Facts
- Website addresses
Obtaining Copyright Protection

- Copyright is created automatically when the work is created

- Registration is not required (but is highly recommended)
  - Provides additional protection
  - Simple and inexpensive ($30)
Term of Copyright Protection

- Works created on or after January 1, 1978:
  - Life of the Author plus 70 years.

- Works created before January 1, 1978:
  - 28 years (renewable for up to a total of 95 years)
Trade Secrets
Trade Secrets

- Can include almost anything a business maintains as secret, such as:
  - Manufacturing processes
  - Software
  - Customer lists
  - Marketing and other business data

- Patent and trade secret protection are mutually exclusive because:
  - A patent requires full disclosure to the public
  - A trade secret requires secrecy