



UNITED STATES PATENT AND TRADEMARK OFFICE

Overview of Patents, Trademarks, Copyrights and Trade Secrets

Tom Turner
Patent & Trademark Depository Library Program
GPO Interagency
July 30, 2010



U.S. Patent and Trademark Office

- Examines patent applications and grants patents
- Examines trademark applications and registers trademarks
- Disseminates information about patents and trademarks



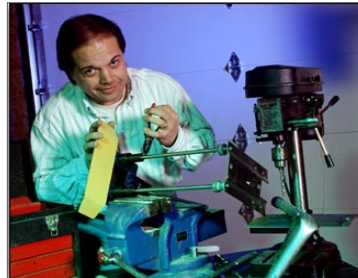
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Customers Seeking Patent and Trademark Information

- Inventors
- IP Practitioners
- Large Companies
- Business Owners
- Students/Faculty
- Researchers/Engineers
- Database Providers
- Historians/Genealogists
- Other Patent Offices



Traditional Method of Getting Information to Customers: Print



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USPTO Website 2010 www.uspto.gov

United States Patent and Trademark Office
An Agency of the Department of Commerce

Home | Help | Site Index | Contact Us

SEARCH: GO

HOW DO I: - Select an Option - GO

About USPTO Patents Trademarks IP Law & Policy Products & Services Careers Inventors News & Notices eBusiness/Alerts FAQs For Kids

USPTO Launches Ombudsman Pilot Program

New one-year pilot program provides assistance with application-specific issues, saving applicants and the agency time and resources.

» Read More

USPTO Self Service

Information Services and Data Products:
- Select a Product or Service - GO

Patents

- 1 **Patents Process**
Visit the Patents Process page
- 2 **Search**
Search patent databases
- 3 **View Fee Schedule**
Check on the current fees and information related to the patent process
- 4 **File Online**
Apply for a patent using the Electronic Filing

Trademarks

- 1 **Trademark Basics**
View Basic Information about Trademarks
- 2 **Search Marks**
Search pending and registered marks (TESS)
- 3 **File Forms Online**
File application and other documents online (TEAS)
- 4 **Check Status**
Check the status of an application or

Intellectual Property Law & Policy

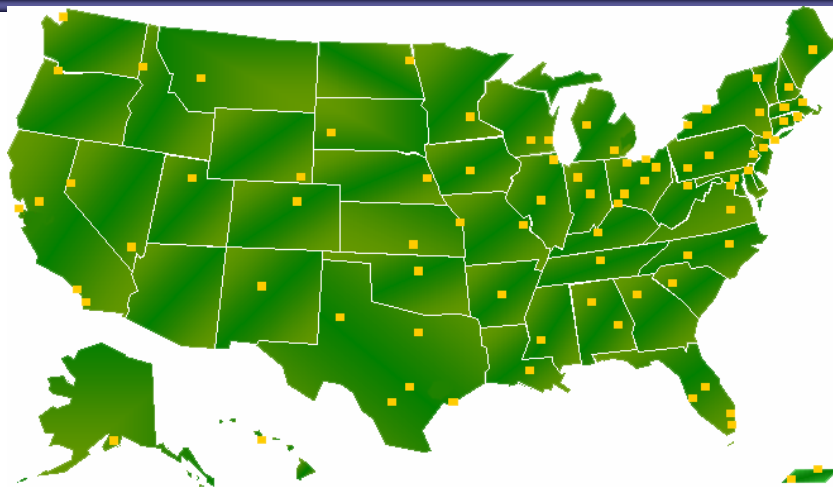
- 1 **IP Policy and Enforcement**
USPTO leads efforts to develop and strengthen both domestic and international IP protection
- 2 **Training and Education**
The Global IP Academy (GIPA) offers IP related programs around the world
- 3 **Boards and Counsel**
General Counsel, Office of the Solicitor, Office of General Law, Office of Enrollment and

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Patent and Trademark Depository Libraries—81 Nationwide



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Services at PTDLs

Trained librarians help customers, show how to search, find referenced patent and non-patent literature, promote programs to support inventors.

Provide access to

Website

Cassis disc products

Public Version of WEST
(Web-based Examiners
Search Tool)



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What is Intellectual Property?

- A product of the intellect that may have commercial value
- A creation of the mind, such as inventions, literary and artistic works, symbols, names, images, and designs used in commerce

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Ways to Protect Intellectual Property

- Copyrights
- Trade Secrets
- Patents
- Trademarks

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Copyright

Protects "original works of authorship"
fixed in a tangible form of expression



The Library of
Congress in
Washington, D.C.

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www.copyright.gov

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Copyrightable Works

- Literary works
- Musical works
- Dramatic works
- Choreographed works

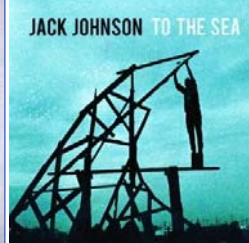


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- Commercial Art
- Graphic works
- Sculptural works
- Motion Pictures
- Sound Recordings
- Architectural Plans, Drawings or Buildings

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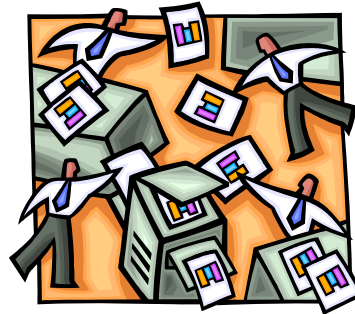


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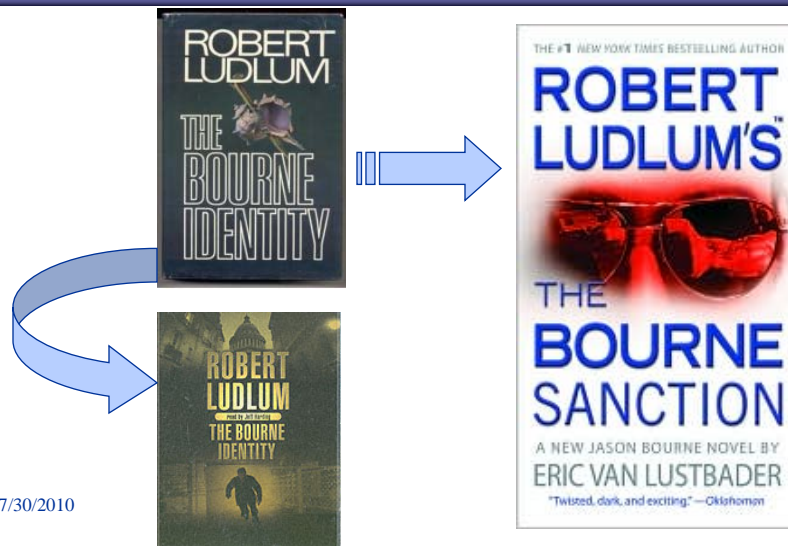
Exclusive Rights to Copyright Owner

Exclusive Right to
Reproduce the work
Prepared **derivative** works
Distribute copies
Perform the work publicly
To **display** the work publicly
To **perform** the work publicly
Or to Authorize others to do so.



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Copyright Fees

U.S. Copyright Office registration filing fees

\$65 per paper application filing (original work of authorship on Forms PA, SR, TX, VA, SE)

\$35 per application for electronic filing (basic claim in an original work of authorship)



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Copyright Registration Benefits

- Registration establishes a public record of copyright claim
- Registration necessary before filing an infringement suit
- Financial recovery
- Record registration with U.S. Customs Service
- Low Cost

U.S. Customs
Service Personnel



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Trade Secrets

- Must remain a ***secret!***
- A trade secret may be a formula, practice, process, design, instrument, pattern, or compilation of information used by a business to obtain an advantage over competitors within the same industry or profession



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Benefits of Trade Secrets

- No fees
- No registration
- No time limits
- Gives the business an advantage over competitors



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Patents



A U.S. patent is...

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 (or 18 months after filing)

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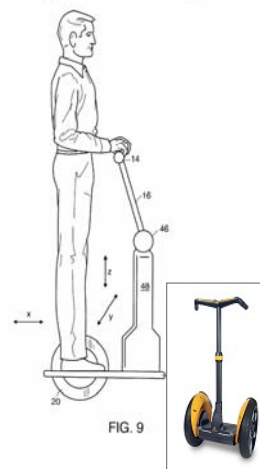
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What Can Be Patented? (Utility Patent example)

- **Machine, Article of Manufacture, Process, Composition of Matter, Business Methods (since mid-90's court decision)**
- **Any new, useful improvement of the above**
- **Term: 20 years from filing date.**

U.S. Patent Apr. 5, 2002 Sheet 9 of 16 US 6,267,817 B1



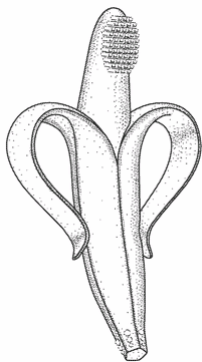
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Design Patents

- Granted for a new, original and ornamental design for an article of manufacture. Only the appearance is protected.
- Term: 14 years from the date the patent is granted

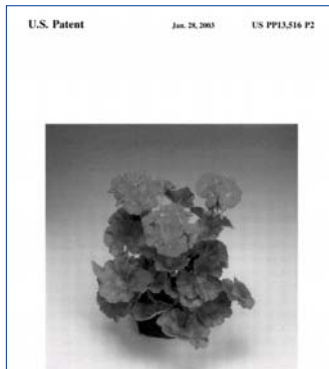


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Plant Patents

- Granted for a new, asexually reproduced plant
- Term: 20 years from filing date



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What Cannot Be Patented?



Inventions which are **NOT NEW** (lack novelty);
Inventions which were “**MADE PUBLIC**” more than one year prior to patent application filing date;
Inventions which are **OBVIOUS** variations of known technology (obvious to one familiar with the technology);
Laws of nature, physical phenomena & abstract ideas.

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What Does *Patent Pending* Mean?

This means a provisional or non-provisional patent application has been submitted to the USPTO.

This may be used for marketing purposes ; but it also acts to discourage others from applying for a patent on the same product or copying the product.



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Utility Patent Fees: Non-Provisional Application for a Small Entity (as of 7/15/10)



- Initial filing fee, \$82*(electronic)/165
- Search Fee, \$270
- Examination Fee, \$110
- Issue Fee, \$755
- Maintenance Fees:
 - 3.5 yrs. \$490
 - 7.5 yrs. \$1240
 - 11.5 yrs. \$2055

Note: If you select to file a Provisional Patent Application, the Filing Fee is \$110 for Small Entities

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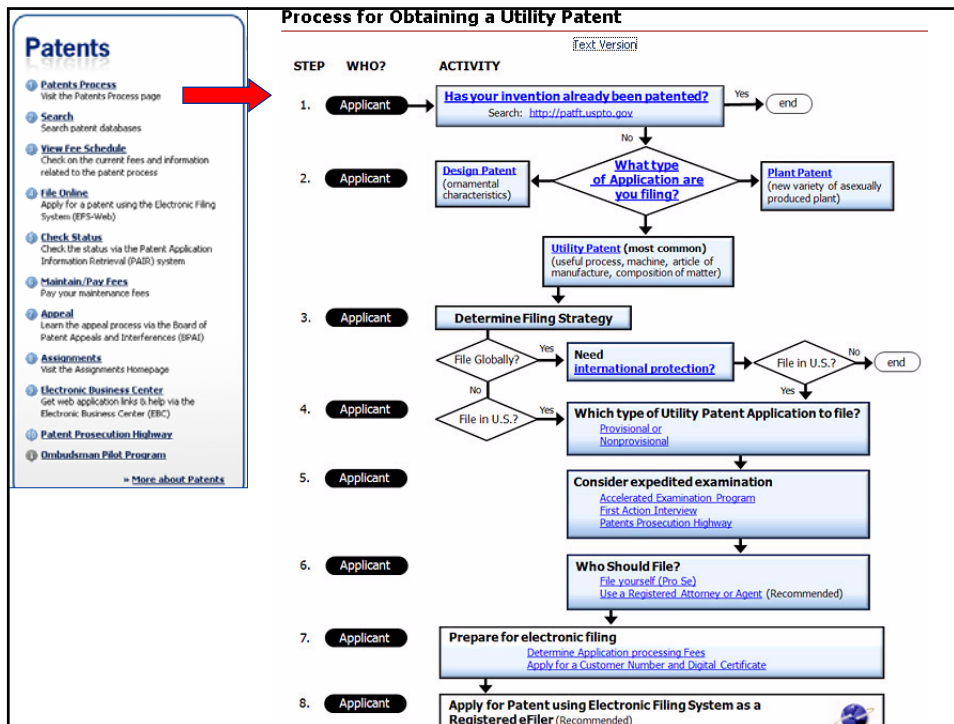
Patents as Property


- Can be sold (“assigned”) or a lump sum
- Can be licensed to another party with inventor receiving royalties while retaining patent
- Can be inherited by heirs



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Web Tutorial on Patent Searching

www.uspto.gov/web/offices/ac/ido/ptdl/tutorials.html



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A full transcript of this presentation can be found under the "Notes" Tab.

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What is a Trademark?



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A Trade Name may or may not function as a Trademark

A trade name or commercial name is the name under which an individual or corporation conducts business.

Fuji Heavy Industries - trade name
Subaru® - trademark

Here, a trade name is also used as a trademark:



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A Domain Name may or may not be used as a Trademark

- Term that only serves to identify the location on the Internet where the applicant's web site appears, and does not separately identify the applicant's goods or services, does not function as a trademark
- Domain names may be registered by commercial registrars
- However, a domain name that functions as an identifier of the source of goods or services may be registered as a trademark by the USPTO



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TRADEMARKS (umbrella term)

tm

sm

Trademarks
(tangibles)

Service marks
(intangibles)

products/goods

services



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TM, SM and ®

"TM" (trademark) or "SM" (service mark) – used to designate you are claiming rights in a mark

"®" – used only *after* the USPTO registers a mark, not while an application is pending; cannot be used if the mark is not registered with USPTO



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Word/Letter Marks

iTunes

Apple, Inc.
Reg. 2,653,465

Bubblicious

Warner-Lambert Co.
Reg. 1,064,061

XEROX

Xerox, Inc.
Reg. 525,717

Just Do It.

Nike Inc.
Reg. 1,817,919

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Color Marks

Tiffany (blue) #2359351
UPS (brown) #2131693, others



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Logos, Symbols and Designs



McDonald's
Reg. 1,303,958



Nike
Reg. 1,990,180



Mr. Clean
Reg. 2,626,563

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Composite Marks



Starbucks Coffee
Reg. 3428128 and others



PepsiCo, Inc.
Reg. 3120808

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Configuration Marks



Pizza Hut building (Reg. 852,458)

LeNature's water bottle (Reg 2,948,629)



Hershey's
(Reg. 3,572,216)



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Sound Marks

Sound, music or spoken words:

NBC broadcast chimes (Reg. 916,522)

MGM Lion (Reg. 1,395,550) 



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Forms of Trademark Protection



Common Law

protection derived from use

State Registration

registered with one or more U.S. states

Federal Registration

registered by the U.S. Patent and Trademark Office

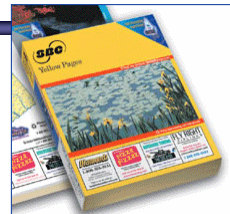
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Common Law Marks

- Not registered
- USPTO does not consider
- However, trademark applicants may want to consider
- May be found in a variety of resources, such as web search engines



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State Trademarks

- Used in commerce within a state
- Registered with a state office, such as the Secretary of State's office (varies by state)



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State Trademark Information

USPTO links to state trademark offices:

www.uspto.gov/web/menu/statetmoffices.html

State Trademark Information Links

To acquire trademark and/or service mark registration at the state level, applicants must file an application with the trademark office of the specific state in which protection is sought. For information about state registration requirements, applicants must contact the individual state trademark office.

National Index of Trademark Offices: <http://www.sos.state.md.us/Registrations/Trademarks/NtlIndexTM.htm>

Alabama: <http://www.sos.alabama.gov/BusinessServices/Trademarks.aspx>

Alaska: <http://www.commerce.state.ak.us/occ/tmark.htm>

Arizona: http://www.azsos.gov/business_services/tnt/

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Trademark Rights

- Rights arise from **actual use of a mark in commerce, whether it is registered or not**
- Rights can last indefinitely (if mark remains in use)
- **Benefits with federal registration of trademarks at the USPTO**

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Federal Trademark Registration Benefits

- Filing date “constructive” date of first use
- Evidence of the registrant’s ownership of the mark and exclusive right to use the mark in commerce for goods or services specified in registration
- Right to sue in federal courts and recover profits, possibly treble damages and attorney’s fees
- Customs Service aid
- And others (see handout)



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Trademark Information Network Videos



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Trademark examiner Jason Lott standing on the Trademark Information Network (TMIN) set, which was digitally-generated using a computer.

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Patents

Trademarks

1. Protect inventions.
2. Patented inventions may/may not make it to commerce
3. Length of protection is limited
4. Only issued at the federal level
5. Complex, costly applications

1. Protect words, etc. used on products and services in commerce
2. Many trademarked products/services are not patented
3. Length of protection is not limited, IF...
4. Also issued at the state level
5. Much less complex and less costly applications

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Recent USPTO Statistics

485,500 **Patent Application Filings in FY 2009**
 190,121 **Patents issued in FY 2009**
 83% **Patent Applications Filed Electronically**
 35 months **Total Average Patent Pendency**

352,051 **Trademark Application Filings**
 241,637 **Trademarks registered in FY 2009 (US)**
 97.8% **Trademark Applications Filed Electronically**
 13.5 months **Total Average Trademark Pendency**

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True or False?

I must use an attorney to apply for a patent or trademark.

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True or False?

I will get my application money back if my patent is not granted.

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True or False?

I can mail a letter to myself with a description of my invention. The postmark will prove the date of my idea to government and court authorities.

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True or False?

A U.S. patent will not protect my invention in countries other than the United States.

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True or False?

I have to pay to use the resources of a Patent and Trademark Depository Library.

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True or False?

Librarians at PTDLs will help me complete my patent and/or trademark applications.

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True or False?

**I can file a complaint
against an Invention
Promotion Firm with the
USPTO.**

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Questions?



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