

Patent Analysis

Part 1: Overview

Disclaimer
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Overview

- Protection of Intellectual Property



“Apparatus for partening the head hair, German Patent 142389 / 1902”

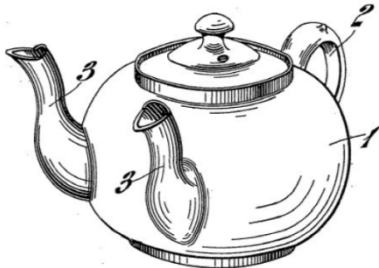
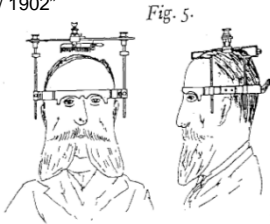


Fig. 1.

“Improvements in or relating to Tea Pots or the like – GB 360253 / 22th Dec. 1930”



Overview

- **Protection of Intellectual Property**

- Contractual agreement
- Trade Secret
- Copyright
- Trademark
- Patent

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Overview

- **Contractual agreement**

- Particularly useful with collaborating parties (employees, contractors, suppliers, customers, etc.)
- Specify ownership, duty and responsibilities of each party
- Easier to enforce than traditional IP protections
- Beware of potential anti-trust issues

Source:  Everest Intellectual Property Law Group

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Overview

- **Trade Secrets**

- Keep information secret to provide owner a commercial advantage
- Most applicable to products and processes that are difficult to reverse engineer
- Trade secrets need not be innovative or patentable
- Key to enforcement of trade secrets is to limit access to the secrets
- Protection only against individuals who have a confidential relationship with or duty of confidence to the person or entity supplying the information – contractual agreements critical

Source:  Everest Intellectual Property Law Group

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Overview

- **Copyrights, Trademarks, Patents**

- **COPYRIGHT** - relate to literary or creative works
- **TRADEMARKS** - relate to product names or symbols
- **PATENTS** - relate to inventions


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Overview

• Copyrights, Trademarks, Patents

	Protection	Examples
Copyrights (©)	Original works of authorship fixed in a tangible medium	Books, movies, recorded music, sheet music, catalogs, computer software, sculptures, building designs
Trademarks (TM)	Good will or commercial reputation	Slogan, logo, name of business, service mark, trade dress, domain names
Patents	Inventions, new processes, ornamental designs	Manufactured articles, machines, processes, composition of matters, method of use, designs, new plant varieties

Source:  Everest Intellectual Property Law Group

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Overview

• Copyright Registration


• Copyrights arise automatically upon creation and fixation in a tangible medium

• Registration allows owner of copyrighted material

- To bring a law suit for infringement and seek statutory damages

Source:  Everest Intellectual Property Law Group

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Overview

- **Trademark Registration**

- “Common Law” Right - Registration is not required
- First person to use and continues to use the mark owns the mark, including the rights to assign or license the mark, for the specific geographical area that he/she uses the mark
- Registration is recommended
 - To extend the rights nationally
 - Registration can be applied for before actual use
 - Simplifies protection and enforcement

Source:  Everest Intellectual Property Law Group

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Overview

- **What is a Patent?**

- **In exchange** for a **limited-term right to exclude** others from making, using or selling a novel, non-obvious and **claimed** invention in the **country** for which the patent is to be validly granted the inventor must provide a complete and **accurate public description** of the invention.
- This provides others with the ability to use that information to invent further, **thus pushing technology forward** for the benefit of society.

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Overview

- **What is a Patent?**

- Industrial Property Rights

- Runtime (EU)

- Patent

- (20 years)

- Utility Model / Gebrauchsmuster

- (10 years)

- Design Patent / Geschmacksmuster

- (25 years)

- Copyright

- (70 years)

- Plant Variety Right / Sortenschutzrecht

- (20 years)

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Overview

- **What is a Patent?**

- Patentability

- Novel

- Useful (industrial)

- Non-Obvious (for a skilled person)

- Prior Rights / Prior Art

- Principle difference between USPTO (United States Patent and Trademark Office) and EPO (European Patent Office) and other Patent Offices worldwide:

- **First-to-file** (EPO and others)

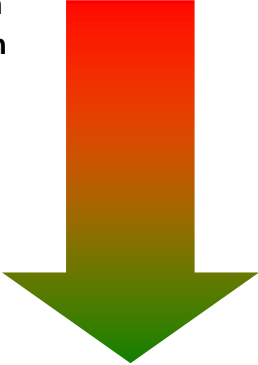
- **First-to-invent** (old style USPTO) (grace periode 1 year)

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Overview

- What is a Patent?
 - Finding a solution for a technical problem
 - Crystallizing the idea behind the invention
 - **Drafting and filing of a patent application**
 - Prosecution of the patent application
 - Grant and publication of the patent
 - Commercialization
 - Enforcement
 - Success?
 - Failure?




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Overview

- What is a Patent?
 - **Typical patents includes:**
 - Drawings
 - Brief Abstract or Summary
 - Patent Specification
 - Detailed Description of How-To-Make or Use the Invention
 - **INID / IPC Codes:** international system that allows elements on the patent cover page to be identified in all languages
 - **Claims** - phrases that precisely define the invention and outline the boundaries of the claimed invention (prevents infringement)



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Overview

- **What is a Patent?**

- Patents are organised into:
 - Classes - Broad Technological Categories
 - Subclasses - Specific Technological Categories
 - Patents may be assigned to more than one subclass

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Overview

- **Patents Application Process**

- Documenting the invention
 - Who? What? When?
 - Witness
- Preparing an invention record
 - What is the invention?
 - What is known vs. what is new?
 - Who are the inventors?
 - Where did the invention come from?

Source:  Everest Intellectual Property Law Group

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Overview

- **Patents Application Process**

- Screening invention records for filing patent applications
- Patentability, freedom to operate, and infringement analyses
- Filing in your home countries
- Filing PCT Application (The [Patent Cooperation Treaty](#) or PCT is an international agreement for filing patent applications having effect in up to 117 countries.)
- Filing in foreign countries
- Filing continuation-in-part applications

Source:  Everest Intellectual Property Law Group

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Overview

- **Drafting Patent Applications**

- Business objectives need to be considered
- Should cover specific product(s) or service(s)
- Understand prior art
- Understand patentability and freedom to operate
- Accommodate international filings

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