

INTELLECTUAL PROPERTY



INTELLECTUAL PROPERTY

describe works of the mind—such as art, books, films, formulas, inventions, music, and processes—that are distinct and owned or created by a single person or group. Intellectual property is protected by law through copyright, patent, and trade secret laws (Reynolds, 2015).



1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES

Article 14, section 13

The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law.



WHY IS INTELLECTUAL PROPERTY IMPORTANT?

Intellectual Property are important as they are considered as intangible assets of the company, if it is not protected, it can be stolen, sold or licensed by someone else just like a physical property.



INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES

The Intellectual Property Code of the Philippines is divided into five (5) parts:



01

The
Intellectual
Property
Office

02

The Law
on
Patents

03

The Law on
Trademarks,
Service
Marks and
Trade Names

04

The Law
on
Copyright

05 Final Provisions

INTELLECTUAL PROPERTY RIGHTS UNDER THE I.P. CODE OF THE PHILIPPINES

- Copyright and related rights
- Trademarks and service marks
- Geographical Indications
- Industrial designs
- Patents
- Layout designs [topographies] of integrated circuits; and
- Protection of undisclosed information



PATENTS



PATENTS

Is a right granted to an inventor by the federal government that permits the inventor to exclude others from making, selling or using the invention for a period of time. The patent system is designed to encourage inventions that are unique and useful to society (smallbusiness.findlaw.com, What Is a Patent? 2019). Patents are only valid in the country or region in which they have been granted.



BASIC PATENT PRINCIPLES

- Territoriality
- First to File
- Disclosure
- Conditional
- Limited rights



PATENT IN THE PHILIPPINES

In the Philippines, patent application, as well as the rules and regulations that grants and enforce patents are regulated by the Intellectual Property Office, through the Republic Act No. 8293.

According to the Intellectual Property Office of the Philippines, a patent is a temporary monopoly granted to an inventor by the government (territorial) in return for disclosing an invention.

The exclusive right is given for 20 years from the filing date.



PATENTABLE INVENTION

Any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable

A patent can be granted for an invention, which is a product, or a process that provides in general, a new way of doing something, or offers a new technical solution to a problem.



CRITERIA FOR PATENTABILITY

- Novelty
- Inventive step
- Industrially Available



EXAMPLES OF PATENTABLE INVENTIONS

- a. Product – such as a machine, a device, an article of manufacture, a composition of matter, a microorganism;
- b. A process, such as a method of use, a method of manufacturing, a non-biological process, a microbiological process;
- c. Computer-Related inventions, invention involves a computer, computer network or other programmable apparatus, with features realized wholly or partly by means of a computer program; and
- d. An improvement of any of the foregoing

EXAMPLES OF NON-PATENTABLE INVENTIONS

- a. Plants varieties and animal breeds or essentially biological process for the production of plants or animals.
This provision shall not apply to micro-organisms and non-biological and microbiological processes;
- b. Aesthetic creations;
- c. Discoveries, scientific theories and mathematical methods;
- d. Schemes, rules and methods of performing mental acts, playing games or doing business and programs for computers;
- e. Anything which is contrary to public order or morality
- f. Methods for treatment of human or animal body and;
- g. In the case of drugs and medicines, mere discovery of a new form or new property of a known substance which does not result in the enhancement of the efficacy of that substance

TRADEMARK



TRADEMARK



- A word, phrase, symbol, and/or design that identifies and distinguishes the source of the goods of one party from those of others.
- Often used in a general sense to refer to both trademarks and service marks”.
- Trademark in the Philippines is managed and governed by the Intellectual Property Office of the Philippines.

SERVICE MARK



It is a word, phrase, symbol, and/or design that identifies and distinguishes the source of a service rather than goods. Some examples include brand names, slogans, and logos.

BENEFITS OF TRADEMARK

According to the Intellectual Property Office of the Philippines, a trademark gives you the following benefits:

1. A trademark protects a business' brand identity in the marketplace.
2. Registration of trademark gives the owner the exclusive rights to prevent others from using or exploiting the mark in any way.
3. Aside from being a source-identifier, differentiator, quality indicator, and an advertising device, a protective mark may also bring another stream of income to the owner through licensing or franchising.



TRADEMARK INFRINGEMENT

The unauthorized use of a trademark or service mark on or in connection with goods and/or services in a manner that is likely to cause confusion, deception, or mistake about the source of the goods and/or services (United States Patent and Trademark Office, About Trademark Infringement 2018).



TRADE SECRETS

- **Business information that represents something of economic value, has required effort or cost to develop, has some degree of uniqueness or novelty, is generally unknown to the public, and is kept confidential (Reynolds, 2015).**
- **Another type of intellectual property which has economic value to companies and enable them to attain competitive advantage over their competitors who does not know or use it.**
- **Trade secret protection vary by country or territory.**
- In US, As a member of the World Trade Organization (WTO) and a party to the Agreement on Trade Related Aspects of Intellectual-Property Rights (TRIPS), the United States is obligated to provide trade secret protection. Article 39 paragraph 2 requires member nations to provide a means for protecting information that is secret, commercially valuable because it is secret, and subject to reasonable steps to keep it secret (United States Patent and Trademark Office, Trade Secret Policy).



COPYRIGHT



COPYRIGHT

- The right to prevent copying in relation to works that qualify for protection (Daly, The importance of intellectual property to businesses 2017).
- a collection of rights that automatically vest to someone who creates an original work of authorship – like a literary work, song, movie or software. These rights include the right to reproduce the work, to prepare derivative works, to distribute copies, and to perform and display the work publicly.



HOW DOES A COPYRIGHT PROTECTION LAST?



According to the Copyright Office of the United States, the term of copyright for a particular work depends on several factors, including whether it has been published, and, if so, the date of first publication. As a general rule, for works created after January 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years.

For an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of 95 years from the year of its first publication or a term of 120 years from the year of its creation, whichever expires first. For works first published prior to 1978, the term will vary depending on several factors.

Works created on or after January 1, 1978, are not subject to renewal registration. As to works published or registered prior to January 1, 1978, renewal registration is optional after 28 years but does provide certain legal advantages (U.S. Copyright Office, copyright.gov, n.d.).

SOFTWARE COPYRIGHT

To prevent software to be illegally reproduced without the consent of the developer, it is important that software companies should have the software copyrighted. It also gives the owner the right to fight against software piracy.



COPYRIGHT INFRINGEMENT



Occurs when a copyrighted work is reproduced, distributed, performed, publicly displayed, or made into a derivative work without the permission of the copyright owner.

EXAMPLE

APPLE VS MICROSOFT

In the early 80's and 90's, this was the time when Apple and Microsoft were starting to become successful and are making headlines in the computing industry. Microsoft were the first outside developer of Apple and is outsourced to create productivity software for Mac.

On March 17, 1988, Apple sued Microsoft for copyright infringement. Apple claimed that Microsoft copied Macintosh's visual displays without a license.



REFERENCES

www.copyright.gov/help/faq/faq-duration.html

Jury Awards Apple \$539 Million in Samsung Patent Case. (2018, May 24). Retrieved May 31, 2020, from <https://www.nytimes.com/2018/05/24/business/apple-samsung-patent-trial.html>

Kan, M. (2018, August 23). Facebook Bans Personality App, Suspends 400 Others. Retrieved June 22, 2020, from <https://sea.pc当地新闻.com/news/29021/facebook-bans-personality-app-suspends-400-others>

Reynolds, GW. (2019). Ethics in Information Technology. (6th Ed). Boston, MA: Cengage.

Trademark. (2020, March 23). Retrieved May 31, 2020, from <https://www.ipophil.gov.ph/services/trademark/>

Trademark, Patent, or Copyright? (2011, December 13). Retrieved May 31, 2020, from <https://www.uspto.gov/trademarks-getting-started/trademark-basics/trademark-patent-or-copyright>

Trade Secret Policy. (n.d.). Retrieved June 01, 2020, from <https://www.uspto.gov/ip-policy/trade-secret-policy>

What is Copyright?: Copyright Alliance. (2020, April 14). Retrieved May 29, 2020, from https://copyrightalliance.org/ca_faq_post/what-is-copyright/

What Is a Patent? (2019, July 02). Retrieved May 31, 2020, from <https://smallbusiness.findlaw.com/intellectual-property/what-is-a-patent.html>

What is a Trade Secret? (n.d.). Retrieved May 31, 2020, from https://www.wipo.int/sme/en/ip_business/trade_secrets/trade_secrets.htm
Intellectual Property Law from <https://www.youtube.com/watch?v=5dtMcSgbYuE>