Types of intellectual Property

* Trade Marks
  + Brand name/logo intended to identify source of goods
  + Protected by government
  + Use in commerce
* Copyright
  + Protects original works of authorship
    - Literary works
    - Musical works
      * Accompanying words
    - Dramatic works
      * Music
    - Etc
  + Does not protect underlying ideas or functionality
  + Rights to reproduce, prepare derivatives, distribute copies, perform, display, transmit
  + Software code is protected by literary work
  + Length: Life of the author + 70 years
  + Company Works: Protection lasts for the shorter of 95 years from publication or 120 years from creation
* Trade Secret
  + Formula, pattern, compilation, program, device, method, technique, or process
  + Economic value
  + Is not generally known
  + Not readily ascertainable by proper means by competitors who can obtain economic value from tis disclosure or use
    - Crime to steal a trade secret
  + Reasonable efforts to maintain secrecy
  + CocaCola!
  + Length: Potentially forever
* Patents: Inventions
  + A right granted by the government through the US Patent & Trademark Office
  + Allows an inventor to prevent others from making, using, selling, importing into the US the inventor’s creation without permission
  + Negative right
  + Lasts about twenty years
  + Utility
    - Process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof
    - New, useful, non-obvious
  + Plant
    - Asexually reproduced, distinct and new variety of plant
  + Design
    - New, original, and ornamental design for an article of manufacture

Parts of a patent

* Background - what is the problem to be solved
* A brief description or summary of the invention
* A detailed description of the invention, including details of how to make and use the invention and drawings
  + Detailed enough so that a person from the field is able to understand just by reading
* Claims: A description in words of the precise invention that the inventor wishes to protect

Patent Criteria

* Novelty
  + How to lose ability for Patents
    - Publishing the invention in literature
    - Including in thesis
    - Public disclosure gives you 1 year to get patent, or else it goes public
* Utility
* Nonobviousness

When to Patent

* India is actually reduced to practice (PROTOTYPE)
* Inventor can describe the concept or idea of the invention in sufficient detail to enable anyone “reasonably skilled in the art” to make or use the invention( constructive reduction)
* Patent will add to business

Who is an inventor

* One who contributes to the conception of the invention
  + Conception: formation in the mind of the inventor, of a definite and permanent idea of the complete and operative invention
* Joint inventors
  + Do not have to work together
  + Don’t have to make the same type or equal amount of contribution
  + Does not have to contribute to each claim

Who owns IP?

* Depends:
  + inventor/creator and hi/her employment status
  + Federal law
  + University policy

Bayh-Dole Act

* Universities elect tor eatin rights to inventions made from government-funded research
* Universities are encouraged to collaborate with commercial entities to promote the use of university research
* Universities encourage to license inventions to small business firms-500 employees or less
* Universities must share licensing income with their inventors and use royalty income to further research activities

UMD IP Policy

* Students own if:
  + Made in performance of academic/research activities
* University owns if
  + Made in the erformance of sponsored research, university administered research, or supported by university
  + Made through using resources without permission

Rights to use IP

* Owner
  + Patnets
    - Rights to exlude others from making using, selling, importing
  + Copyright
    - Rights to reporduce, prepare derivatives, distribute copies, perform, desplay transmit
* License
  + Owner may grant permission to others to some or all of these rights
* Infringement
  + Exploiting rights without permission

Caveats

* No fair use exception for patents
* Licensing jointly owned IP
  + Patents don’t need to share with joint owners, but copyright does

Open Source Software

* Grant permission through Open Source License (OSL) for others to exploid copyright

Creator responsibilities

* Keep good records
  + Lab notebooks
  + Emails
* Obtain applicable permissions when incorporating 3rd party works into your own
* Assist in patent proces and update OTC on public disclosures

UMD resources

* OTC/UM Ventures
* MTECH
* AIE
* Dingman Center for Entrepreneurship

Patent holder’s responsibility to reach out and stop a patent infringement