



Intellectual Property

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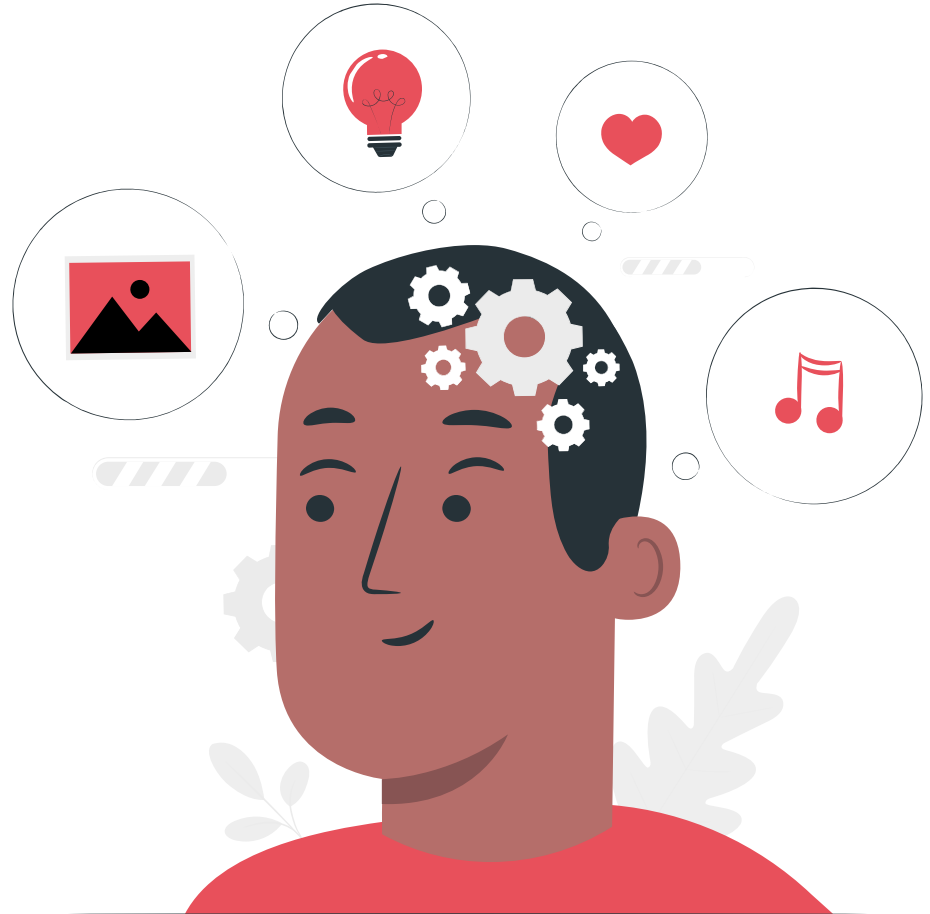
Trade Secrets

01 Introduction

What is Intellectual Property (IP)?

Term used to describe works of the mind

- Distinct and “owned” or created by a person or group



IP is protected through 3 concepts:



**Copyright
law**

Protects authored works



**Patent
laws**

Protect inventions



**Trade
secret
laws**

Help safeguard information
critical to an
organization's success

02

Copyrights

Established in the U.S. Constitution
– Article I, Section 8, Clause 8



Grants creators of original works the right to

- Distribute
- Display
- Perform
- Reproduce work
- Prepare derivative works
based upon the work
- Author may grant
exclusive right to others



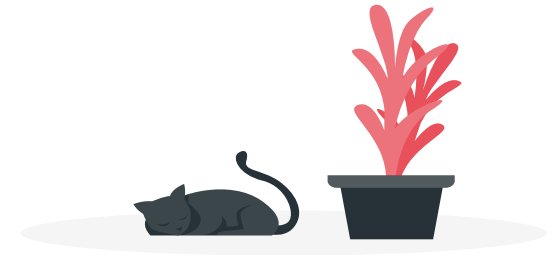
Eligible Works

types of work

- | | |
|----------------------|------------------------------|
| 1. Architecture | 9. Music |
| 2. Art | 10. Pantomimes |
| 3. Audiovisual works | 11. Pictures |
| 4. Choreography | 12. Sculptures |
| 5. Drama | 13. Sound recordings |
| 6. Graphics | 14. Other intellectual works |
| 7. Literature | |
| 8. Motion pictures | |

To be eligible for a copyright

1. Work must fall within one of the preceding categories
2. Must be original
 - Evaluating originality can cause problems



Fair use Doctrine

Fair use doctrine factors include:

- Purpose and character of the use
- Nature of the copyrighted work
- Portion of the copyrighted work used
- Effect of the use upon the value of the copyrighted work



Sonny Bono Copyright Term Extension Act

1. For works created **after** *January 1, 1978*, copyright protection endures for the life of the author plus 70 years.
2. For works created but not published or registered **before** *January 1, 1978*, the term endures for the life of the author plus 70 years, but in no case expires earlier than December 31, 2004.
3. For works created **before** *1978* that are still in their **original or renewable term** of copyright, the total term was extended to 95 years from the date the copyright was originally secured.



Main Laws



1. The Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act of 2008

- Substantially increased penalties for infringement
- penalty for infringement of a 10-song album was raised from \$7,500 to \$1.5 million
- CHIP

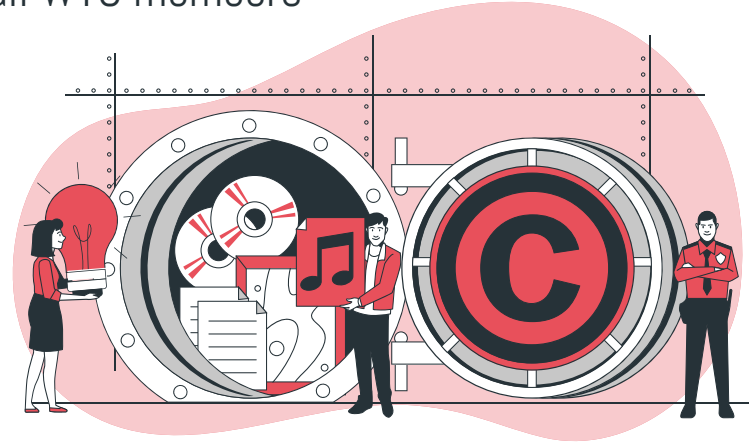
Main Laws

2. General Agreement on Tariffs and Trade (GATT)

- Signed by 150 countries in 1947
- Includes a section covering copyrights called the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Copyright protection varies greatly from country to country

3. The WTO and the WTO TRIPS Agreement (1994)

- TRIPS Agreement, to establish minimum levels of protection that each government must provide to the intellectual property of all WTO members



Main Laws

4. World IP Organization (WIPO) Copyright Treaty (1996)

- WIPO Copyright Treaty, adopted in 1996, provides additional copyright protections to address electronic media
- computer programs, selection of material in databases

5. The Digital Millennium Copyright Act (1998)

- Added new provisions to WIPO
- Governs distribution of tools and software that can be used for copyright infringement
- Opponents say it restricts the free flow of information





03

Patents

Patents

Grant of property rights to inventors

Issued by the U.S. Patent and Trademark Office (**USPTO**)

Permits an owner to exclude the public from **making, using, or selling** the protected invention

Allows legal action against violators

Prevents independent creation

Extends only to the United States and its territories and possessions



How to Make?



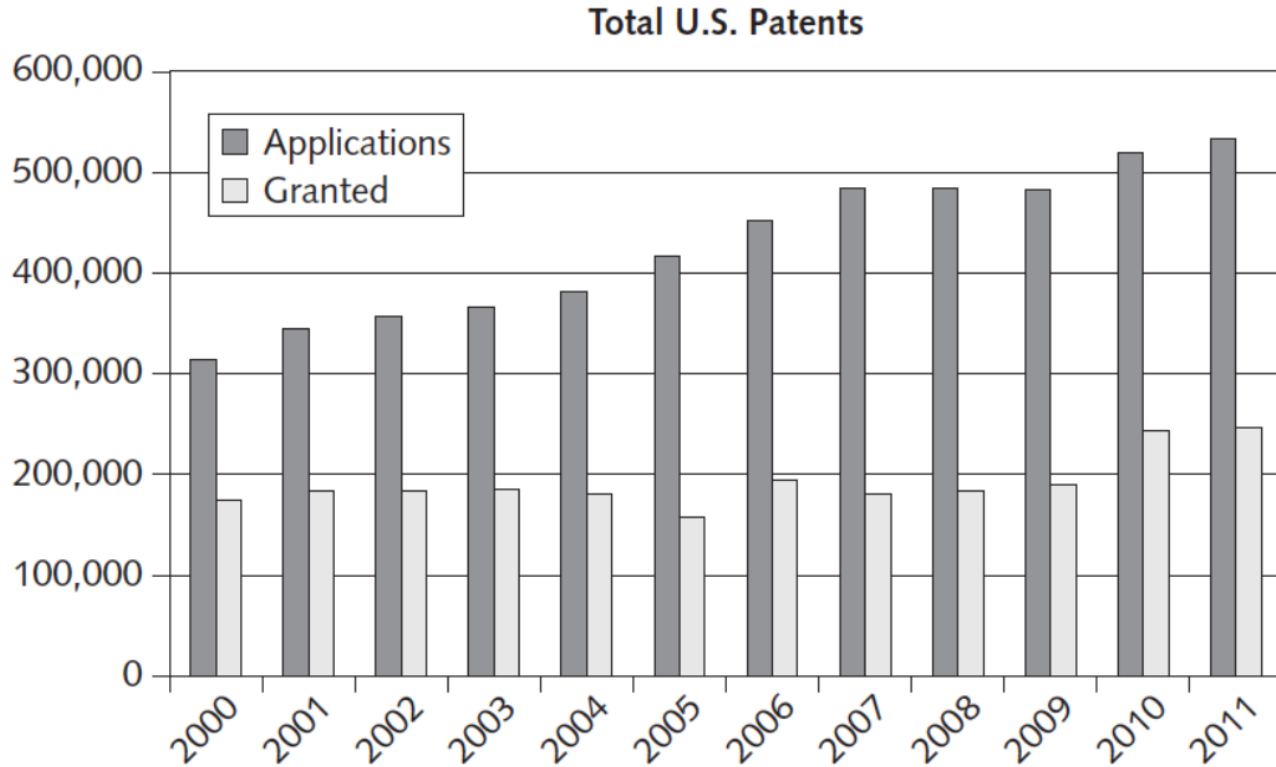
Applicant must file with the USPTO

- USPTO searches prior art
- Takes an average of **25 months**

The USPTO searches the **Prior art**

- Existing body of knowledge
- Available to a person of ordinary skill in the art

Patents Applied for and Granted



Famous IT Organizations with Patents

TABLE 6-2 IT organizations that received the most patents in 2012

Organization	Number of patents granted	Increase over 2011
IBM	6,478	5%
Samsung	5,081	4%
Canon	3,174	12%
Microsoft	2,613	13% ³¹
Google	1,151	170%
Apple	1,136	68%

Patents: Qualification

- An invention must pass four tests
 1. Must be in one of the five statutory classes of items
 - **Processes, machines, manufactures, compositions** of matter, and **new uses** in any of the previous four classes
 2. Must be **useful**
 3. Must be **novel**
 4. Must **not be obvious** to a person having ordinary skill in the same field
- Items cannot be patented if they are
 1. Abstract ideas
 2. Laws of nature
 3. Natural phenomena



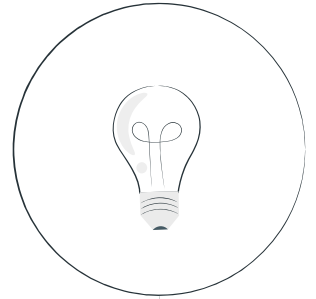
Software Patents: Case Study

- September 1999: Amazon.com obtained a patent for “one-click shopping”
- October 1999, Amazon.com sued Barnes & Noble for allegedly infringing this patent with its Express Lane feature.

amazon.com[®]

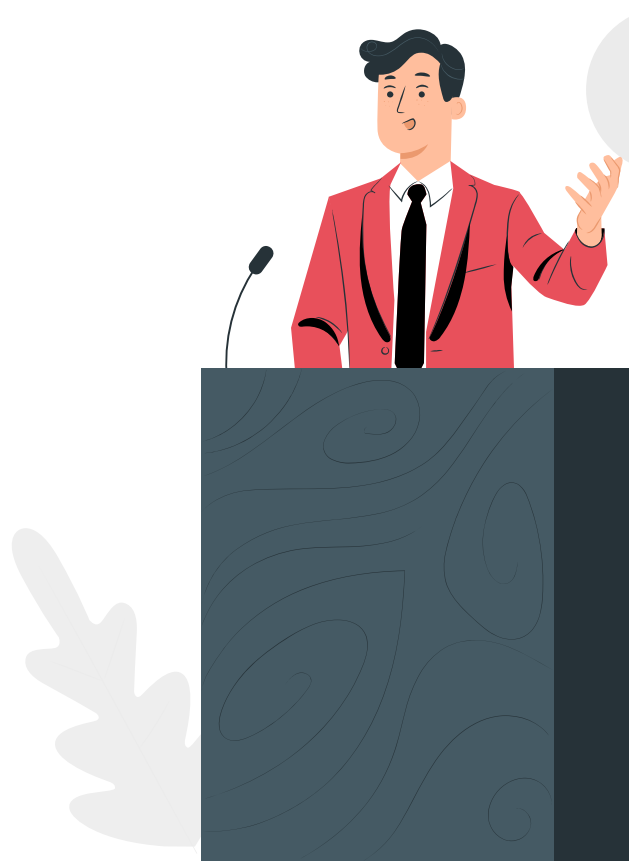
VS.

BARNES & NOBLE
BOOKSELLERS



Defensive Publishing

- Alternative to filing for patents
- Company publishes a description of the innovation
- Establishes the idea's legal existence as prior art
- Costs mere hundreds of dollars
- No lawyers
- Fast



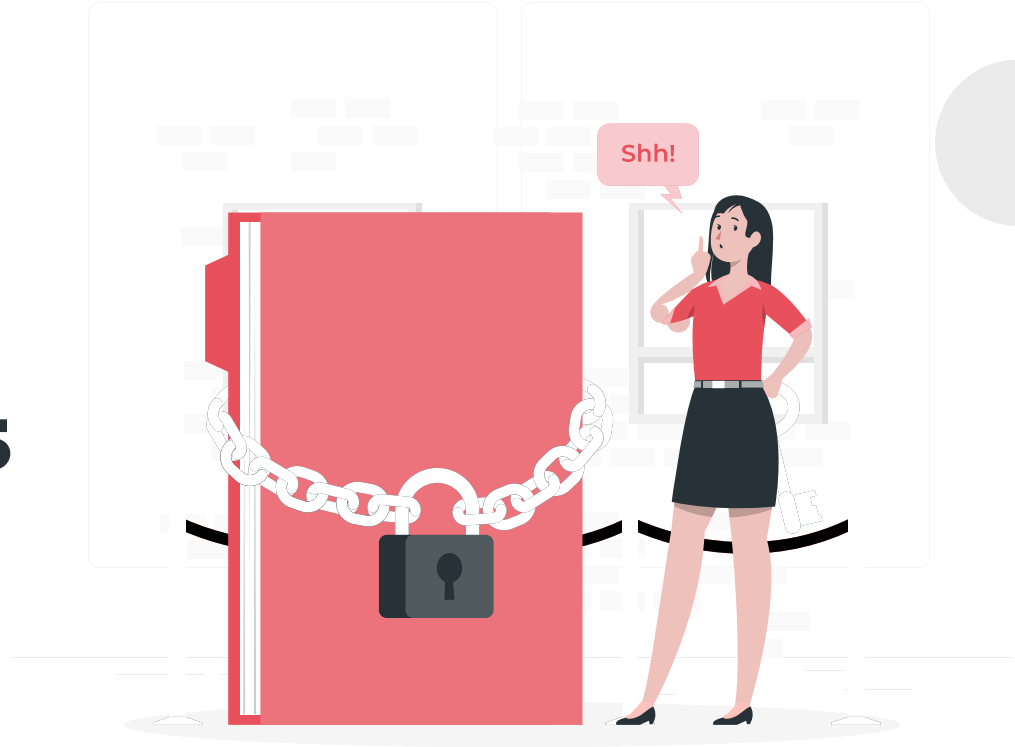
Cross-licensing Agreements

- Large software companies agree not to sue others over patent infringements
- For example, Microsoft is working to put in place 100 or more agreements with firms such as **IBM, Sun Microsystems, SAP, HP, Siemens, Cisco, Autodesk, Brother, Lexmark, Cadence, Pioneer, and Nikon** by 2010.



04

Trade Secrets



Trade Secret Laws

Uniform Trade Secrets Act (UTSA)

established uniformity in trade secret law

Trade secret

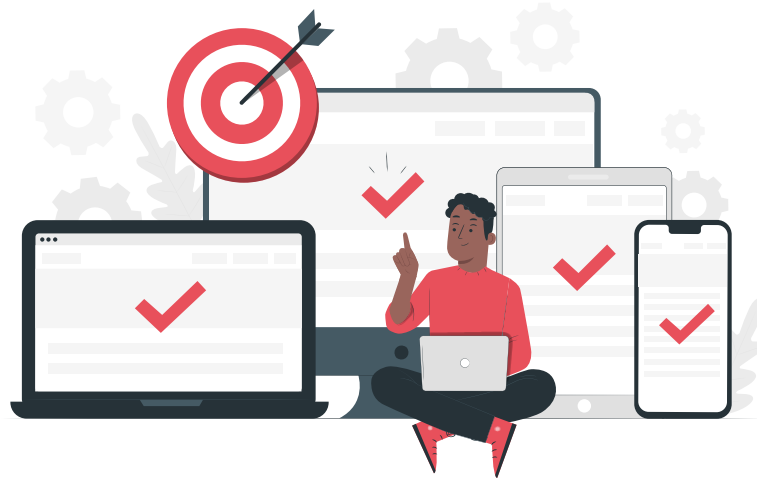
1. Business information
2. Represents something of economic value
3. Requires an effort or cost to develop
4. Some degree of uniqueness or novelty
5. Generally unknown to the public
6. Kept confidential

Computer hardware and software can qualify for trade secret protection



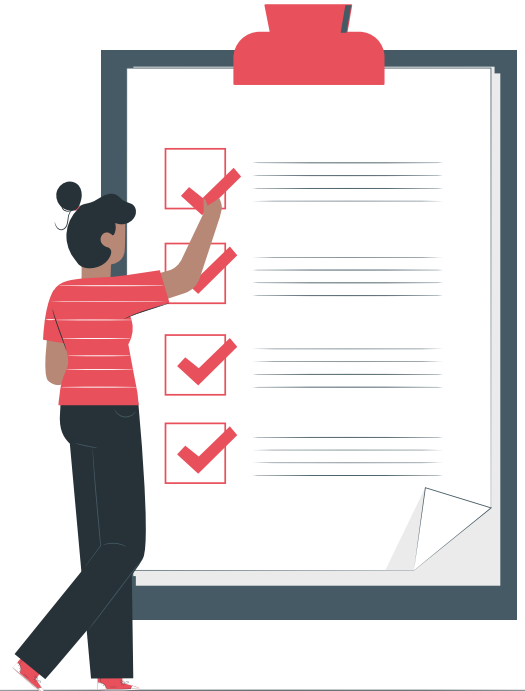
Trade Secret Laws vs Patent or Copyright

- No time limitations
- No need to file an application
- Patents can be ruled invalid by courts
- No filing or application fees



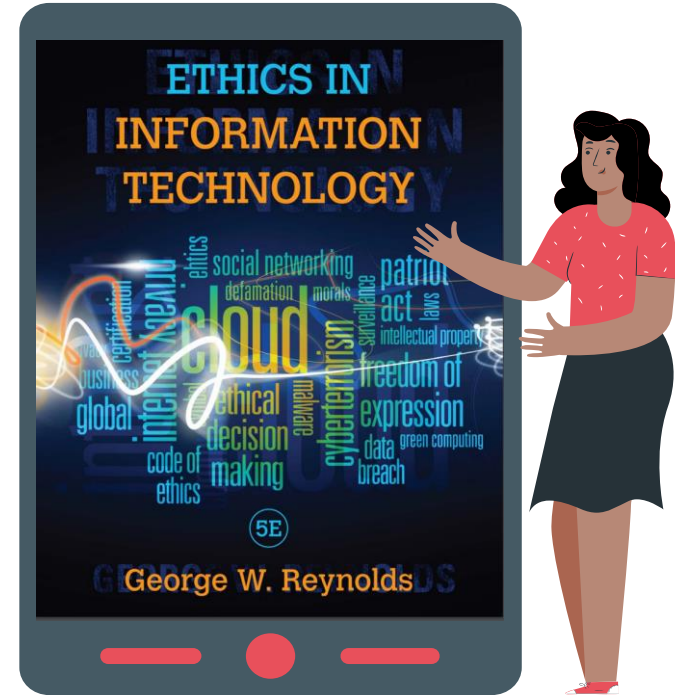
Trade Secret Laws

- Information is **only considered** a trade secret if the company takes steps to protect it
- **Greatest threat** to loss of company trade secrets is **employees**
- Nondisclosure clauses in employee's contract
 - Enforcement can be difficult
 - Confidentiality issues are reviewed at the **exit interview**



Reference

George W. Reynolds,
2011. Ethics in Information Technology



Thanks for your attention!



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