



The Fundamentals of Intellectual Property

Presenters

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United States Patent and Trademark Office



Objectives

This module presents the fundamentals of intellectual property, including the following topics:

- (1) Definition of Intellectual Property (IP)
- (2) Importance & far-reaching effects of IP
- (3) Rights reserved to the rightful IP owner
- (4) Increasing importance of University's role in IP



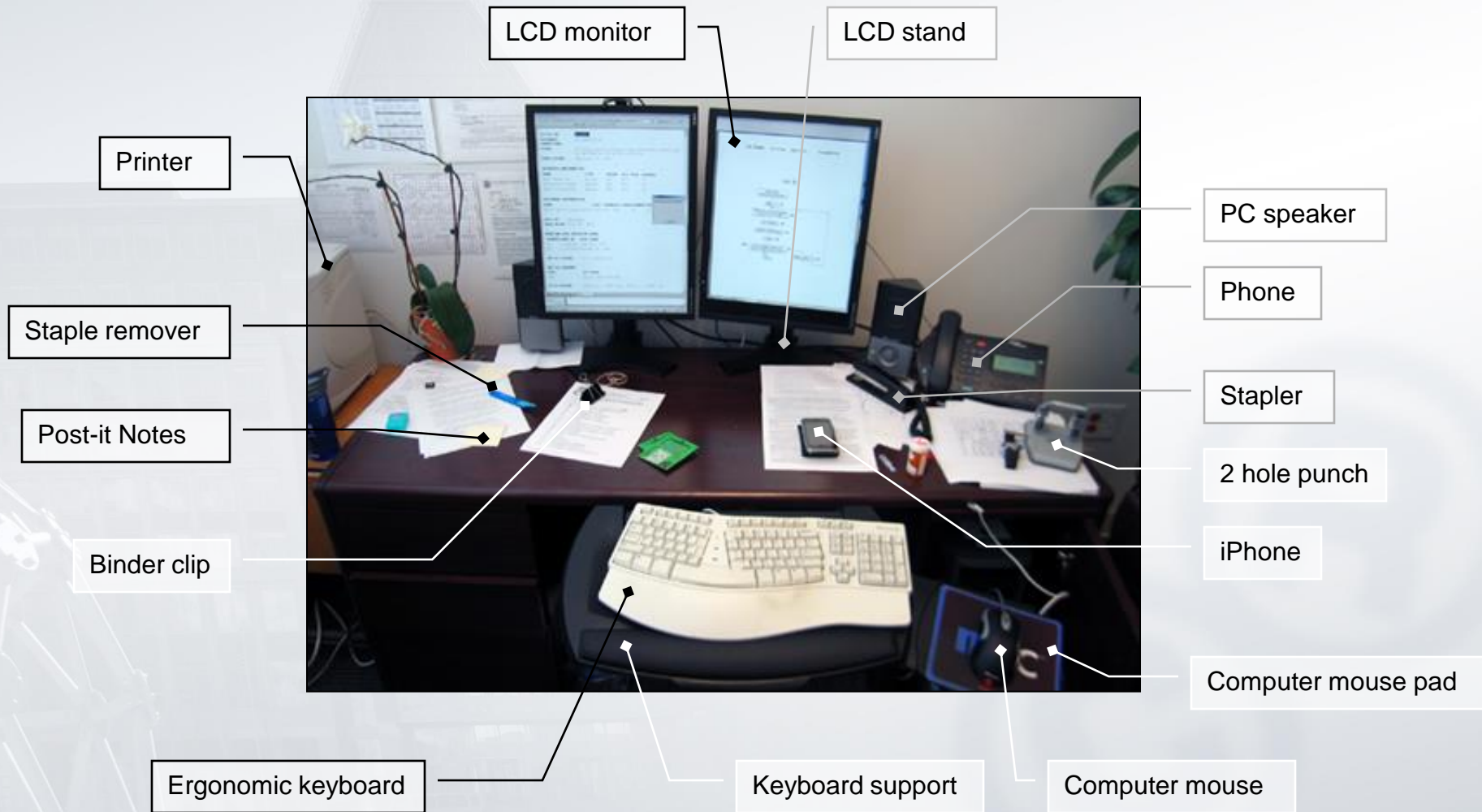
Patented Products

Can you identify a patented product on this desk?





Patents Identified





Case Study: Apple Inc.

Facts about Apple and iTunes store:

More than 13 million songs, priced at 69¢, 99¢, or \$1.29 each

Movies, ringtones, podcasts, and other apps available

Consider these numbers with the number of iPods sold



Types of Property





What is Intellectual Property

4 types of intellectual property:

- (1) Copyright
- (2) Trademark
- (3) Trade Secrets
- (4) Patent



Intellectual Property Process





Copyright

Definition: A form of protection provided to the authors of “original works of authorship”

Protects: Literary, dramatic, musical, artistic, and certain other intellectual works

Duration: In general, author’s life + 70 years

For more information on copyright, visit the U.S. Copyright Office website at <http://www.copyright.gov>





Trademark

Definition: Any word, name, symbol, or device, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods or services

Protects: All of the above & logo, banner, sound, smell, etc.

Duration: 10-year terms with 10-year renewal terms





Trade Secrets

Definition: Any information that provides economic value that is not in the public domain and that has been reasonably kept secret

Protects: Formulas, patterns, compilations, programs, devices, methods, techniques or processes

Duration: As long as they remain secret





Patent

Definition: A grant of property rights by the U.S. Government through the USPTO

Patentability: “Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent” (35 U.S.C. 101)

Duration: [Utility/Plant] 20 years from date of filing;
[Design] 14 years from patent grant





What is a Patent

Purpose: To promote the progress of science and useful arts... (U.S. Constitution Article I, §8, Clause 8)

System: A quid pro quo;
Disclosure of the invention to the government
in specific terms, in exchange for exclusive
rights to the inventor



Filing for a Patent – Why bother?

Patents have the attributes of **personal property** and may be:

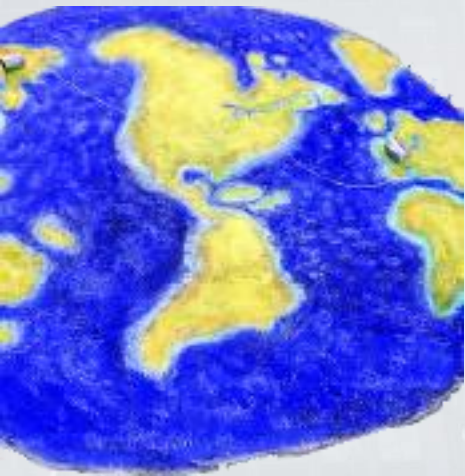
- Sold to others;
- Mortgaged;
- Assigned;
- Given away;
- Bequeathed in a will and inherited; or
- Licensed and taxed



Rights included in a Patent

A U.S. patent *grants* a right to **exclude** others from:

- Making;
- Using;
- Offering for sale;
- Selling the invention throughout the U.S.; or
- Importing the invention into the U.S.





Who Enforces Patent Infringements

Infringement: Violation of any of the patent rights

Enforcement: Up to patent owner, not USPTO.

The USPTO-granted rights valid only in U.S.

PCT: Enables a U.S. applicant to file an international utility patent application in a standardized format at USPTO.

A filing system; and it does not grant a patent



Patentable & Non-patentable subject matters

Patentable subject matters:

“... any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof...”

Software and business methods also patentable



Non-patentable subject matters:

A mere idea or concept;
pure mathematical formulas;
phenomena of nature



Types of Patents

Utility:

New and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof

→ How an invention works

U.S. Patent Jan. 20, 2009 Sheet 8 of 293 US 7,479,949 B2

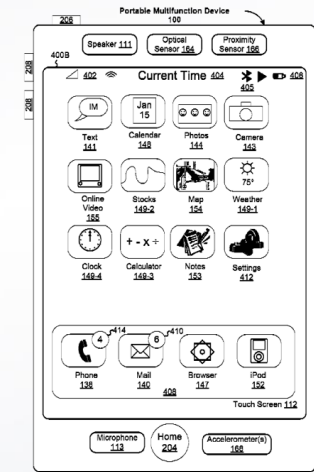


Figure 4B

Design:

New, original & ornamental design

→ How an invention looks



FIG. 35

Plant:

Asexually-produced distinct and new variety of plant





Types of Applications

Provisional:

- One year period
- Filed for filing date priority
- No claims required
- Not examined, so no patent
- Not allowed for design

Non-Provisional:

- 20-year patent protection from filing date
- Examined for patentability
- Claims required



Filing a Patent Application in U.S. and in other countries

U.S.:

The real person or persons who first made the invention (i.e. the first to invent), or his/her assignee, is entitled to a patent

Other countries around the world:

The first to file a complete application is entitled to a patent, provided the invention was not copied from another



Scenario: Protection against infringement

Inventor:

John Inventor

Invention:

A device that maps out one's thought process

Rights:

To exclude anyone from making, using, selling the device in U.S., or importing the device into the U.S.

1/1/2010:
A utility patent
application filed

1/1/2013:
USPTO grants
a patent

1/1/2018:
Company ABC makes &
imports the same device from
a foreign country. **What can
John Inventor do?**

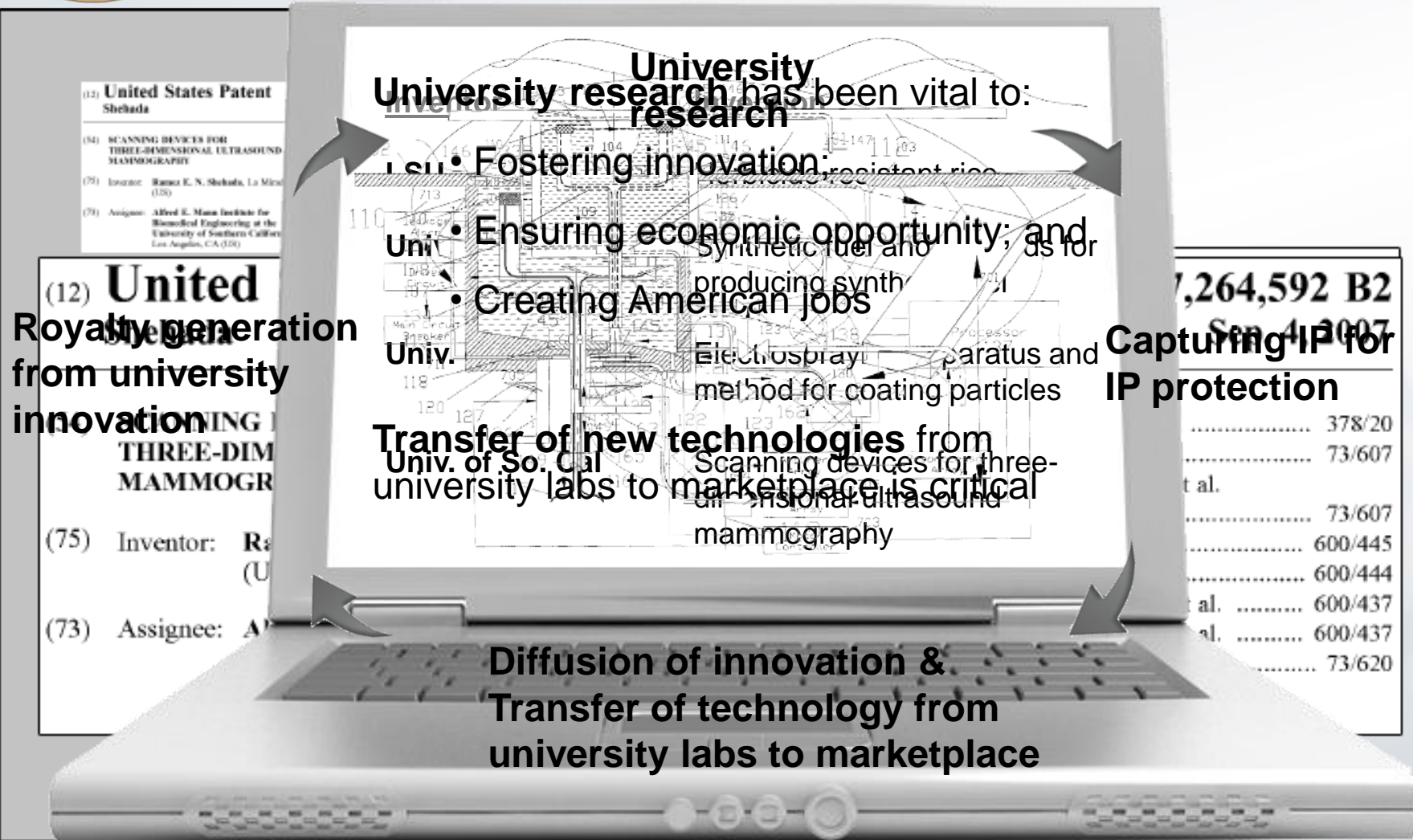
12/31/2029:
Date John's
patent expires

3/1/2010:
John starts
selling with a
label "patent
pending"

1/1/2012:
Company ABC makes
the same device. **What
can John Inventor do?**



Patents and Universities





Ideas for Your Ideas



Collegiate Inventors Competition

<http://www.invent.org/collegiate/>



National Collegiate Inventors
and Innovators Alliance

<http://nciia.org/competitions>



The Lemelson-MIT Awards for
Invention and Innovation

<http://web.mit.edu/invent/a-main.html>



Questions

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USPTO Website:

www.uspto.gov