Intellectual Property Basics

Rocky Mountain Regional U.S. Patent and Trademark Office
What is Intellectual Property?

“Real” Property

Intellectual Property
# Types of Intellectual Property

<table>
<thead>
<tr>
<th>Patent</th>
<th>Trademark</th>
<th>Copyright</th>
<th>Trade Secret</th>
</tr>
</thead>
<tbody>
<tr>
<td>New, inventive ideas</td>
<td>Identifies the origin of goods or services</td>
<td>Creative expression stored in a tangible form</td>
<td>Any information that is valuable &amp; kept confidential</td>
</tr>
</tbody>
</table>
Examples of IP in a Mobile Phone

**Trademarks**
- Made by “Apple"
- Product “iPhone"
- Software “iOS"

**Copyrights**
- Software code
- Instruction manual
- Ringtone

**Utility Patents**
- Data-processing methods
- Semiconductor circuits
- Chemical compounds
- Battery
- Capacitive touchscreen
- Camera

**Design Patents**
- Form of overall phone
- Icon layout
- Bezel

**Trade secrets**
- ???
What does this picture tell us?
How many TMs do you see every day?

- Restaurants
- Clothes
- Toys
- Games
- Beverages
- Cars
- Airlines
- TV Networks
- Cereal
- Makeup
- Shoes
- What else??

What else??
Traditional Marks

Word Mark

Coca-Cola

Special Form Mark

Composite Mark

Design Mark
Nontraditional Marks

Colors

[Images of a Tiffany box, UPS logo, and John Deere logo]
Nontraditional Marks

Scents
Nontraditional Marks

Sounds
Trade Dress
Copyright Protections
Copyright

Library of Congress

• Protects “original works of authorship” including literary, dramatic, musical, artistic and certain other intellectual works.

• Term: Author’s life + 70 years

• Copyright.gov
Trade Secrets

• Any information that derives economic value from not being generally known or ascertainable
• Can be formulas, patterns, compilations, programs, devices, methods, techniques or processes
• Most states have some sort of trade secret protection
• Defend Trade Secrets Act passed in 2016
Ways to lose a Trade Secret

• Failure to take adequate steps to prevent disclosure
• Owner or owner-authorized disclosure
• Reverse engineering
• Independent development
United States Patent
Marron

Patent No.: US 10,000,000 B2
Date of Patent: Jun. 19, 2018

COHERENT LADAR USING INTRA-PIXEL QUADRATURE DETECTION

Applicant: Raytheon Company, Waltham, MA (US)

Inventor: Joseph Marron, Manhattan Beach, CA (US)

Assignee: Raytheon Company, Waltham, MA (US)

References Cited

U.S. PATENT DOCUMENTS

5,751,830 A 5/1998 Hutchinson

FOREIGN PATENT DOCUMENTS


OTHER PUBLICATIONS
What is a Patent?

A Property Right:

– Right to **exclude others** from making, using, selling, offering for sale or importing the claimed invention

– Limited term – 20 Years

– Territorial: protection only in territory that granted patent; **NO world-wide patent**
Why get a patent?
Types of Patents

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

- Design - Any new, original and ornamental design

- Plant – Any new, asexually reproduced variety of plant
<table>
<thead>
<tr>
<th>Provisional</th>
<th>Non-Provisional</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Gets foot in the door</td>
<td>• Statutory requirements</td>
</tr>
<tr>
<td>• Inexpensive</td>
<td>• More expensive</td>
</tr>
<tr>
<td>• Not published or examined</td>
<td>• Published and examined</td>
</tr>
<tr>
<td>• One year to pursue non-provisional</td>
<td>• Can result in patent</td>
</tr>
</tbody>
</table>
United States Patent

Bernstein et al.

MAGNETICALLY COUPLED ACCESSORY FOR A SELF-PROPELLED DEVICE

Inventors: Joe H. Bernstein, Boulder, CO (US); Adam Wilson, Longmont, CO (US); Chin Kang, Hong Kong (HK)

Assignee: Sphinx, Inc., Boulder, CO (US)

Filed: Mar. 19, 2015

Abstract

A system comprising a self-propelled device and an accessory device. The self-propelled device includes a spherical housing and a drive system provided within the spherical housing to cause the self-propelled device to roll. When the self-propelled device rolls, the self-propelled device and the accessory device magnetically interact to cause the accessory device to rotate and translate with the self-propelled device. The accessory device is configured to rotate and translate in a manner to cause the accessory to rotate about a common axis of rotation.
Startup Resources

Many startup businesses face unique IP-related challenges, such as IP portfolio prerequisites to secure funding, and the possibility of costly patent infringement demand letters and lawsuits. We have tailored this area of our website to suit the specific needs of startup businesses, a segment of our stakeholders that continues to be recognized as an utilized engine of job creation, economic growth, and unparalleled innovation in the United States.

This portal is part of our Startup Partnership Initiative—putting key resources and critical information for startups in a single place so it’s easier to find what you may need when you need it.

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<tr>
<th>Patents for Startups</th>
<th>Trademarks for Startups</th>
<th>Startup Assistance</th>
<th>Current Events</th>
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</thead>
<tbody>
<tr>
<td>The patent process can be</td>
<td>The trademark process can be confusing</td>
<td>The Inventors Assistance Center and</td>
<td>Information about</td>
</tr>
<tr>
<td>challenging if you are not</td>
<td>for a beginner, so here is basic</td>
<td>Trademark Assistance Center provide</td>
<td>conferences, conventions,</td>
</tr>
<tr>
<td>familiar with it. Here is</td>
<td>information on registering a trademark.</td>
<td>information and services to the public.</td>
<td>other opportunities to</td>
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<tr>
<td>basic information on the</td>
<td></td>
<td>Center staff can answer questions on</td>
<td>engage.</td>
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<tr>
<td>patent process.</td>
<td></td>
<td>patent and trademark processes, but</td>
<td>• Upcoming Events</td>
</tr>
<tr>
<td>• Patent Process Overview</td>
<td></td>
<td>cannot provide specific legal advice.</td>
<td>• Inventors Assistance</td>
</tr>
<tr>
<td>• Inventors Assistance Center</td>
<td></td>
<td>• Trademark Assistance Center</td>
<td>Center</td>
</tr>
<tr>
<td>• Patent FAQs</td>
<td></td>
<td>• Trademark Assistance Center</td>
<td>• Events</td>
</tr>
<tr>
<td>• Patent Homepage</td>
<td></td>
<td>• Patents Ombudsman Program</td>
<td>• Inventors Eye</td>
</tr>
<tr>
<td>• Search for Patents</td>
<td></td>
<td>• BusinessUSA (link is external)</td>
<td>Events &amp;</td>
</tr>
<tr>
<td>• Official Gazette for Patents</td>
<td></td>
<td></td>
<td>Announcements</td>
</tr>
</tbody>
</table>

[www.uspto.gov/startups](http://www.uspto.gov/startups)
Part II: IP for Beginners - Design Patents

Part II in the series will give a more in-depth overview on design patents, as well as how and when an entrepreneur or business might consider applying for a design patent as opposed to, or in addition to, a utility patent.

Friday July 20, 2018
10:00 AM MDT - 12:00 PM MDT
Rocky Mountain United States Patent and Trademark Office
1961 Stout Street 15th Floor
Denver, CO 80294
Thank You

rockymountain@uspto.gov
Resources
• Special status for a final disposition within ~12 months
• Utility and plant applications
• $4,000 (normal)/$2,000 (small)/$1,000 (micro)
Small Entity

- Must be an individual or
- A small business (less than 500 employees) or
- A non-profit organization

Independent Micro-entity

- Qualify as a small entity
- Filed no more than 4 previous applications
- Income not greater than 3x median income
  - January 2018: $177,117
- Not assigned to other than a micro-entity
- Inventions assigned to employer don’t count against you
- A 75% reduction in fees
Pro Se Assistance Program

- Three percent of all applications
- Pro Se Art Unit expanding
- Resources for client education
Pro Bono Assistance Program

Mi Casa Resource Center
– Colorado, Montana, New Mexico, Utah and Wyoming
– Jennifer Rothschild
  probopat@micasaresourcecenter.org
  303-539-5643

www.uspto.gov/probonopatents
Additional Resources

• IP Awareness Assessment
  IPassessment.uspto.gov

• Law School Clinic Program
  UC-Boulder

• Patent and Trademark Resource Centers
  - Denver Public Library
  - Durango Public Library
Possible Grounds for Refusal of Registration: Likelihood of Confusion

- The Federal Register is searched to see if there is a likelihood of confusion between your mark and an already registered mark or a mark in a previously filed application that is owned by another party.

**Two Part Test**

1. Marks are similar in
   - Sound
   - Appearance
   - Meaning
   - Commercial Impression

2. Goods or services are related
   Consumers would mistakenly believe the goods /services come from the same source.
Possible Grounds for Refusal of Registration: Likelihood of Confusion

• Similarity of the Marks
  – Marks do not have to be identical,
  – Similarity in at least one aspect *sound, appearance, or commercial impression* is sufficient
    Ex. T. Markey for pants vs Tee Markey for t-shirts

• Relatedness of the goods/services
  – Relatedness can exist because of similarity in the nature of the goods/services, their purpose or function, or in the consumers of the goods or services
Possible Grounds for Refusal of Registration: Descriptiveness

- Strength of a mark determines registrability and protectability

- **Strong marks** - serve as unique identifiers of source and distinguish goods/services of one source from another

- **Weak marks** – more commonly used by others to describe a characteristic or quality about the product/service itself not its source
Examples of Strong Marks

- **FANCIFUL** – Invented words
  - xerox
  - Microsoft
  - CISCO

- **ARBITRARY** – Actual words but don’t convey any association with the goods/services
  - Apple
  - GAP
  - BlackBerry

- **SUGGESTIVE** – Suggest a quality or an intended/desired effect of the goods/services
  - Ex. COPPERTONE for suntan lotion
  - DRI-FOOT for deodorant for feet
  - EVEREADY for batteries
Examples of Weak Marks

- **DESCRIPTIVE** - Words or designs that describe the goods or services
  - Ex. **URBANHOUZING** for real estate services
    - APPLE PIE for potpourri

  * Descriptive marks are much harder to protect than Fanciful or Arbitrary marks

- **GENERIC** – Common everyday names for goods or services
  - Ex. **MILK** for a dairy-based beverage
    - **LAWYERS.COM** for providing online databases featuring information about the field of law and legal services

  * Generic marks are incapable of being source identifiers so they are not registrable
Other Possible Grounds for Refusal

• Some marks when initially refused might eventually be registrable after providing evidence of a secondary meaning (acquired distinctiveness)
  – **Surname** i.e., MILLER LAW GROUP primarily merely a surname for legal services
  – **Geographic** i.e., DENVER WESTERNS for western-style shirts originating in Denver

• Some marks require consent in order to be registered
  – **Name** or **portrait** of a living individual

• Some marks are completely barred from registration
  – **False connection**
  – **Deceptive**
  – **Generic**
## Patent Fees

**Fee/Small Entity/Micro Entity**

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<tr>
<th></th>
<th>Utility</th>
<th>Design</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Provisional Application</strong></td>
<td>• $280/$140/$70</td>
<td>• $200/$100/$50</td>
</tr>
<tr>
<td><strong>Search</strong></td>
<td>• $660/$330/$165</td>
<td>• $160/$80/$40</td>
</tr>
<tr>
<td><strong>Examination</strong></td>
<td>• $760/$380/$190</td>
<td>• $600/$300/$150</td>
</tr>
<tr>
<td><strong>Issue</strong></td>
<td>• $1000/$500/$250</td>
<td>• $700/$350/$175</td>
</tr>
</tbody>
</table>
Trademark/Copyright Fees

Trademark
• Application Fee
  – $225 per class

• After Registration Fees
  – Affidavit of Use after 5 years
    $125 per class
  – Affidavit of Use/ Renewal
    after 9 years $425 per class

Copyright
• Filing Fee
  – $35