



# INTELLECTUAL PROPERTY RIGHTS LEGALIZED ANTI-COMPETITION

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# Values of Intellectual Property

- IPR's strengthen a company's competitiveness
- IP enhances company's value, fund raising, goodwill
- IP can generate economic return (e.g., licensing)
- IPR's enable people to benefit from their innovative and creative work
- Statistics show positive relationship between economic growth and creation of intellectual property
- IPR protection contributes to economic growth

# IPR and Market Share

- Exclusive Rights – Barrier against entry - “legalized anti-competition”
- Patents: Prohibit others from making, using, selling,....,etc.
- Trademarks: Prohibit others from using the name, logo to cause confusion
- Copyrights: Prohibits against publication, copying, public performance
- Trade Secrets: Keep proprietary information secret to yourself
- IPR’s are frequently a company’s most valuable assets
- Identifying and protecting a company’s intellectual property rights is imperative for building and sustaining the success of a company

# Intellectual Property in International Business

- More often than people think
- Marketing and distribution of U.S. products and brands
- Localization of products
- Manufacturing
- Product development
- Technology transfer, IPR licensing
- Investment

# Common Intellectual Property Rights (IPR)

- Patents: Functionality, Ornamental aspect, Product Improvements (utility model)
- Trademarks: Company Names, Logos, Domain Names
- Copyrights: Expression, Product Manuals, Websites, Brochures, Advertising Pamphlets, Software codes
- Trade Secrets: Product formulations; Methods of Construction

# Patent Eligible Subject Matter

- 4 Statutorily Defined Categories of Subject Matter:
  - Process- a series of steps for carrying out a task (AKA Method)
  - Machine-an apparatus (often considered to have moving parts)
  - Composition of Matter-chemical compositions and mixtures of substances, such as alloys
  - Manufacture-catch all for human made subject matter (often thought of as something without moving parts)
  - “Anything under the sun that is made by man”
  - Abstract Ideas (such as Mathematical Algorithms), Laws of Nature, and Natural Phenomena are not patent eligible

# Good Patents

- Description, Enablement, and Best Mode – Be thoughtful about the details
- Novelty - The technology has not been previously described or publically disclosed - look out for inventive aspects where your invention has an edge over the competition
- Non-Obvious - A person of ordinary skill in the art would not have found it obvious to modify what has been known in the field – identify the uniqueness of your invention
- Patent Eligible Subject Matter - Process, Machine, Composition or Article of Manufacture
- Are there “Junk Patents”?

# Trademark Protection Basics

- Distinctive element of word, designs, combination of word/logo
- No Likelihood of Confusion Standard
- Use in commerce vs. First-to-File



# Copyright Registration Basics

- Right created when the idea is created in tangible medium
- Originality is the basic requirement
- Registration of the copyright
- Protection Period: Individual: life + 70 years; work for hire 95 years from publication or 120 year from creation

# Trade Secret Basics

- Trade Secret is information (e.g., a formula, pattern, compilation, program, device, method, technique, process) that:
  - Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
  - Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy

# Diligent to Protect

- Patents: types of invention; first to file; use of International treaty
- Trademarks: first to file; cover broadly; local language equivalent; international treaty; Customs recordation
- Domain names: registrations
- Copyright: Selective filing of marketing materials; Customs recordation
- Trade Secret: Critical bottleneck technology as; work with trust-worthy partners; control information leakage

# Non-Action Not An Option

- Internet opens the world to information
- Competitors first to file patents/trademarks
- Trademark and domain name squatters
- Trades in counterfeits and infringements are rampant in the global market
- Fake goods in one country can cause damages to brand reputation in other countries
- Hard to regain lost market share due to IPR abuses

# Monetizing IPR – Licensing

- Grant of right in property without ownership transfer
  - Patent
  - Trademark
  - Copyright
  - Know-how
  - And others
- Nature of IPR
- Right to exclude

# Reasons for License

- Means to access
- Blocking, critical technological platforms, patented products/processes
- Complementary and supplemental technology, know-how
- Alliance/JV for R&D Funding
- Installed base of compatible products
- Distribution Network for trademarks

# What Can a License do?

- Define a relationship
- Enable value extraction
- Define competitive buffer
- Access know-how
- Prevent third party access

# Thank you!



Questions? Please feel free to  
contact me any time for guidance.

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