# What is a patent?

- A patent for an invention is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office. Generally, the term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees. U.S. patent grants are effective only within the United States, U.S. territories, and U.S. possessions. Under certain circumstances, patent term extensions or adjustments may be available.

- The right conferred by the patent grant is, in the language of the statute and of the grant itself, “the right to exclude others from making, using, offering for sale, or selling” the invention in the United States or “importing” the invention into the United States. What is granted is not the right to make, use, offer for sale, sell or import, but the right to exclude others from making, using, offering for sale, selling or importing the invention. Once a patent is issued, the patentee must enforce the patent without aid of the USPTO.

# What Is a Trademark?

- A trademark is a word, name, symbol, or device that is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. A servicemark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. The terms “trademark” and “mark” are commonly used to refer to both trademarks and servicemarks.

- Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark. Trademarks which are used in interstate or foreign commerce may be registered with the USPTO. The registration procedure for trademarks and general

# What Is a Copyright?

- Copyright is a form of protection provided to the authors of “original works of authorship” including literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished. The 1976 Copyright Act generally gives the owner of copyright the exclusive right to reproduce the copyrighted work, to prepare derivative works, to distribute copies or phonorecords of the copyrighted work, to perform the copyrighted work publicly, or to display the copyrighted work publicly.

- The copyright protects the form of expression rather than the subject matter of the writing. For example, a description of a machine could be copyrighted, but this would only prevent others from copying the description; it would not prevent others from writing a description of their own or from making and using the machine. Copyrights are registered by the Copyright Office of the Library of Congress.

# Three Types of Patents

- Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof; Covers inventions that functions in a unique manner to produce utilitarian result. Examples are Velcro hook and loop fasteners, new drugs, electronic circuits, software, semiconductors manufacturing process etc.
- Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and
- Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

# How long does it last?

- Utility and plant patents last for 20 years from the date of filing.
- From June 2000, every granted patent is guaranteed an in force period of at least 17 years.

# Utility Patents – Fees involved

- Utility patent application filing fee
- Utility patent application fee
- 3 Maintenance fees
  - Maintenance Fee 1: payable 3.0 to 3.5 years after issuance
  - Maintenance Fee 2: payable 7.0 to 7.5 years after issuance
  - Maintenance Fee 3: payable 11.0 to11.5 years after issuance

# Non-Provisional Patent Application

- A non-provisional application for a patent is made to the Director of the United States Patent and Trademark Office and includes:
- A written document which comprises a specification (description and claims), and an oath or declaration;
- A drawing in those cases in which a drawing is necessary; and
- Filing, search, and examination fees. Applicant must determine that small entity status is appropriate before making an assertion of entitlement to small entity status and paying a small entity fee. Fees change each October. The fee schedule is posted on the USPTO Web site.

# Specification (Description and Claims)

- The following order of arrangement should be observed in framing the application:
  - Application transmittal form.
  - Fee transmittal form.
  - Application Data Sheet.
  - Specification.
  - Drawings.
  - Executed Oath or declaration.

# Specification should have the following sections, in order

- Title of the Invention.
- Cross Reference to related applications (if any). (Related applications may be listed on an application data sheet, either instead of or together with being listed in the specification.)
- Statement of federally sponsored research/development (if any).
- Reference to a ”Sequence Listing,” a table, or a computer program listing appendix submitted on a compact disc and an incorporation by reference of the material on the compact disc. The total number of compact disc including duplicates and the files on each compact disc shall be specified.
- Background of the Invention.
- Brief Summary of the Invention.
- Brief description of the several views of the drawing (if any).
- Detailed Description of the Invention.
- A claim or claims.
- Abstract of the disclosure.
- Sequence listing (if any).
- The specification must include a written

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- All application papers must be in the English language or a translation into the English language will be required along with the required fee set forth in 37 CFR 1.17(i). All application papers must be legibly written on only one side either by a typewriter or mechanical printer in permanent dark ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable and white paper.
- The papers must be presented in a form having sufficient clarity and contrast between the paper and the writing to permit electronic reproduction. Each document in the application papers must all be the same size - either 21.0 cm by 29.7 cm (DIN size A4) or 21.6 cm by 27.9 cm (8 1/2 by 11 inches), with a top margin of at least 2.0 cm (3/4 inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (3/4 inch) and a bottom margin of at least 2.0 cm (3/4 inch) with no holes made in the submitted papers. It is also required that the spacing on all papers be 1 1/2 or double-spaced and the application papers must be numbered consecutively (centrally located above or below the text) starting with page one. The specification must have text written in a nonscript font (e.g., Arial, Times Roman, or Courier, preferably a font size of 12) lettering style having capital letters which should be at least 0.3175 cm (0.125 inch) high, but may be no smaller than 0.21 cm (0.08 inch) high (e.g., a font size of 6). The specification must have only a single column of text.
- The specification must conclude with a claim or claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as the invention. The portion of the application in which the applicant sets forth the claim or claims is an important part of the application, as it is the claims that define the scope of the protection afforded by the patent. The claims must commence on a separate physical sheet of paper.

# Non-Provisional Application for a Patent

- More than one claim may be presented provided they differ from each other. Claims may be presented in independent form (e.g. the claim stands by itself) or in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers back to more than one other claim is considered a "multiple dependent claim."
- The application for patent is not forwarded for examination until all required parts, complying with the rules related thereto, are received. If any application is filed without all the required parts for obtaining a filing date (incomplete or defective), the applicant will be notified of the deficiencies and given a time period to complete the application filing (a surcharge may be required)—at which time a filing date as of the date of such a completed submission will be obtained by the applicant. If the omission is not corrected within a specified time period, the application will be returned or otherwise disposed of; the filing fee if submitted will be refunded less a handling fee as set forth in the fee schedule.
- The filing fee and declaration or oath need not be submitted with the parts requiring a filing date. It is, however, desirable that all parts of the complete application be deposited in the Office together; otherwise each part must be signed and a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. If an application which has been accorded a filing date does not include the filing fee or the oath/declaration, applicant will be notified and given a time period to pay the filing fee, file an oath/declaration and pay a surcharge.
- All applications received in the USPTO are numbered in sequential order and the applicant will be informed of the application number and filing date by a filing receipt.
- The filing date of an application for patent is the date on which a specification (including at least one claim) and any drawings necessary to understand the subject matter sought to be patented are received in the USPTO; or the date on which the last part completing the application is received in the case of a previously incomplete or defective application.

# Provisional Patent Application

- Under United States patent law, a provisional application is a legal document filed in the United States Patent and Trademark Office, that establishes an early filing date, but does not mature into an issued patent unless the applicant files a regular non-provisional patent application within one year.

- There is no such thing as a "provisional patent“ – only “patent pending”.

- A provisional application includes a specification, i.e. a description, and drawing(s) of an invention, but does not require formal patent claims, inventors' oaths or declarations, or any information disclosure statement.

- Furthermore, because no examination of the patentability of the application in view of the prior art is performed, the USPTO fee for filing a provisional patent application is significantly lower (about US$200) than the fee required to file a standard non-provisional patent application (about $500).

- A provisional application can establish an early effective filing date in one or more continuing patent applications later claiming the priority date of an invention disclosed in earlier provisional applications by one or more of the same inventors.