

What is next for your innovation?

An Intellectual Property Law Primer

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Agenda

- Introduction
- Overview of different types of intellectual property protection
- Questions and Future Seminar Topics

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Introduction - Bio

- Adam M. Tracey
- B.Sc. (Mech. Eng.) from Queen's in 2004
- L.L.B. from Windsor in 2007
- Called to the Ontario Bar as a lawyer in 2008
- Trademark Agent in 2009
- Patent Agent in 2011

Main Types of Intellectual Property

- Patents
- Trademarks
- Copyright
- Industrial Designs
- **Other:** Confidential information
Trade Secrets
Circuit Topographies
Plant Breeder's Rights
Certification Marks
Section 9 (Official) Marks
 - ❓ Geographic Indications for Regional Products



Patents

- Directed to **technology**
- 20 year term of protection from filing date
- First-to-file system (rather than first-to-invent system) – whoever files first wins!
- International protection available
- Time (3-5 years) and resource (\$\$\$) intensive
- Most powerful form of IP protection

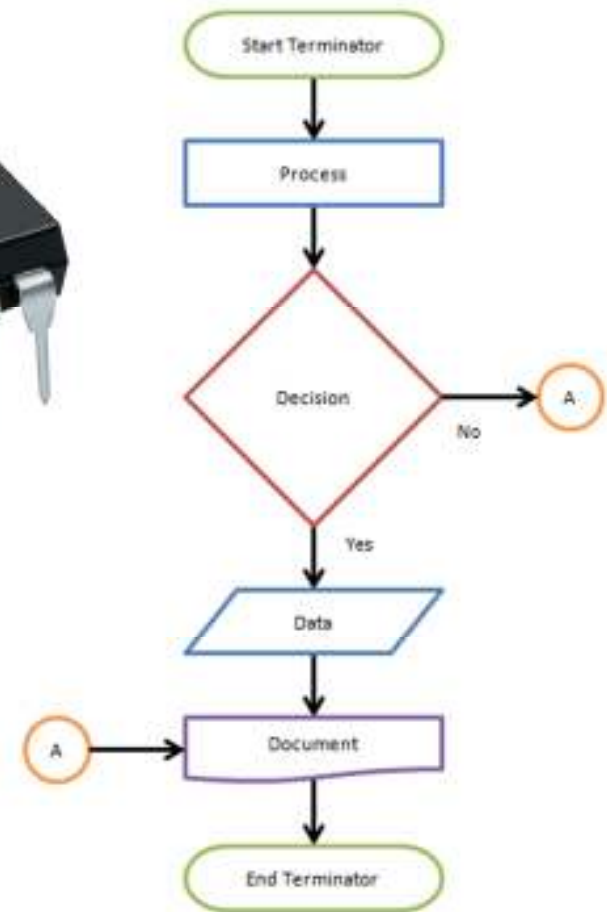
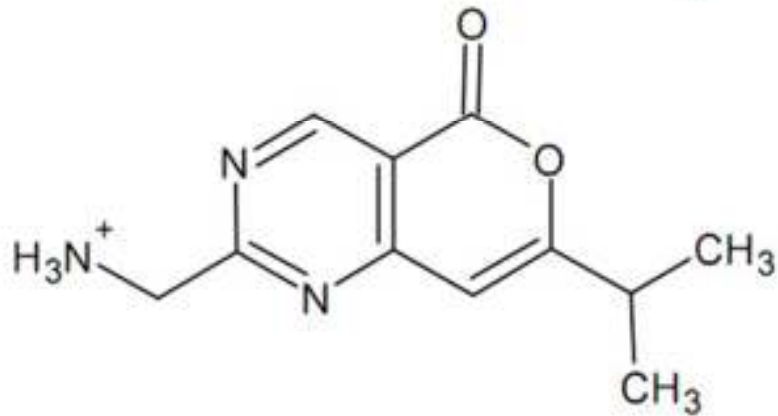
Patents

- Subject matter must be new, not obvious and useful
- **New:** Novel; Not previously disclosed in a previous, publically available “document”
- **Not obvious:** Inventive; not a readily appreciated combination of known technology
- **Useful:** has a practical application

Patents

- It is essential that the subject matter of a patent application has not been previously disclosed by the inventor
- Examples of suitable subject matter:
 - A new method for sorting data
 - A new pharmaceutical formulation for treating topical wounds
 - A new low power antennae
 - A new strain gauge

Patents



Trademarks

- Protects the **branding** behind a product
- Directed to a name, logo or non-functional shape that indicates the origin of a product
- Renewable 15 year term of protection (soon to be renewable 10 year term)
- International protection available

Trademarks

- Arises as soon as you pick a trademark and use it in commerce
- Registration with government conveys a host of additional benefits
- A trademark owner has the right to prevent others from using its trademark, or a confusingly similar trademark
- Denoted by TM (unregistered or common law) or ® (registered)

Trademarks

- Incredibly important where style, quality or reputation is of high importance to business success
- For example: Food and Beverage - Coca Cola®; Clothing - Gucci®; Automobiles BMW®; Jewelry – Rolex®
- Great tool when technology is not necessarily innovative or the focus of a business

Trademarks

- Relatively affordable and quick
- 1.5 to 2 years to obtain registration
- Moderate scope of IP protection
- Examples: Nike® Swoosh, John Deere Green and Yellow colour scheme, shape and colour of a Viagra pill, Intel® jingle, Red Soled Louboutin® shoes

Trademarks



Copyright

- Protects **creative expression**
- Term lasts from 50 years from author's death (could soon be +70 years)
- Arises upon the authorship of the work
- Additional rights are conferred upon registration with government
- Narrow scope of IP protection (protects against substantial copying, retransmittals, etc.)

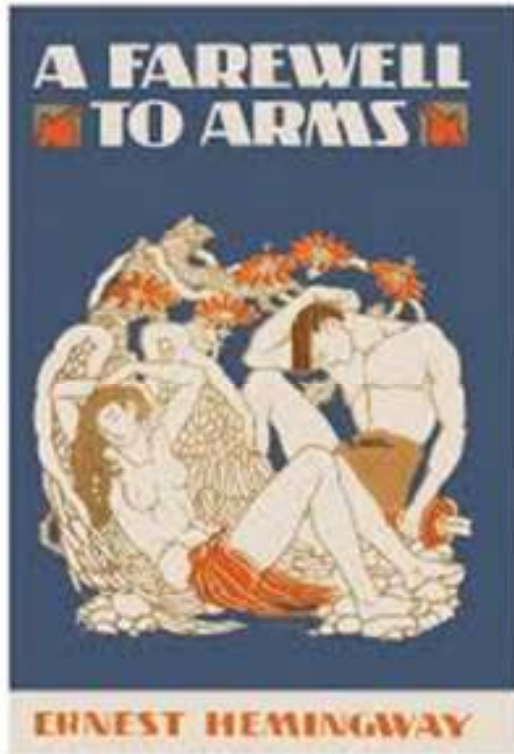
Copyright

- Owner of Copyright has the right to prevent any reproduction, sale, alteration (limited), display etc. of copyrighted work
- Denoted by ©
- Excellent tool when other types of intellectual property protection are not well suited to the situation
- Very affordable and instant protection

Copyright

- Examples: Content of a thesis; pictures/video taken or drawings created; computer code written; original song, screenplay or story; website design

Copyright



Industrial Designs

- Directed to the **appearance** of an item
- Purely decorative protection
- Does not cover the technology behind the design
- 10 year term of protection
- International protection available
- Affordable Protection

Industrial Designs

- Relatively narrow scope of IP protection
- Incredibly important where style and aesthetics is of high importance to business success
- Another great tool when technology is not necessarily innovative
- Example: Design for coffee table, Shape of a bandage, shape of yoga pants

Industrial Designs





Questions ? Answers

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