TYPES OF INTELLECTUAL PROPERTY

• PATENTS
  • "Anything under the sun made by man" is patentable subject matter
  • Requires creation of a patent application "from scratch" and is therefore somewhat time-consuming and expensive
  • Must be examined against relevant prior art in the Patent Office
  • "Bargain" with the government is that the inventor completely describes the invention to the public in return for patent protection
  • Term is 20 years from filing date

• TRADEMARKS
  • Must identify a "source of origin" of goods or services "in commerce"
  • Usually a word, phrase or logo, but can (rarely) be more esoteric such as a color or shape
  • Relatively simple and inexpensive to obtain
  • Lasts indefinitely as long as the protected goods or services are being sold

• COPYRIGHTS
  • Protects any physical expression of an abstract idea - any type of text compilation, sculpture, architectural drawings, artwork, software in printed form, printed circuit masks etc.
  • Protection starts by simply marking item with © and year
  • Easy to register - fill out a form and send to Copyright Office with copy of item
  • Lasts for life of the author plus 50 years (may be different for "works for hire")
• **TRADE SECRETS**

  • Encompasses anything that has value by virtue of being known only to a limited, authorized group

  • Can last indefinitely - becomes lost if and when it becomes publicly known, even if not by actions of owner

  • Protected by state law and thus details can vary from state-to-state

  • Usually memorialized by some type of NDA (non-disclosure agreement) when disclosed to "new" persons

  • Since a patent necessarily involves public disclosure, must choose between patenting or maintaining trade secret