IP 101: What It Is and Why It Matters

Presented by

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Disclaimer

This presentation is intended for information purposes only. I am not a legal or intellectual property expert, and this content should not be considered legal advice. For specific intellectual property matters, please consult a qualified professional.

Overall Objectives

- Define intellectual property and distinguish between its different types.
- Identify and evaluate the key factors to consider when commercializing intellectual property.
- Identify and understand the key resources that provide intellectual property education and support the protection and commercialization of IP.

What is Intellectual Property? (informal)

- Intellectual Property simply defined is any form of knowledge or expression created with one's intellect.
- It includes such things as inventions; computer software; trademarks; literary, artistic, musical, or visual works; and even simply know-how.

What is Intellectual Property? (formal)

An intangible asset that may be protected by formal legislation:

- patents
- trade-marks
- industrial designs
- copyrights

or that provides national and international value (e.g. know-how, trade-secrets).

Patent

- The exclusive NATIONAL right to your invention granted to you by a government
- Lasts for 20 years from the date you file the application
- Published 18 months after you file it
- Covers new inventions (process, machine, product, composition of matter) or any new and useful improvement to an existing invention
- Must be novel, have utility and not obvious to a person skilled in the field of the invention

Copyright

- The sole right to produce, copy or translate literary, artistic, dramatic or musical works, including computer programs
- Does not protect ideas, but rather the expression of such ideas.
- Comes into existence automatically when the work is created and lasts for the author's lifetime plus 70 years. "© 2026 [Owner's Name]"
- The author of a work is the first owner of copyright, however where a work is created by an employee in the course of his or her employment, in the absence of an agreement to the contrary, the employer is the first owner of the copyright.

Moral Rights

- Associated with copyright
    - The rights related to attribution, association and integrity
- Cannot be bought and sold, only waived

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Trademarks

- Letters, words, sounds or designs that distinguish your company's goods or services from those others

- Can be registered for use in Canada for 10 years (can be renewed)

- Use it or lose it

Industrial Design

- Relates to the shape or configuration of a product (its “look”), not its function. Must be registered, in Canada it will give you up to 15 years of protection
- Like a patent it must be new and unique (not disclosed) but does not require functionality

Patenting and Commercialization

- Factors to consider
  - ✓ Inventorship
  - ✓ Ownership
  - ✓ Disclosure
  - ✓ Cost/budget and where to file
  - ✓ Prior art and freedom to operate

Inventorship

- A person who contributes to the inventive concept and to at least one claim of the patent (claims define the scope of the patent, i.e. what protected)

- Can be two or more individuals who have collaborated to enable the invention through joint efforts

- Not the same as authorship

- Not including all inventors can be a costly mistake

Ownership

- Throughout the world, patents are granted on a first-to-file basis
- In the absence of any agreement to the contrary, you can file a patent and become its owner

Disclosure

- In Canada and the US, there is a one-year grace period after first public disclosure. Anywhere else, any communication not made in confidence that allows one to reproduce your invention will destroy novelty of the invention
  - Pitch
  - Thesis
  - Social Media
  - Public presentation
- Use confidentiality agreements if disclosing “in confidence”, remember that it is first to file system for patents

Cost/budget

- Patent protection is by jurisdiction (country)
- A rough rule of thumb is a patent will cost between $15,000 and $20,000 to issue in Canada or US, add an extra $5,000 per country named and translation fees
- Fees: filing (provisional, PCT or national), maintenance, examination, and issue
- Fees to lawyers and patent agents
- Defence against infringement

Types of applications and where to file

- Provisional patent application
  - Allows you to set your priority date
  - Will expire after 12 months if no further action
- Patent Cooperation Treaty (PCT)
  - International application that provides allows you to seek patent protection for 18 months (30 if the first filing) in more than 150 countries through a single application
- National filing
  - By country where protection is required

Patent searching for Prior art and freedom to operate

- Canadian Intellectual Property Office
- US Patent and Trade Office (USPTO)
- Google patents
- European Patent Office

Educational Resources for Intellectual Property

- Canadian Intellectual Property Office (CIPO)
  - Education, tools, and resources
- Intellectual Property Office Ontario – Foundational IP Education
  - Foundations of IP Strategy
- University of Toronto Intellectual Property Education Program
  - Level 1, IP Foundations
- Innovation Science and Economic Development, Government of Canada
  - IP Foundations Series

Online Resources for Intellectual Property

- Intellectual Property Office Ontario Support and Services
  - Client Services

Innovation Science and Economic Development, Government of Canada
  - IP strategy self-assessment tool

- NRC IRAP support for intellectual property
  - IP Assist

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Questions?

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