

Intellectual Property

Patents

US Office of Patents and Trademarks.

Lasts 20 years from first submission, then public domain.

You have one year in US after publishing, or it becomes public domain.

Recently they have switched from “first to invent” to “first to submit”.

Do not need working model, but must be possible and novel.

Thousands to tens of thousands of dollars, and takes >2 years (“patent pending”).

Provisional patent is easy and cheaper (~\$500) and lasts 1 year before full patent.

Trademarks

State-wide unregistered protection by simply using *unregistered* trademark “™”.

US Office of Patents and Trademarks for *registered* trademark “®”. Must already be selling the product.

Lasts forever. Costs hundreds to thousands of dollars.

Applies to a particular applications (e.g., Apple records vs. Apple computer).

As part of war reparations specified in the 1919 Treaty of Versailles following Germany's surrender after World War I, Aspirin (along with heroin) lost its status as a registered trademark in France, Russia, the United Kingdom, and the United States, where it became a generic name.

Trademarks can be lost if they become “genericised,” as in Klenex®

Copyright

Protects poetry, movies, video games, videos, plays, paintings, sheet music, sound recordings, novels, software code, sculptures, photographs, choreography and architectural designs, but not the underlying facts or ideas.

Must be original, "fixed in a tangible medium of expression," and "the result of at least some creative effort" (not just a list of telephone numbers).

Lasts the life of the author plus 70 years, or between 95 and 120 years if for hire. Then reverts to public domain.

Basic unregistered copyright is inherent, but it is still better to include the "©" symbol ("Ⓒ" for sound recordings) along with name and date; this can be done without registering the copyright.

Better yet register the copyright at U.S. Copyright Office (www.copyright.gov/eco/), for \$35 (multiple works can sometimes be combined into one).

Musical compositions are protected by "©".

"Mechanical Rights" - 1908 the U.S. Supreme Court, *White-Smith Publishing v. Apollo*, the player-piano roll was a mere mechanical device, not an unauthorized copy of sheet music. Put a player piano inside a saloon or a performance hall and you'd be liable for performance royalties. But inside the home, it was just another type of music box. Congress passed a special tax of 2 cents per player-piano roll to help defray the enormous cost to content providers of unauthorized performances in the home. As of 1996 the rate had risen to 6.95 cents. (<http://www.forbes.com/sites/danielfisher/2012/01/18/sopa-meet-the-player-piano-copyright-threat/>)

Performance on the radio or in public generates fees for the authors (but not the performers) and is collected by BMI (free) and ASCAP. Deal was struck with performers sell their records by exposure on radio. Usually split 50/50 with publisher (they set the official total percentage to "200%").

Individual recordings of compositions are protected by "Ⓒ", and performers/producers are paid when recordings are sold. Authors receive a set fee as governed by "compulsory license" (author's permission not required) for "mechanical and digital licensing" generally collected by the Harry Fox Agency (HFA).

Fair use (short enough, good enough cause, or limited enough distribution).

Digital Millennium Copyright Act 1998, complex and still in flux; what is “public distribution”? What is “on-demand”?

Two proposed laws in the United States Congress—the Stop Online Piracy Act (SOPA) and the PROTECT IP Act (PIPA).

Why does Pitt worry about it? They can be sued big-time by recording and movie industry if students download onto their servers.

Commercializing your music

The problem is not protecting it, the problem is getting anyone to listen to it.

DiskMasters – good for live performances

CD Baby (to iTunes, Pandora, etc.)

Actually you need an Agent (performer) or a Publisher (songwriter)



- Frank Conrad (Westinghouse) 1919, First Commercial Radio KDKA Pittsburgh