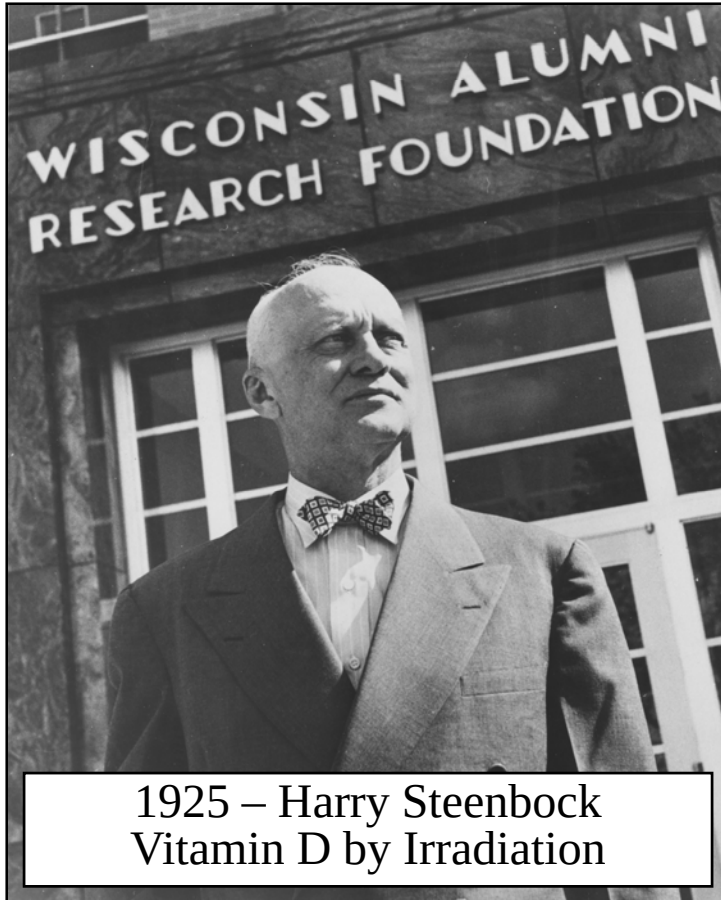




Intellectual Property: Patents, Copyrights, and Trademarks

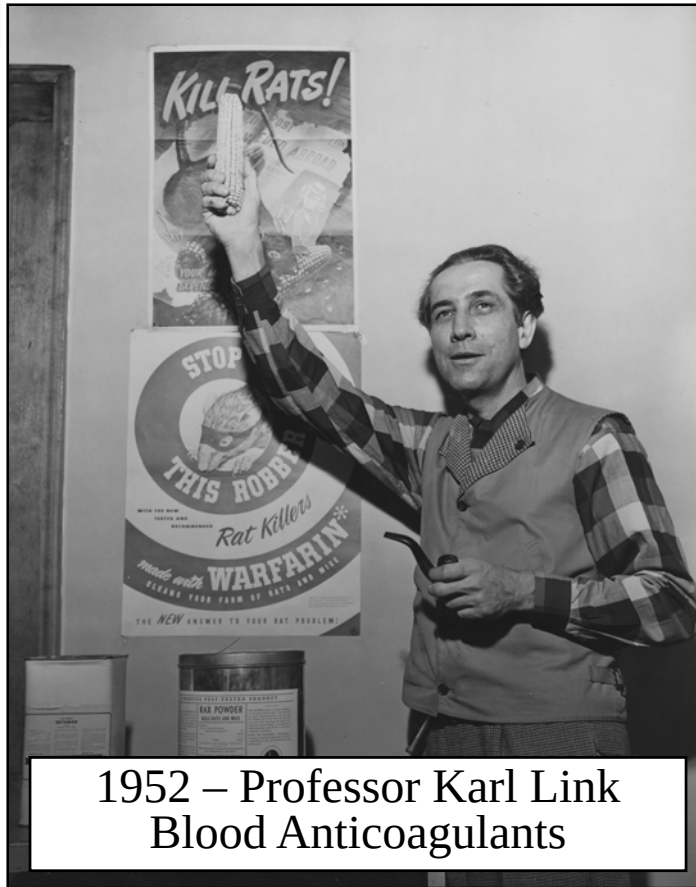
Michael Falk
General Counsel

Wisconsin Alumni Research Foundation (WARF)



- Manages IP for the UW
- Established in 1925 by Dr. Harry Steenbock; 1st organization of its kind
- A tax exempt, not-for-profit corporation
- Independent world-class Board of UW alums

WARF's Mission



1952 – Professor Karl Link
Blood Anticoagulants

To support scientific research at the UW by:

- protecting patentable inventions
- licensing inventions
- investing licensing revenue to fund further UW research
- moving inventions to the market place, for the benefit of the UW, the inventor, and society as a whole



Intellectual Property



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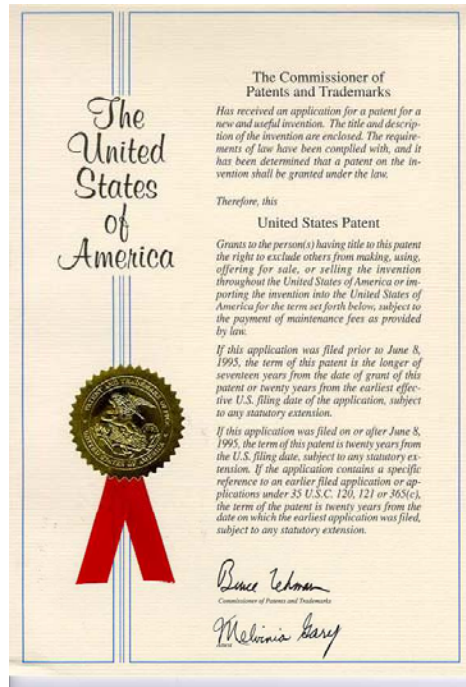
What is Intellectual Property?

Intellectual Property (IP) can be any product of the human intellect, such as:

- invention
- expression
- unique name
- business method
- industrial process
- chemical formula

How do we protect IP?

Patents



Copyrights



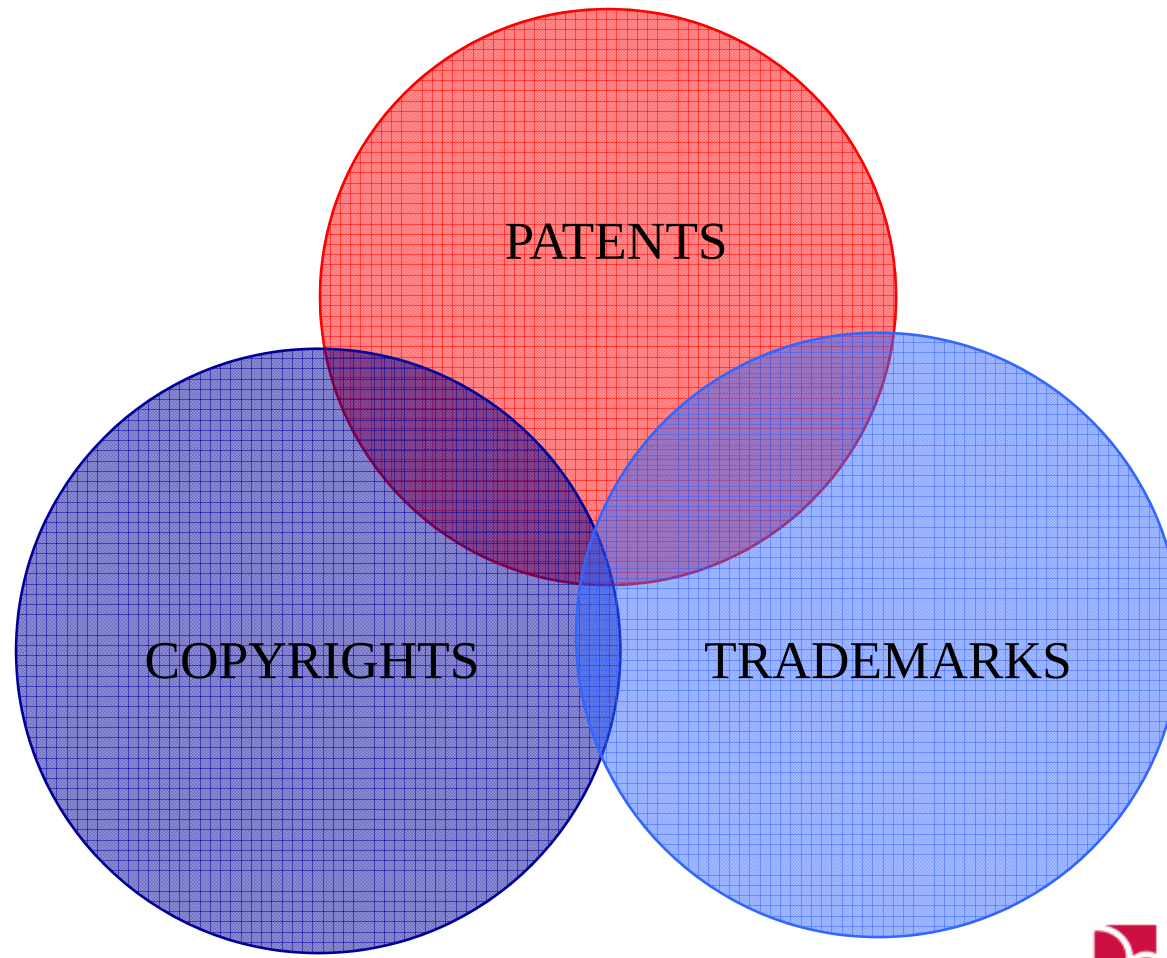
Trademarks



Trademark, Patent or Copyright

- A **trademark/service mark** identifies and distinguishes the source of a good/service.
- A **patent** protects an invention – i.e., a process, machine, article of manufacture or composition of matter.
- A **copyright** protects an original artistic or literary work... an expression of an idea, not the idea itself.

What are you protecting?





Patents



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Patentable Inventions

Patents protect new, useful, and non-obvious:

- Machines
- Processes or methods (including algorithms)
- Compounds or compositions of matter
- Articles of manufacture
- Improvements on technologies listed above

Patent Rights

Patents provide the nationwide right to **exclude** others from:

- *Making*
- *Using*
- *Selling*
- *Offering to Sell*
- *Importing*

... the patented invention.

Patent Process

- Inventor conceives of the invention
- Invention is made and tested (as appropriate)
- Patent application is prepared
- Application is filed in the U.S. Patent Office
- Application is examined by the Patent Office (2-3 years)
- Application Issues as a Patent
 - Patent expires 20 years from filing date

First to Invent

- The U.S. awards the patent to the “first to invent”, whereas the rest of the world rewards the “first to file”
- Critical events for determining “first to invent”:
 - Conception: the idea for the invention
 - Reduction to practice: make & test invention
- Bottom line: keep a laboratory notebook

Grace Period v. Absolute Novelty

- If the invention is sold, used in public, or publicly disclosed/described:
 - For U.S. patent, there is a 1-year Grace Period in which the inventor must file a patent application.
 - For countries that require Absolute Novelty, there is no grace period.

Public Disclosures

Examples of typical public disclosures of an invention:

- Non-confidential department seminar
- Journal publication
- Professional meeting presentation
- Poster session
- Description on an internet site
- Offer for sale, or use of the invention in public



Trademarks



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Elements of a Trademark

- Word/Phrase
 - Standard or stylized characters
- Symbol/Design
- Sound
- Color
- Scent/Taste
- Shape
- Any combination of the above

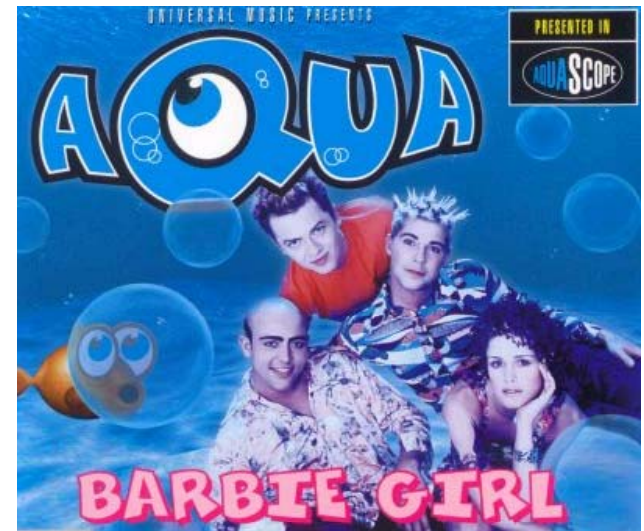


Earning Trademark Rights

- The first person to ***use*** a mark in connection with the sale of goods or services.
- Adopting a trademark begins with performing a search of what trademarks are already registered or in use
- Owners don't have to register the trademark, but there are legal advantages to federal trademark registration.
- Trademark registration can be renewed every 10 years, for as long as the trademark is used.

Fair Use – When You Can Use Another's Trademark

- Nominative use (e.g., mentioning it in fiction or a product review)
- Comparative advertising
- Parody
- Journalistic uses
- Compatibility of aftermarket goods (e.g., what is this gadget compatible with?)





Copyrights



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Copyrights

- Copyrights protect an **EXPRESSION** of an idea
- Copyrights encourage creative efforts by giving the author(s) the exclusive right to:
 - reproduce the copyrighted work
 - derive income from the copyrighted work

Copyrightable Subject Matter

- Literary Works
- Musical Works
- Dramatic Works
- Pictorial, Graphic and Sculptural Works
- Web pages
- Software and computer programs
- Mask works and semiconductor chips
- Architectural Works
- Motion Pictures and other Audiovisual Works

Copyright does not protect:

- Ideas
- Titles, names, short phrases, logos and slogans
- Facts
- Website addresses

Obtaining Copyright Protection

- Copyright is created automatically when the work is created
- Registration is not required (but is highly recommended)
 - Provides additional protection
 - Simple and inexpensive (\$30)

Term of Copyright Protection

- Works created on or after January 1, 1978:
 - Life of the Author plus 70 years.
- Works created before January 1, 1978:
 - 28 years (renewable for up to a total of 95 years)



Trade Secrets



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Trade Secrets

- Can include almost anything a business maintains as secret, such as:
 - Manufacturing processes
 - Software
 - Customer lists
 - Marketing and other business data
- Patent and trade secret protection are mutually exclusive because:
 - A patent requires full disclosure to the public
 - A trade secret requires secrecy





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