

Have You Created Protectable IP?

A Guide for Insurance Professionals



Why This Matters

- ▶ Insurance industry creates intangible assets
- ▶ Many teams unaware of IP creation
- ▶ IP strengthens competitiveness and reduces risk



What You Will Learn

- ▶ How to identify protectable IP
- ▶ Key IP categories
- ▶ Red flags and risks
- ▶ When to involve IP counsel



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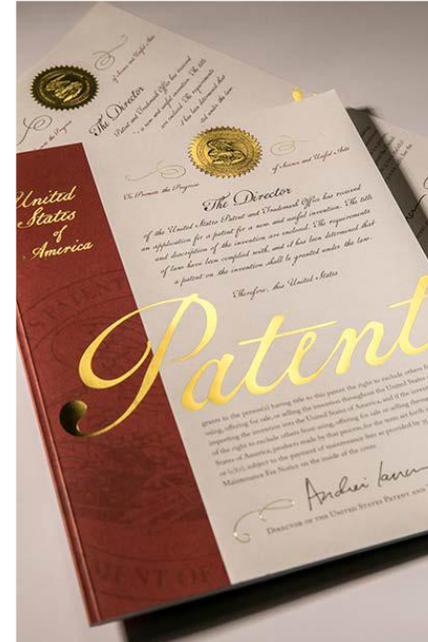
Overview of U.S. IP Categories

- ▶ Patents
- ▶ Trademarks
- ▶ Copyrights
- ▶ Trade Secrets



What is a Patent?

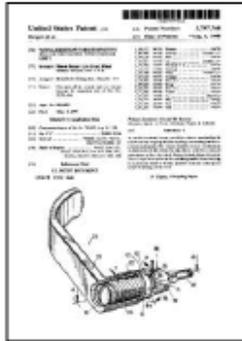
- ▶ A property right granted by the United States government to an inventor
- ▶ To exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States
- ▶ For a limited time
- ▶ In exchange for public disclosure of the invention



Types of Patents

Utility

New and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof



Design

Any new, original and ornamental design; protects the way an object appears



Plant

Whoever invents or discovers and asexually produces any distinct and new variety of plant



Patentability Indicators

- ▶ New
- ▶ Useful
- ▶ Non-obvious

Innovation Strategy Tips:

- ▶ Document or prototype



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Patents - What to Look For

- ▶ Underwriting algorithms
- ▶ Fraud-detection tools
- ▶ Telematics or IoT systems
- ▶ Software tools or workflows



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Patent Red Flags

- ▶ Public disclosure before filing
- ▶ Selling or offering to sell before filing
- ▶ Use of third-party code



What is a Trademark?

- ▶ A word, symbol, device, design or a combination of these used to identify and distinguish the products of one source from those of another

Key Purposes:

- ▶ Helps customers identify your products
- ▶ Facilitates the purchasing experience
- ▶ Encourages production of quality goods/services

STARBUCKS NIKE TARGET



Trademarks - What to Look For

- ▶ Product or program names
- ▶ Branding elements
- ▶ Logos, taglines, certification marks

Allstate
You're in good hands.

Liberty Mutual 
ignite

THE 
HARTFORD



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More Trademark Examples

▶ Programs Names

- **Mark:** TRUSTMARK HOSPITAL STAYPAY
- Services: Insurance services, namely, underwriting and administering of hospital indemnity insurance.

- **Mark:** E-Rater
- Goods: Computer software used for rating commercial insurance policies.

- **Mark:** DRIVE SAFE & SAVE
- Goods: Downloadable mobile application software for mobile phones ... for collecting, analyzing, managing and transmitting data about mileage and driving behavior of motorists ...

- **Slogans**
- "Like a good neighbor, State Farm is there"
- "15 minutes could save you 15% or more on car insurance"
- "Be Good at Life"



Trademark Strength Spectrum



Trademark Red Flags

- ▶ Similar to competitors
- ▶ Generic or descriptive terms



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What is a copyright?

- ▶ Original works of authorship
- ▶ fixed in a tangible medium of expression from which it can be perceived and reproduced
- ▶ Term - varies depending on who created the work



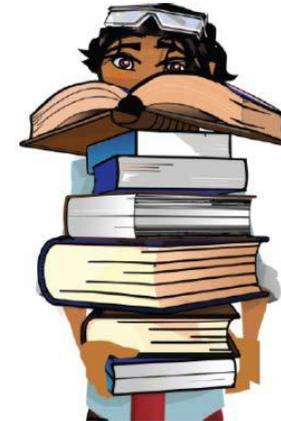
Sculptures



Songs



Movies



Books



Copyright - What to Look For

- ▶ Policy forms
- ▶ Training materials
- ▶ Marketing content
- ▶ Claims manuals
- ▶ Software code
- ▶ Audiovisuals -- commercials

Copyright Examples

- ▶ Folder: Social security insight :pocket reference to eligibility and benefits.
- ▶ Book: Insurance handbook for reporters
- ▶ Software: methods for evaluating risk

Motion Picture, i.e., commercials -- Mayhem Leaf Blower

https://www.instagram.com/reel/DC5On5SyDPQ/?utm_source=ig_web_copy_link&igsh=NTc4MTIwNjQ2YQ==

- ▶ State Farm: <https://youtu.be/47cAxRX3aDg>

Copyright Red Flags

- ▶ Heavy use of templates
- ▶ Unclear ownership in collaborations



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What is a trade secret?

- ▶ Commercially valuable information that is not generally known that derives its value from being a secret
- ▶ Can be anything capable of being preserved as a secret
- ▶ Must be subject to reasonable efforts to preserve the secret
- ▶ Term - for the life of the secret



Measures to Preserve the Secret

- ▶ NDA
- ▶ Access controls
- ▶ Exit interviews



Trade Secrets - What to Look For

- ▶ Actuarial models
- ▶ Pricing formulas
- ▶ Risk-scoring methodologies
- ▶ Internal workflows



Trade Secret Examples

- ▶ A case law search returned over 6,500 results
- ▶ Some Examples:
 - ▶ **Duty to Defend Insured for Theft of Trade Secrets**
 - ▶ “misappropriation of advertising ideas or style of doing business.”
 - ▶ No duty to defend in this case - T/S misappropriation not found within policy limitations
 - ▶ **Insurance Co. v. Employee for Trade Secret Misappropriation**
 - ▶ Insurance Co. sued its former employees for soliciting its clients using confidential information - customer lists.
 - ▶ Misappropriation of confidential information of another learned in your capacity as an employee of another under an NDA.
 - ▶ Former Nationwide employees revealed third party confidential information to their new employer, who created a program based on the disclosed information.
 - ▶ Misappropriation includes both using information obtained in violation of a confidential duty as well as using information acquired through “improper means”.



Trade Secret Red Flags

- ▶ Lack of NDAs and widespread unrestricted disclosures
- ▶ Uncontrolled information sharing
- ▶ Employee NDAs



When to Involve IP Counsel

- ▶ Before launching new products
- ▶ When developing technology
- ▶ When branding services
- ▶ When sharing information with vendors
- ▶ During employee transitions



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Self-Reflection Checklist

Have you created something that --

- ▶ Is new or unique?
- ▶ Solves a novel problem?
- ▶ Contains original creative expression?
- ▶ Enhances branding value?
- ▶ Is valuable because it remains confidential?
- ▶ Is documented or used in commerce?



HAVE YOU PROTECTED YOUR CREATION OR INNOVATION?

Creative Brainstorming - 15 Minutes

- ▶ **Purpose:** to generate ideas for leveraging IP in the insurance industry
- ▶ **Topic:** Innovative Ways to Use Intellectual Property to Enhance Customer Experience and Competitive Advantage
- ▶ **Prompt:** How can intellectual property be applied to develop new products, improve service, optimize risk assessment, and differentiate companies
- ▶ **Brainstorming:**
 - ▶ each participant shares one idea in turn, building on previous ideas, if possible
 - ▶ Write ideas on Post-It and cluster ideas under the appropriate IP category
 - ▶ For top ideas identify:
 - ▶ What challenges stand in the way of the innovation?
 - ▶ What resources are needed to implement innovation?
- ▶ Report top idea to group - including challenges and needed resources



How to protect what you create

- ▶ Document Everything
 - ▶ Keep Detailed Records
 - ▶ Track Version History using Timestamps
- ▶ Communicate Contributions
- ▶ Confidentiality Agreement - if acting as a consultant or pitching ideas
- ▶ Protect your Ideas through Company Legal
- ▶ Understand Company Policy on IP Ownership
- ▶ Seek Legal Advice



Sample Email to Management

Subject: Project _____ Update

Hello _____,

I hope this message finds you well. I want to update you on [project name] and my contribution to ensure clarity and transparency within the team.

Specifically, I have been responsible for the following key elements:

- **[Briefly describe your specific contributions, e.g., “Developed the initial concept for…” or “Designed the algorithm that…”]**
- **[Additional contributions or milestones achieved]**
- **[Any relevant dates or deliverables]**

I believe these contributions have significantly advanced our objectives and the project’s success, resulting in the following value to the company: **[Describe value]**

Please let me know if you would like any further details or documentation.

Thank you for your attention.



Key Takeaways

- ▶ Insurance professionals create more IP than they realize
- ▶ Identifying IP strengthens competitiveness
- ▶ Early recognition prevents loss of rights
- ▶ Protect what you create



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