



KLEMCHUK LP
PROTECTING INNOVATION

AN ENTREPRENEUR'S GUIDE TO INTELLECTUAL PROPERTY

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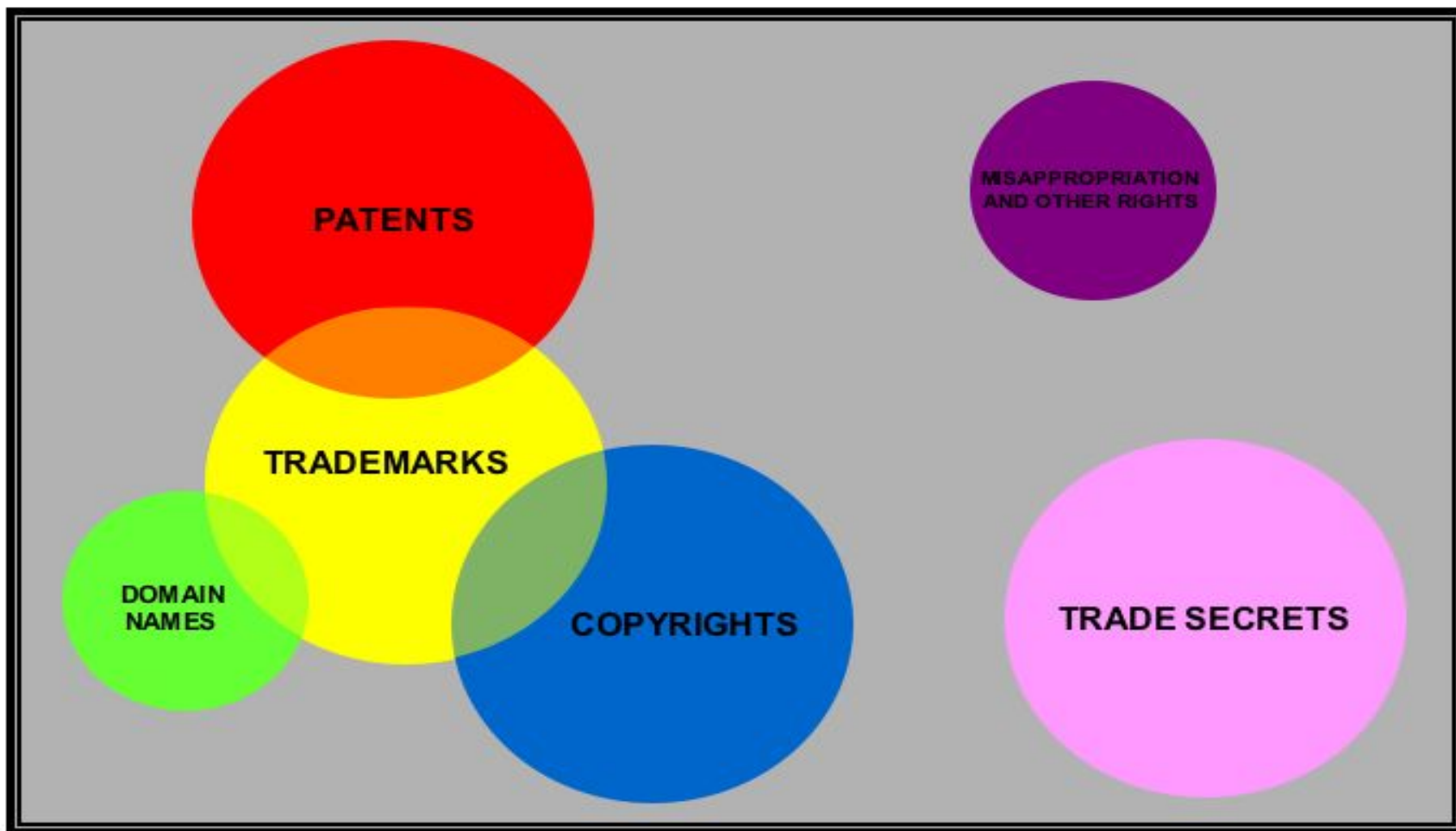
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Intellectual Property



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Patent Basics

- Invention must be new (novel) and not obvious
- Provisional vs. non-provisional applications
- Design vs. utility applications
- Patent term - up to 20 years (if fees are paid)
- Legal right to exclude



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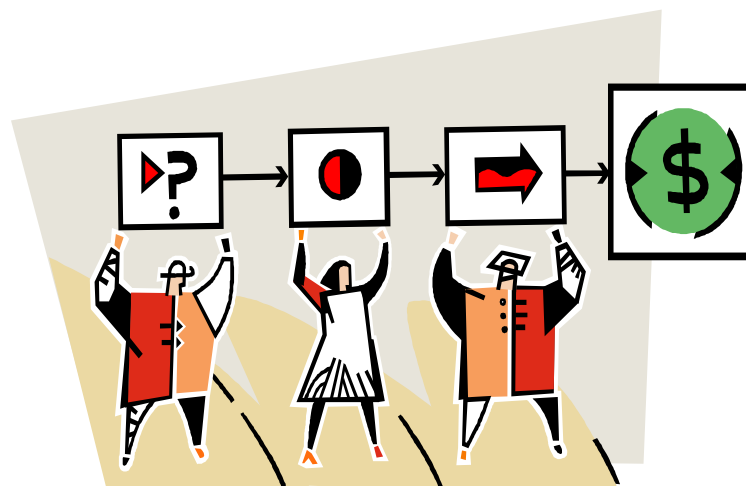
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Making Use of a Patent

- Litigation
- Licensing
- Spinout or start-up business
- Partnerships, joint ventures



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Making Use of a Patent

- Confidential information that gives a competitive advantage
- May protect processes, software, customer lists, pricing information, business methods, marketing plans
- Protection usually endures as long as kept secret



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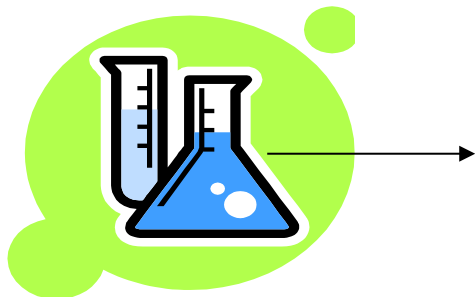
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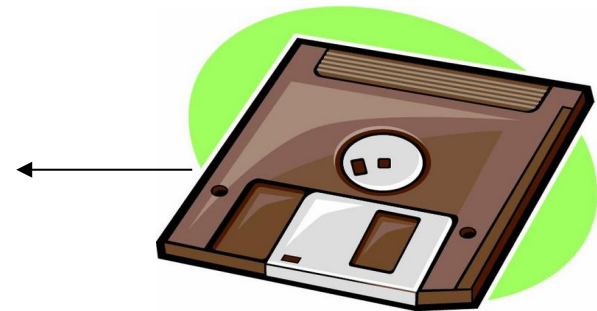
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Patent and Trade Secret Overlap

- New innovations may be protected with patents or trade secrets
- Cannot usually protect same innovation by both patents and trade secrets



Patent?
Trade Secret?
Both?
Neither?



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Copyright Basics

- Protects works of authorship that have been tangibly expressed
- Generally lasts for life of author plus 70 years
- Inherently created from the moment that work is created



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Copyright Basics

- Exclusive right to reproduce work, prepare derivative works, distribute copies to the public, perform work publicly, display work publicly
- Person who creates work inherently owns copyright except for “work made for hire”

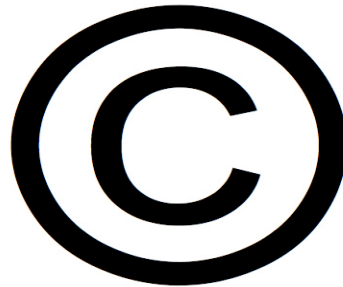


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Copyright Use and Misuse

- Should place copyright notice in place where it can be immediately seen



- Fair use
- Infringement – substantially similar test



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Trademark Basics

- Word, phrase, symbol and/or design that identifies and distinguishes source of goods of one party from those of others
- Once registered, can be renewed indefinitely



OR



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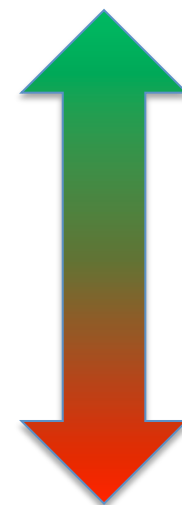
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Strength of a Trademark

Strength	Example
Fanciful or arbitrary	“Apple” for computers
Suggestive	“Glade” for air freshener
Descriptive	“Creamy” for yogurt
Generic	“Bicycle” in “The Bicycle Store”



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Trademark Search/Registration

- Can do free searching of federal trademarks (Trademark Electronic Search System (TESS) available at <http://tess2.uspto.gov/>)
- If no federal trademark registration, others may still have rights at state level or at common law
- Trademarks using equivalent spellings or sounds may present problems



IP Successes and Pitfalls



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Best Practices in IP



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