Non-Disclosure Agreements

- What is a Nondisclosure Agreement?
- When do I need a Nondisclosure Agreement?
- Where do I get a Nondisclosure Agreement?
What is a Nondisclosure Agreement?

- a contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of doing business together.

- One Way

- Two Way

When do I need a Nondisclosure Agreement?

- Any time you do not have one of the other methods of protection described above.
  - Copyright
  - Trademark
  - Patent
  - Business Information
Where do I get a Nondisclosure Agreement?

- Internet
- Office Supply Store
- Attorney
Copyright

- What is a copyright?
- What is covered by a copyright?
- Why do I need a copyright?
- What is gained by obtaining a Copyright?
- Registered vs Unregistered Copyright
- Where do I get a copyright?
- How Much does Filing Cost?
- Do I need an attorney to obtain a copyright?
What is a copyright?

- A form of protection provided by the laws of the United States for "original works of authorship"

- "Copyright" literally means the right to copy but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work.

- http://www.copyright.gov/help/faq/definitions.html
What is covered by a copyright

- literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations.

- Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery.

- Copyright protection does not extend to names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright.

http://www.copyright.gov/help/faq/definitions.html
Why do I need a copyright?

- No! Copyright exists from the moment the work is created.

- However, if you want federal protection of your work, you need to register your work.
What is gained by obtaining a copyright

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U. S. origin.
- If made before or within five years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.
- If registration is made within three months after publication of the work or prior to an infringement of the work, statutory damages and attorney’s fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.
- Registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies.

Registered vs Unregistered Copyright

- Pay the copyright owner the amount of money the infringer made from using the work or that the owner would have made if the infringement had not happened. [http://www.copyrightkids.org/copyrightbasics.html](http://www.copyrightkids.org/copyrightbasics.html)

- Statutory Damages
  - Expenses saved and profits gained by the defendants in connection with the infringements; revenues lost by plaintiffs as a result of defendants’ conduct; and the infringer’s state of mind, that is, whether willful, knowing, or merely innocent. Moreover, the court should consider the purposes of the Copyright Act, including restitution to prevent unjust enrichment, reparation of injury, and deterrence of further wrongful conduct by the defendants and others. Walt Disney v. Video, 47, 972 F. Supp. 595, 603 (S.D. Fla. 1996)

- Criminal Penalties
Where do I get a Copyright?

[http://www.copyright.gov/]
How Much does Filing a Copyright Cost?

- $35 for a single author, single claimant, one work, not for hire.
- $55 for a standard application
- $85 for paper filing

*Fees are subject to change and these amounts are only for standard filing.
Do I need an attorney to obtain a copyright?

► No!
Trademarks

- What is a Trademark?
- What is covered by a Trademark?
- What types of Trademarks are there?
- Why do I need a Trademark?
- What is gained by obtaining a Trademark?
- How do you enforce a Trademark?
- Where do I get a Trademark?
- How Much does it cost to File for a Trademark?
- Do I need an attorney to obtain a Trademark?
What is a Trademark?

- A trademark is a brand name.

What is covered by a Trademark?

- A trademark or service mark includes any word, name, symbol, device, or any combination, used or intended to be used to identify and distinguish the goods/services of one seller or provider from those of others, and to indicate the source of the goods/services.

What types of Trademarks are there?

- **Trademark**
  - A word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others - TM

- **Service Mark**
  - The same as a trademark, except that it identifies and distinguishes the source of a service rather than a product – SM

Why do I need a Trademark?

- Defending your name could cost you millions to protect it in the future or you might even lose the rights to use the name you derived.
  - Common Law Rights
  - Registering in a State
  - Federal Registration
What is gained by obtaining a Trademark?

- A legal presumption of ownership and the exclusive right to use the mark nationwide.
- Public notice of our claim to ownership
- Listing in the USPTO database
- The ability to record the registration with US Customs and Border Protection
- The right to use the Federal registration symbol ®
- The ability to bring an action in Federal Court.
- The use of the US registration as a basis for foreign registration.

How do you enforce a Trademark?

- You must defend your Trademark.
  
  - Watch for any sort of infringement on your trademark, especially one that can lead people to confuse your trademarked brand for that of another company’s.
  
  - Look for similarities in symbols to your trademarked graphics, or in name to your trademarked brand name. Use a trademark search firm with a monitoring service to help you find possible infringement cases.
  
  - Pursue infringement fully, using an attorney to legally force the infringing party to cease using the trademarked material.
  
  - Pursue even smaller infringers, as allowing any use can jeopardize your ability to fight larger infringement claims.
  
Where do I get a Trademark?

Getting Started with Trademarks

Before you apply for a trademark, you should familiarize yourself with the basics. Determine if you need a trademark or another form of Intellectual Property protection.

Trademark Tools & Links

Search Trademark Database
Search database for trademark registrations and applications by mark, owner, or serial/registration number with Trademark Electronic Search System (TESS)

Filing Online
File forms for the trademark application, maintenance and other trademark processes with Trademark Electronic Application System (TEAS)

Check Status & View Documents
Check the status of an application and view and download application and registration records using Trademark Status and Document Retrieval (TSDR)

Trademark Trial and Appeal Board (TTAB)
Trademark Trial and Appeal Board News and Notices... A video providing an overview of the TTAB

The TTAB (2014) is now available in a new, searchable format. Use the link under "..."
How Much does it Cost to File for a Trademark?

- Between $225 and $325 per international classification

- $375 for a paper filing per international classification.

*Fees are subject to change and these amounts are only for standard filing.
Do I need an attorney to obtain a Trademark?

- Probably

- There are some tricks and traps that occur during registration.
- A search will need to be conducted.
- A classification will need to be chosen.
- Appropriate examples will need to be filed.
- Merely Descriptive problem.
Patents

- What is a Patent?
- What types of Patents are there?
- When do I need a Patent?
- What is gained by obtaining a Patent?
- Where do I go to obtain a Patent?
- What is the Patent Application Process?
- How do you enforce a Patent?
- How much does it cost to File a Patent Application?
- Do I need an attorney to obtain a Patent?
What is a Patent?

- A property right granted by the Government of the United States of America 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 when the patent is granted.

- 35 USC §154
What types of Patents are there?

- Utility Patent
  
  Issued for the invention of a new and useful process, machine, manufacture, or composition of matter, or a new and useful improvement thereof, it generally permits its owner to exclude others from making, using, or selling the invention for a period of up to twenty years from the date of patent application filing ++, subject to the payment of maintenance fees. Approximately 90% of the patent documents issued by the USPTO in recent years have been utility patents, also referred to as "patents for invention".

What types of Patents are there?

- **Design Patent**

A Design Patent is issued for a new, original, and ornamental design embodied in or applied to an article of manufacture. It permits its owner to exclude others from making, using, or selling the design for a period of fourteen years from the date of patent grant.

- [http://www.uspto.gov/web/offices/ac/ido/oeip/taf/patdesc.htm](http://www.uspto.gov/web/offices/ac/ido/oeip/taf/patdesc.htm)
What types of Patents are there?

- Design Patents

- A Plant Patent is issued for a new and distinct, invented or discovered asexually reproduced plant including cultivated spores, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state. It permits its owner to exclude others from making, using, or selling the plant for a period of up to twenty years from the date of patent application filing.

When do I need a Patent?

► What is your idea?

► Who have you told about the idea?

► What state is the idea in?
What is gained by obtaining a Patent?

- A 20 year monopoly on the use of your invention for Utility and Plant Patents.

- A 14 year monopoly on the use of your design for a Design Application.

http://www.uspto.gov/learning-and-resources/general-faqs
Where do I Apply for a Patent?
What is the Patent Application process?

- **Step 1**
  - Talk with a patent attorney. This conversation should include issues such as a description of the types of patents available, whether to file a provisional or nonprovisional application, how long the patent application process will take (it could take several years), as well as a discussion of the idea itself. For me as a patent attorney, I need to understand the idea well enough to be able to conduct research into whether the idea has already been patented and be able to write a description of the idea, with the aid of the inventor, so that the idea can be patented. This acquisition of knowledge of the idea may involve the inventor describing the idea, reviewing drawings, looking at prototypes, and even visiting the place where the idea will be produced.
What is the Patent Application process?

- **Step 2**

- Conduct a patentability search. A patentability search reviews the USPTO databases, as well as other, international databases, to determine whether another inventor as already patented the inventor's idea. During this investigation, not only is the attorney looking for an invention that is identical to the inventor's idea, but consideration is also given to patented inventions that are similar, accomplish the task the inventor’s idea accomplishes but in a different manner, and inventions that could be obviously combined to produce the inventor's idea.
What is the Patent Application process?

- **Step 3**
  - Write the utility patent application. A nonprovisional patent application includes several sections including a discussion regarding prior related patents identified during the patentability search, a description of the idea, and a claims section. The claims section specifically lays out what the idea is. The document itself will probably go between the attorney and the inventor several times in order to make sure the idea is properly described. Meanwhile, drawings may need to be developed that aid in the understanding of the idea being patented.
What is the Patent Application process?

▲ Step 4

▲ File the patent application. This involves the electronic filing of the written patent application, the drawings, a collection of required documents, and may involve the filing of assignment paperwork, that assigns the patent application from the inventor to another owner such as a business. In the United States, only the inventor can file a patent application, not a business. Ownership of that application or patent can then be assigned to a business.
What is the Patent Application process?

- **Step 5**
  - Wait. The first examination of an inventor’s patent application may not occur for more than a year after the filing date. There are ways to accelerate the examination process, which are as follows:
What is the Patent Application process?

- **Track I Accelerated Examination**

This procedure allows accelerated examination of a patent application with the payment of an additional fee and completion of additional paperwork. Under this program, the goal is to have a first office action within 4 months and a final disposition within 12 months of accelerated status being granted.
What is the Patent Application process?

- Step 5 Cont.
  - Accelerated Examination
    
    If the patent application relates to the enhancement of environmental quality, the development or conservation of energy resources, the prevention or countering of terrorism, the applicant’s age or health it may apply for accelerated examination.
What is the Patent Application process?

- Governmental Request

An application may also be examined out of turn if it is deemed of peculiar importance to some branch of the public service, that department requests the application be taken out of turn, and the USPTO grants the accelerated review.
What is the Patent Application process?

- Step 6

  Respond to the USPTO office action. Once the examiner reviews the patent application, the examiner sends out an office action stating the findings of the examination. In this action, the examiner may issue a notice of allowance, or respond with objections and rejections. Objections are issues the examiner has identified that must be corrected prior to the issuance of the application. Rejections are the examiner’s basis for denying the patent application. The applicant has one opportunity to respond to the stated objections and rejections. The response can make changes to the application, and can argue that the rejections are inappropriate. No new matter may be added to the specification but clarifications can be made. In addition, claims can be added, edited or deleted where necessary.
What is the Patent Application process?

- **Step 7**
  - Evaluate the next USPTO office action. Once the examiner receives the applicant’s reply, the examiner will evaluate the reply and issue a new office action. Again, the examiner may state that the application is ready for issuance. If the examiner has new objections or rejections, these will need to be replied to. If the examiner does not have new objections or rejections, the examiner will issue a final rejection. At this point the applicant will need to decide some sort of continued examination of the application or an appeal.
What is the Patent Application process?

- Step 8

- If a notice of allowance is issued, the applicant must pay the issue fee and the publication fee.
What is the Patent Application process?

- Step 9

Once a patent application is issued, maintenance fees are due 3½, 7½ and 11½ years after the patent is granted.
What is the Patent Application process?

- Step 10

- Protect your rights!
How long does it take to get a patent?

- I tell clients to expect their first office action in around 18 months.
How do you enforce a Patent?

- License
- Litigation
How much does it cost?

- Filing Fee Depends on how much money you make.
- Drawings may cost money
- Most charge for every communication with the Patent Office.
## Costs

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This schedule does not include costs such as filing over 3 independent claims, 20 total claims, or multiple dependant claims.

Fees are subject to change.

Do I need an attorney to obtain a Patent?

- Of Course you need an Attorney!


Where do I get a Nondisclosure Agreement?

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