

Morgan Stanley



Intellectual Property: An Overview

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Intellectual Property

WHERE DO ISSUES ARISE

- Adopting a new brand.
- Protecting innovative works, systems and methodologies.
- Development of software and other proprietary information:
 - by employees.
 - on your behalf by consultants and other vendors.
 - in collaboration with third party partner organizations.
- Onboarding employees who own or have been exposed to a third party's intellectual property.
- Departing employees who go to work for a competitor.
- Downloading third party materials from the Internet.
- Misuse of vendor materials.

Trademarks

WHAT IS A TRADEMARK

A word, phrase, symbol or logo used to identify and distinguish goods or services.

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Shareworks
BY MORGAN STANLEY

Morgan Stanley
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EXTRADE®

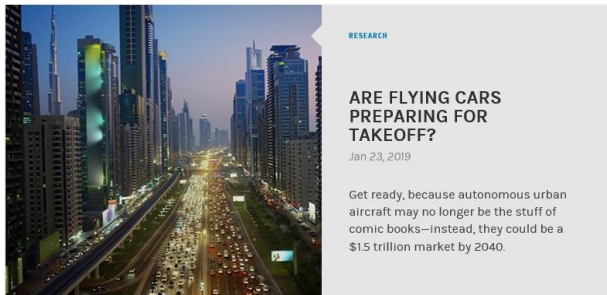
- Provides legal protection for your brand.
- Conduct a trademark clearance before launching new branding/logos/tag lines.
 - Assess the availability to use a particular mark and, if appropriate, the likelihood of being able to obtain a trademark registration ®.

Copyrights

WHAT KINDS OF WORKS ARE PROTECTED

Protects original works of authorship such as:

- Research reports, articles, books
- Videos
- Photographs, graphics
- Software
- Music
- Art
- Other forms of creative expression



Copyrights

HOW MUCH OF THE WORK IS PROTECTED

- Copyright protects the **original expression** in a work, but does not extend protection to the underlying facts, ideas, systems, processes or methods of operation.
- If someone paraphrases the content of an article without taking the original author's creative expression, there is no copyright violation.
- Underlying facts are not protected by copyright, only the author's creative expression of information.
- Titles and short phrases are generally not protected by copyright.

Copyrights

WHEN DOES PROTECTION FIRST ATTACH

- Copyright protection automatically applies from the moment the original work is created and fixed in a tangible form.
- It is not necessary to register a copyrighted work for it to be protected.
- There may be benefits to registration such as:
 - In the event of infringement: statutory damages, attorneys' fees and costs.



Moral Rights

WHAT ARE MORAL RIGHTS

Moral rights enable authors to:

- Protect their reputational interest in certain works.
 - Right of attribution in visual works.
 - Protect against, for example, an intentional distortion of their work that would prejudice the author's reputation.



Trade Secrets

WHAT ARE TRADE SECRETS

Confidential business information such as:

- Formulas, processes, models, software and data compilations which provide an enterprise a competitive edge.
- In general, trade secrets are information having economic value from not being generally known by others, and for which reasonable efforts have been taken to protect the information.



Data

HOW TO PROTECT DATA

- Data may be protected under various legal doctrines including trade secret, contractual terms, employee duty of loyalty.
 - Not protected by copyright except special situation.
- Some jurisdictions (e.g., EU/UK) have a database right to protect an entity's substantial investment in a collection of data or works that has been arranged in a systematic way, and that is individually accessible by electronic or other means.
 - May protect mailing lists, telephone directories, other databases.
 - Unlike copyright, no requirement for creativity/originality of the content or its arrangement.



Patents

WHAT IS A PATENT

Government granted property rights to inventions such as:

- Processes, methods, systems, machines, devices and compositions of matter, as well as improvements to them.
 - Computer implemented innovations.
 - Life is 20 years from filing date.
- Ornamental designs for an article of manufacture
 - Innovative GUI designs.
 - Life is 15 years from grant date.



Merits of Patents vs Other IP

PATENTS

- Recognition and reputational benefits (e.g., talent recruiting).
- Defensive dividends: create prior art, promote “freedom to operate,” deterrence.
- Potentially valuable proprietary positions.
 - Products marked “Patented” or “Patent Pending.”
 - Foster collaboration with external partners:
 - Vendors, consortiums, spin-offs.
 - Price concessions, innovation contributions.
- Support R&D tax credits.



**FAST COMPANY'S
BEST WORKPLACES
FOR INNOVATORS
2020 HONOREE**



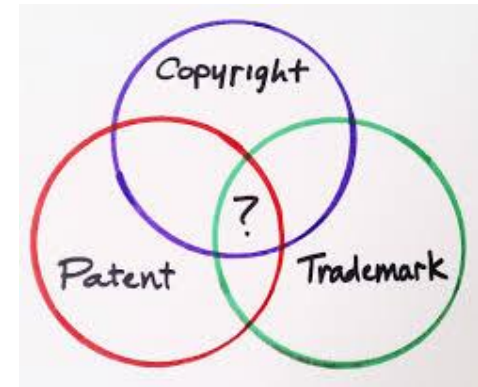
FOSTERING OUR INNOVATIVE CULTURE

- Centers of Excellence
- Technology Innovation Office
- Multicultural Innovation Lab
- Patent Accelerator Program
- CTO Innovation Summit and Fintech Summit

Merits of Patents vs Other IP

TRADEMARKS, COPYRIGHTS & TRADE SECRETS

- Trademarks and copyrights—unlike patents—don't protect the underlying inventive ideas and processes.
- Trademarks protect the branding of products and services regardless of how innovative the product or service.
- Copyrights protect creative expression but don't need to rise to the level of a patentable innovation.
- Patentable software innovations are protectable by both patent and copyright.
- Trade secret protection does not result in public disclosure—patents generally become publicly available 18 months after filing.
- Trade secrets—unlike patents—don't protect against independent development of the same thing.



What Is Patentable

HOW INNOVATIVE IS ENOUGH?

New, Non-obvious and Useful

- Not previously described in a publication, on sale or available to public.
- Non-obvious to a person of ordinary skill in the relevant field.
- Prior art search can help you better assess the differences between your invention and what has come before.



Other Considerations

IS THE SUBJECT MATTER PATENT-ELIGIBLE?

- Technological innovations such as improvements to the functioning of a computer or computer platform may be patent-eligible.
- Abstract ideas such as a mathematical concepts or methods of organizing human activity (e.g., hedging, insurance) are often not patent-eligible.
- A technological innovation that leverages an abstract idea may still be patent-eligible.



PATENT VS TRADE SECRET

Granted patents are published; trade secrets are not.

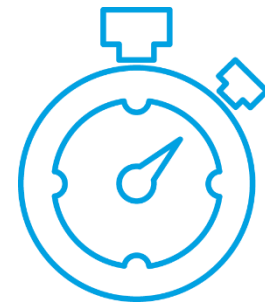
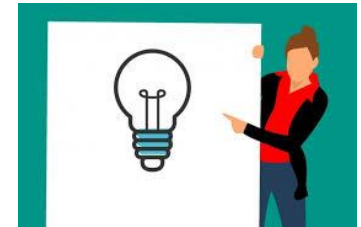
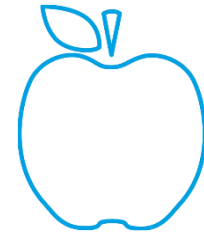
- Patent applications are published 18 months after filing.

Other Considerations

IS THE INVENTION RIPE?

Act promptly to preserve patent rights.

- Patent priority is awarded based on first-to-file.
- You don't need to have built the invention in order to patent it.
- Certain events may bar us from obtaining a patent or trigger a time limit in which to file a patent application.
 - Publication of invention.
 - Non-confidential disclosure.
 - Offer to sell.
 - Commercial use.
- "Provisional" patent applications may be prepared and filed quickly.



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