

## INTELLECTUAL PROPERTY DEFINITIONS

### Intellectual Property

- Patents, trademarks, copyrights, and trade secrets are sometimes referred to as "**intellectual property**"- referring to products that come from the creative mind. Intellectual property is imagination made real. It is an asset just like your home, your car, or your bank account. Just like other kinds of property, intellectual property needs to be protected from theft and misuse.

### What is an Invention?:

- An invention may take the form of a new machine, article of manufacture, composition of matter, process, or useful improvement to any of these. Inventions also include novel combinations of prior art. In order for an invention to be patentable, it must be novel, non-obvious and useful.

### What is a Patent? (From the U.S. Patent and Trademark Office (PTO)):

- A patent for an invention is the grant of a property right to the inventor, issued by the Patent and Trademark Office. The term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees. US patent grants are effective only within the US, US territories, and US possessions.

### What does a Patent protect?

The right conferred by the patent grant is, in the language of the statute and of the grant itself, "the right to exclude others from making, using, offering for sale, or selling" the invention in the United States or "importing" the invention into the United States. What is granted is not the right to make, use, offer for sale, sell or import, but the right to exclude others from making, using, offering for sale, selling or importing the invention.

### Types of Patents include:

- Plant (protect **invented or discovered, asexually reproduced plant varieties**. Examples: Hybrid tea roses, *Silver Queen* corn, *Better Boy* tomatoes are all types of plant patents.)
- Design (**new, original, and ornamental designs for articles of manufacture**. Examples: athletic shoe, a bicycle helmet, and the Star Wars characters are all protected by design patents)
- Utility (protect **useful processes, machines, articles of manufacture, and compositions of matter**. Examples: fiber optics, computer hardware, medications)

### What is Copyright? (From the U.S. Patent and Trademark Office):

- Copyright is a form of protection provided to the authors of "original works of authorship" including literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished. The 1976 Copyright Act generally gives the owner of copyright the exclusive right to reproduce the copyrighted work, to prepare derivative works, to distribute copies or phonorecords of the copyrighted work, to perform the copyrighted work publicly, or to display the copyrighted work publicly.

### What does the Copyright protect?

- The copyright protects the form of expression rather than the subject matter of the writing. For example, a description of a machine could be copyrighted, but this would only prevent others from copying the description; it would not prevent others from writing a description of their own or from making and using the machine. Copyrights are registered by the Copyright Office of the Library of Congress.
- Copyright registration - US Copyright Office – Extra protection –statutory damages and attorney's fee; C-in-a-circle symbol (©), \$35 minimum
- Duration of copyright – protected for at least 70 years and sometimes longer, depending on when work created, when published or registered, or whether or not a "work for hire."

### Examples of Copyright:

- An original work (a song, poem, novel, software) is automatically copyrighted from the moment it is created and "fixed in a tangible medium" i.e. software is saved on a disc, pen is put to paper.

### What is a Trademark? (From the US Patent and Trademark Office):

- A trademark is a word, name, symbol or device which is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. A service mark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. The terms "trademark" and "mark" are commonly used to refer to both trademarks and service marks. (™/®)

### What does a Trademark protect?

- Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark. Trademarks which are used in interstate or foreign commerce may be registered with the Patent and Trademark Office.

### Trademarks and Service Marks

- Protect words, names, symbols, etc. that are used by a company to identify its goods and services and **distinguishes** them from others
- Prevent confusion: words, slogans, designs
- Are registered and used commerce; ™ if not registered, ® if registered

### What is a Trade Secret?

- Trade secrets are **information that companies keep secret** to give them an advantage over their competitors. The formula for *Coca-Cola* is a famous trade secret as is the recipe for KFC Chicken.
- VCU does not accept trade secrets from our Sponsors. OSP negotiates "trade secret" language out of all contracts because we do not have the security measures in place to ensure protection of a trade secret.