PATENTS

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A. Contract Theory of Patents

- Article 1, Section 8, Clause 8: Congress shall have power...to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

- Inventors secure exclusive rights in exchange for disclosure to the public.

- Trade secrets may have to be disclosed.
Patents (cont.)

B. Types of Patents

- Utility (Provisional / Nonprovisional)
- Design (FORM / ORNAMENTAL ASPECTS)
- Plants
C. What can be patented?

- Machines (apparatus)
- Articles of Manufacture (products)
- Processes (methods, including business methods)
- Compositions of matter
- Improvements on any of the above
D. Requirements for patentability

- New (Novel)
- Useful (Utility)
- Non-obvious to one of ordinary skill in the art
- The invention does not have to be reduced to practice, but often requires more complete disclosure
E. Statutory Bars

- Public Use
  - One use in public domain may constitute ‘public use’
  - Commercial secret use may be a public use
    Example – a hidden invention in a publicly displayed / used machine
    Example – A tour of a laboratory may be a ‘public use’
  - Experimental use is not a public use
Patents (cont.)

E. Statutory Bars (Cont.)

➤ Offer for Sale

- The product does not have to be ‘on hand’ at the time of offer for sale, just ready for patenting
- Sale does not have to be completed
- In fact, the offer does not have to even be received by a potential customer for a bar to exist
Patents (cont.)

E. Statutory Bars (Cont.)

- Publication
  - One year grace period between an enabling disclosure and filing is allowable in the US, Canada and the Philippines, but not the remainder of the World
  - Except for unauthorized disclosure
F. Timeline for Patents

- **Filing Date**
- **Publication Date** (18 Months)
- **Issue Date** (2-4 Years)

- **Provisional Application**: No Exclusionary Rights
- **Non-Provisional Application**: Some Provisional Rights (Largely Untested)
- **Full Rights to Claimed Invention**
Patents (cont.)

G. Rights

- Prevent others from making, using or selling your claimed invention
- May not be able to practice or authorize others to practice your own invention
- May assign or license
H. Practice Tips

- Keep good notebooks
- Inventorship
  - legal matter
  - contribution to inventive concept
  - reduction-to-practice may change inventorship
Questions

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