

# Intellectual Property 101 (Abridged)

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# Creation of IP

- Under certain circumstances, the law recognizes this new knowledge as property
- You need to take certain steps to protect your (and your institution's) interests in that property
- When properly protected, IP can potentially enable you --and others-- to gain economic return
- Economic return as incentive
  - Exclude others
  - Royalties to inventor
  - Return for the investor
  - Additional research funding

# IP as Property

- Snickers

# Types of IP

- Patent
- Trade secret
- Copyright
- Trademark

# Parameters to Consider

- **Subject Matter**
- **Standards**
- **Formalities**
- **Rights**
- **Infringement**
- **Term**
- **Ownership**

Source: Prof. Tony Reese

# Trade Secrets

- **Subject Matter:** Information that confers economic advantage
- **Standard:** Information is secret
- **Formalities:** None
- **Rights:** Against others acquiring the information by improper means; against others disclosing the information if they had an obligation not to disclose or obtained the information improperly. No right against independent discovery or reverse engineering
- **Term:** Indefinite
- **Ownership:** Individual or employer

Source: Prof. Tony Reese

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# Patents

- **Subject Matter:** Products, processes, improvements
- **Standards:** New, non-obvious, useful
- **Formalities:** application, examination
- **Rights:** prevent others from making, using, selling, importing; licensing
- **Infringement:** suits, licensing
- **Term:** Begins on issuance; 20 years from application date
- **Ownership:** Inventor must file; can be transferred

Source: Prof. Tony Reese

# Copyrights

- **Subject Matter:** Works of authorship
- **Standards:** Original work--not copied; minimally creative; fixed in a tangible medium of creation
- **Formalities:** None
- **Rights:** Exclusive rights to reproduce and distribute, to publicly perform or display. Exclusive right to prepare derivative works. Express limitations--fair use, first sale
- **Infringement:** Copying or using the work without permission; secondary liability
- **Term:** Begins when work is fixed. Life of author + 70 years; company author--95 years; unpublished--120 years from creation
- **Ownership:** Author. "Works for hire." Freely transferable.

Source: Prof. Tony Reese

# Trademarks

- **Subject Matter:** Word, symbol, device that identifies or distinguishes goods or services
- **Standards:** Distinctiveness
- **Formalities:** None, but rights are limited if not registered
- **Rights:** To keep others from using the same or similar mark in a way that is likely to confuse consumers. Famous mark has greater rights.
- **Term:** Indefinite
- **Ownership:** First person to use. Can only be transferred as part of the business to which it relates. Can license, but must monitor for quality control.

Source: Prof. Tony Reese

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# IP Strategies

- What is IP strategy
- Corporate strategies
- Individual strategies
- A key decision: create and/or reclassify IP protection