



**FACULTY OF AGRICULTURE SCIENCES AND
ALLIED INDUSTRIES**

(Intellectual Property Rights)

For

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Chapter-2

AGENCIES RESPONSIBLE FOR INTELLECTUAL PROPERTY REGISTRATION

United States Patents and Trademark Office:

The agency charged with granting patents and registering trademarks is the United States Patent and Trademark Office (PTO), one of fourteen bureaus within the U.S. Department of Commerce. The PTO, founded more than two hundred years ago, employs nearly 700 (present 1000 employes) are working. At present it is located in 18 building in Arlington, Virginia. Its official mailing address is Commissioner of Patents and Trademarks, Washington, DC 20231.

The PTO is physically located at 2900 Crystal Drive in Arlington, Virginia. Its web site is <http://www.uspto.gov> and offers a wealth of information, including basic information about trademarks and patents, fee schedules, forms, and the ability to search for trademarks and patents. Since 1991, under the Omnibus Budget Reconciliation Act, the PTO has operated in much the same way as a private business, providing valued products and services to customers in exchange for fees that are used to fully fund PTO operations.

It uses no taxpayer funds. The PTO plans to move all of its operations to Alexandria, Virginia, by mid-2005. The PTO is one of the busiest of all government agencies, and as individuals and companies begin to understand the value of intellectual property, greater demands are being made on the PTO.

Legislation passed in 1997 established the PTO as a performance-based organization that is managed by professionals, resulting in the creation of a new political position, deputy secretary of commerce for intellectual property. In brief, the PTO operates more like a business with greater autonomy over its budget, hiring, and procurement. U.S patents issued its first patent in 1790. Since 1976 the text and images of more than three million are pending for registration. The PTO is continuing its transition

filing for both trademarks and from paper to electronic filing for both trademarks and patents.

The PTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (the “Director”), who is appointed by the President. The Secretary of Commerce

appoints a Commissioner for Patents and a Commissioner for Trademarks. Citations to many cases in this text will be to “U.S.P.Q.”, a reference to United States Patent Quarterly, a reporter of cases decided by the Trademark Trial and Appeal Board (TTAB) as well as patent and copyright cases.

INTERNATIONAL ORGANIZATIONS, AGENCIES AND TREATIES

There are a number of International organizations and agencies that promote the use and protection of intellectual property. Although these organizations are discussed in more detail in the chapters to follow, a brief introduction may be helpful:

International Trademark Association (INTA) is a not-for-profit international association composed chiefly of trademark owners and practitioners. It is a global association. Trademark owners and professionals dedicated in supporting trademarks and related IP in order to protect consumers and to promote fair and effective commerce. More than 4000 (*Present 6500 member*) companies and law firms more than 150 (*Present 190 countries*) countries belong to INTA, together with others interested in promoting trademarks. INTA offers a wide variety of educational seminars and publications, including many worthwhile materials available at no cost on the Internet (see INTA’s home page at <http://www.inta.org>). INTA members have collectively contributes almost US \$ 12 trillion to global GDP annually. INTA undertakes advocacy [active support] work throughout the world to advance trademarks and offers educational programs and informational and legal resources of global interest.

Its head quarter in New York City, INTA also has offices in Brussels, Shanghai

and Washington DC and representative in Geneva and Mumbai. This association was founded in 1878 by 17 merchants and manufacturers who saw a need for an organization. The INTA is formed to protect and promote the rights of trademark owners, to secure useful legislation (the process of making laws), and to give aid and encouragement to all efforts for the advancement and observance of trademark rights.

World Intellectual Property Organization (WIPO) was founded in 1883 and is specialized agency of the United Nations whose purposes are to promote intellectual property throughout the world and to administer 23 treaties

(Present 26 treaties) dealing with intellectual property. WIPO is one of the 17 specialized agencies of the United Nations. It was created in 1967, to encourage creative activity, to promote the protection of Intellectual Property throughout the world. More than 175 (*Present 188*) nations are members of WIPO. Its headquarters in Geneva, Switzerland, current Director General of WIPO is *Francis Gurry* took charge on October 1, 2008. The predecessor to WIPO was the BIRPI [Bureaux for the Protection of Intellectual Property] it was established in 1893. WIPO was formally created by the convention (meeting) establishing the world intellectual Property organization which entered into force on April 26 1970.

Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention) An International copyright treaty called the convention for the protection of Literary and Artistic works signed at Berne, Switzerland in 1886 under the leadership of *Victor Hugo* to protect literary and artistic works. It has more than 145 member nations. The United States became a party to the Berne Convention in 1989. The Berne Convention is administered by WIPO and is based on the precept that each member nation must treat nationals of other member countries like its own nationals for purposes of copyright (the principle of “nation treatment”). In addition to establishing a system of equal treatment that internationalized copyright amongst signatories, the agreement also required member states to provide strong minimum standards for copyrights law. It was influenced by the French “right of the author”.

Madrid Protocol It is a legal basis is the multilateral treaties Madrid (it is a city situated in Spain) Agreement concerning the International Registration of Marks of 1891, as well as the protocol relating to the Madrid Agreement 1989. The Madrid system provides a centrally administered system of obtaining a bundle of trademark registration in separate jurisdiction. The protocol is a filing treaties and not substantive harmonization treaty. It provides a cost-effective and efficient way for trademark holder. It came into existence in 1996. It allows trademark protection for more than sixty countries, including all 25 countries of the European Union.

Paris Convention The Paris convention for the protection of Industrial

Property, signed in Paris, France, on 20th March 1883, was one of the first

Intellectual Property treaties, after a diplomatic conference in Paris, France, on 20

March 1883 by Eleven (11) countries. According to Articles 2 and 3 of this treaty, juristic (one who has through knowledge and experience of law) and natural persons who are either national of or domiciled in a state party to the convention. The convention is currently still force. The substantive provisions of the convention fall into *three main categories*: National Treatment, Priority right and Common Rules.

An applicant for a trademark has six months after filing an application in any of the more than 160 member nations to file a corresponding application in any of the other member countries of the Paris Convention and obtain the benefits of the first filing date. Similar priority is afforded for utility patent applications, although the priority period is one year rather than six months. The Paris Convention is administered by WIPO.

North American Free Trade Agreement (NAFTA) came into effect on January 1, 1994, and is adhered to by the United States, Canada, and Mexico. The NAFTA resulted in some changes to U.S. trademark law, primarily with regard to marks that include geographical terms. The NAFTA was built on the success of the Canada-U.S Free Trade Agreement and provided a compliment to Canada's efforts through the WTO agreements by making deeper commitments in some key areas. This agreement has brought economic growth and rising standards of living for people in all three countries.

General Agreement on Tariffs and Trade (GATT) was concluded in

1994 and is adhered to by most of the major industrialized nations in the world. The most significant changes to U.S intellectual property law GATT are that nonuse of a trademark for three years creates a presumption the mark has

been abandoned and that the duration of utility patent is now twenty years from the filing date of the application (rather than seventeen years from the date the patent issued, as was previously the case).

THE INCREASING IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS

- a. Protecting Intellectual Property Rights
- b. Technology has led to increase awareness about the IP

- c. Some individuals and companies offer only knowledge. Thus, computer consultant, advertising agencies, Internet companies, and software implementers sell only brainpower.
- d. Domain names and moving images are also be protected
- e. More than fifty percent of U.S. exports now depend on some form of intellectual property protection.
- f. The rapidity with which information can be communicated through the Internet has led to increasing challenges in the field of intellectual property.
- g. The most valuable assets a company owns are its Intellectual property assets
- h. Companies must act aggressively to protect these valuable assets from infringement (breaching, violation of law) or misuse by others
- i. The field of intellectual property law aims to protect the value of such investments