



RUTGERS
Law School

BASICS TO INTELLECTUAL PROPERTY AND TRADEMARKS

February 18, 2025

Opening Doors in Hudson County
www.hudsonedc.org

Welcome!



This webinar will be recorded and provided with a copy of this powerpoint after the event via email.



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Click on the Closed Caption "CC" button below to turn on captions.



Spanish Captions:
Click on the CC button below and change language.

Subtítulos en Español:
Haga clic en el botón CC y cambie el idioma.

Agenda

1. HCEDC Team
2. What We Do
3. Rutgers IP Law Informational session
4. Q&A
5. What's Next
6. Thank you

HCEDC Team



Michelle Richardson
Executive Director

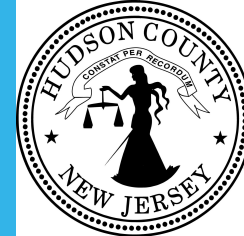


Tammy Watterman
Operations Manager



Rosennies Feliz
Assistant Marketing Manager

Supported by



County Executive Craig Guy
and the
Board of County Commissioners

What We Do

Business Loans, Education, and Information



Check out the 2023 Annual Report and Business Spotlights [HERE](#).



INTELLECTUAL PROPERTY

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Rutgers Law School

Disclaimer

- ▣ This presentation is not legal advice but is meant to provide an overview of legal considerations in intellectual property law.
- ▣ Because each situation is unique, the law changes over time and varies by jurisdiction, you should consult an attorney before proceeding

Types of Intellectual Property

- ▣ Idea Protection
- ▣ Trade Secrets
- ▣ Right of Publicity (NIL)
- ▣ Trademarks
- ▣ Copyrights
- ▣ Patents

U.S. Pat. No.
7,630,763

TM



Why Protect And Understand Your Intellectual Property Rights?

- “The data shows that in 1975, only 17% of the value of S&P 500 companies was found in intangibles. In 2008, by contrast, 75% of the value of these companies is in intangibles.”

Silverman, David. *Intellectual Property: The World's Greatest Unknown Asset Class*. Swiss Derivatives Review 41, Autumn 2009.

- In *Re Nortel Networks, Inc., et al.* where the estimated total value of 6,000 patents ranged from 900 million dollars to 4.5 billion dollars.
 - Would more than likely not have gone bankrupt had they realized the value of their IP.

Idea Protection

- What is a legally protectable idea?
 - Novel
 - Concrete form
 - Expectation of payment
 - Used by alleged infringer
 - (Independent development is a defense)

- Ways to protect (Strongest to Weakest)
 - Non-Disclosure Agreement
 - Double Envelope
 - Soft Sell



Trade Secrets

▣ Requirements

1. Is not generally known by the public,
2. Gives a company a competitive advantage, and
3. The company takes reasonable steps to keep it a secret (e.g.: NDAs with employees)

▣ Pros: Potentially unlimited duration

▣ Cons: Subject to reverse engineering

▣ Alternative to the patent system

▣ Examples

- A Customer List
- Business Plan
- Recipe (Coke)



Patents

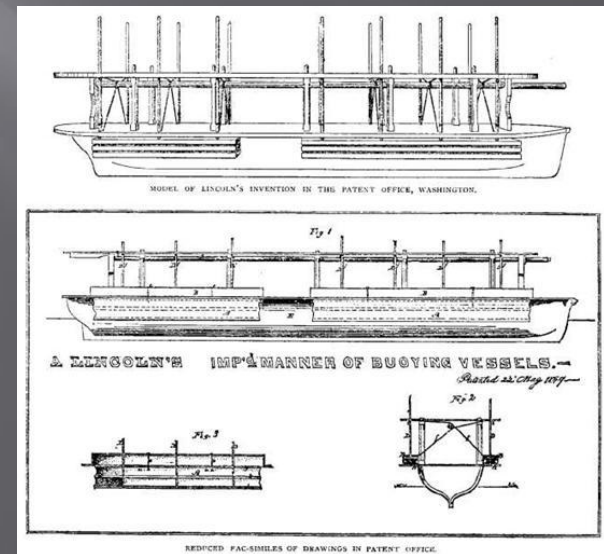
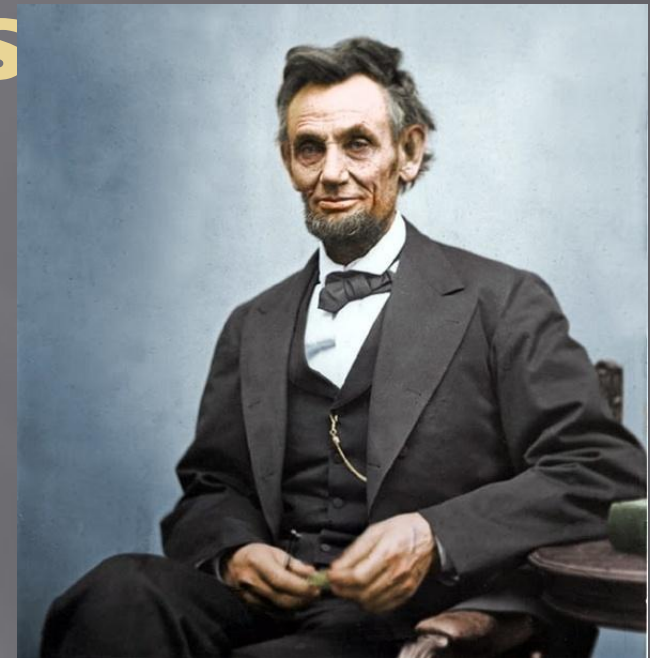
□ Purpose

- Grants the **RIGHT TO EXCLUDE** others from making, using, offering for sale, selling or importing an invention
- Does **NOT** give you the affirmative right to exploit your invention
- Does not obligate you to use the invention

□ Types and Duration

- Utility Patent – begins on patent issue date continuing through 20 years from the filing date
- Plant Patent – begins on patent issue date continuing through 20 years from the filing date
- Design Patent – 14 years from patent issue date (15 years effective 05/13/2015)

□ Territorial by country



Patents: Requirements (1/2)

▣ *Statutory subject matter*

- “Process, Machine, Article of Manufacture, Composition of Matter.” Abstract ideas and certain medical diagnostic methods based on laws of nature are NOT patentable, but business methods can be patentable.

▣ *Novel*

- Barred if every claimed feature of your invention was disclosed in Prior Art* before you invented it or more than 12 months before you file. Prior Art is worldwide.
- NOTE: U.S. transitioned from “First to Invent” to “First Inventor to File” system on March 16, 2013. IN EFFECT NOW!

Patents: Requirements (2/2)

▣ *Non-obvious*

- Combining prior art, was your invention obvious to a person of ordinary skill in the art at time of your invention?

▣ *Useful*

- Inventions usually not challenged for lack of utility, but rejections may occur for lack of enablement

▣ *Full Disclosure*

- Can invention be practiced without “undue experimentation”?

Patents

▣ Process

- Prior Art search
- Provisional Application for Patent
 - Holds your place in line at the patent office for 1 year
 - Applicants throw the kitchen sink in so that all aspects of the invention are available for use later in the Non-provisional
 - Does not get reviewed when received
- Non-provisional patent application
 - Typically takes multiple years to result in an Issued Patent (with the rollout of the America Invents Act patent processing time has been shortened)

▣ Costs

- \$5k - \$25k+ to prepare and file, more to prosecute, plus maintenance fees after issue
- Bottom Line: IT'S NOT CHEAP! But the potential return can make patenting worth the cost

RECIPES

from

E R A N D M A

Orange Layer Cake.
1/2 cup shortening
1/2 cup sugar
2 eggs
2/3 cup milk
3/4 cup flour
3 Tbsp B.P. *Grilling*
Whites of 2 eggs 1/2 cup sugar
juice, rind of 1/2 lemon pulp of
one orange. Whip eggs to a
stiff froth. Add sugar slowly
then pulp juice & rind.

Sponge Cake.
Beat the yolks of 5 eggs until
thick & light colored.
Gradually beat in 1 cup sugar
& grated rind of 1/2 lemon then
the whites of 5 eggs. Beat the
whites of eggs until very light
& fold part of the whites
in first mixture, then enter fold
in 1 cup flour to which 1/2 tsp
salt has been added, then enter
& fold in the rest of the egg whites.
Bake in ungreased pan about
50 min on slow oven.

Creamy Cookies
2 cups sugar
2 eggs
2 cups cream
1/2 tsp salt
1/2 cup flour
1/2 cup butter
1/2 cup milk
1/2 cup vanilla



Caroline Becker Scholl, 1923-1996

Copyright

- ▣ Proper NOTICE: (optional after 3/1/1989)
Copyright © Date Author “All Rights Reserved”
Copyright © 2013 Rutgers Law School Intellectual Property Law Clinic
All Rights Reserved
- ▣ Work Made For Hire
- ▣ Registration:
 - Currently, you don't have to register.
 - BUT, you cannot protect your work in court without registration
- ▣ Mandatory deposit to Library of Congress
- ▣ Duration (1976 Copyright Act)
 - Individuals: Life + 70 years
 - Corp. or work made for hire: The earlier of 95 years from publication or 120 years from creation
 - Different for works created or vesting of copyright prior to Jan. 1, 1978

Right of Publicity (NIL)

- Right of an individual (celebrity) to **Control** and **Profit** from commercial use of her name, image, likeness, performance, voice, biographical facts, and symbolic representation
- Different states grant different rights



Trademarks – Service Marks

▣ Purpose

- Identifies and distinguishes the product or service of one seller from those of another, and source of the goods or services
- Mainly protects the consumer but also protects the mark owner

▣ Rights

- Accrue through use on a senior versus junior basis

▣ Federal registration (if applicable)

- Can either start using TM or SM symbols immediately and/or go through federal registration process for ®
- Pros:
 - Nationwide legal presumption of mark ownership
 - File with U.S. Customs to stop importation of infringing goods
- Cons:
 - Filing and Maintenance fees



Big Stuffed

CHOCOLATE SANDWICH COOKIES[®]



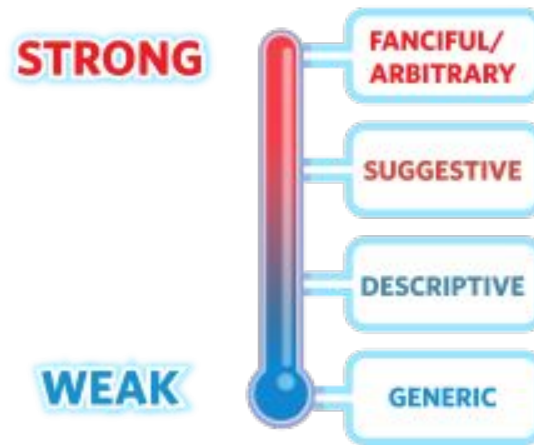
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Trademarks – Service

- Duration **Marks**
 - Potentially perpetual (maintenance fees required for registered marks)
 - Beware of Genericide (Nylon/ Aspirin)
- Requirements for Federal Registration
 - Distinctiveness (Inherent)
 - Fanciful/coined mark (Xerox®, Haagen Dazs®)
 - Arbitrary mark (Apple® computers)
 - Suggestive mark (Coppertone®, Ivory® Soap)
 - Not confusingly similar to existing mark
 - Used in interstate commerce
- Process
 - Search of existing marks
 - Federal registration – Either Actual Use or Intent to Use

WHAT IS A
STRONG
TRADEMARK



Exxon

E-ticket

Apple

Creamy

Coppertone

EXAMPLES OF TRADEMARKS

- **Word**
- **Logo**
- **Slogan**
- **Color**
- **Sound**
- <https://www.uspto.gov/sites/default/files/75332744.mp3>



- ▣ What
- ▣ Mark
 - M
 - Pu
- ▣ Licen
 - Co
 - Ex
 - Su
 - Tra



tatus.

exclusive,
(control)

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What's Next

Need help with additional business needs?

One-on-One with the HCEDC team:

1. Fill out the intake form [HERE](#)
2. Email rfeliz@hudsonedc.org after completion to set up a zoom call

Promote your business

Small Business Saturday post on HCEDC's social media platforms.

Requirements to participate:

1. Have a business in Hudson County with a digital footprint and a way for people to purchase your product or service either in-store or online.
2. Complete the HCEDC intake form [HERE](#) – this helps us better understand your business and provide tailored information and resources.
3. Email rfeliz@hudsonedc.org after completion.
4. If your business is selected, you will receive a follow up email. We will contact you when your business promotion is live.


Sign Up to Keep Up!

Be the first to know:

- Empowering business and training programs
- Upcoming networking sessions
- Accessible loan options
- Incentives and more

[Sign Up HERE!](#)

What's Next: Program



 **RUTGERS**
Law School

 **HCEDC**

HOW TO GET YOUR CONTRACT REVIEWED

TUESDAY APRIL 1, 2025
11:00 AM - 12:00 PM
[REGISTER HERE](#)

 The Community Transactional Law Clinic (CTLC) Team is now offering the chance to apply for your contracts to be reviewed by a Law Clinic student for FREE!

Protect your business with strategic contract management.


In this session, you will learn more about:

- Purpose and parts of a contract.
- Red flags in contracts.
- Contract dealbreakers.
- General Q&A about contracts.

As you get ready for the April 1st 2025 "How to get your contract reviewed" webinar be sure to start submitting your applications [HERE](#).

The deadline to apply is April 4th, 2025.

FOR MORE INFORMATION CONTACT CTLC

 rutgerslawctlc@law.rutgers.edu

 (973) 353 -5059

[Apply to Be a Client](#) [Apply to get your contract reviewed](#)

Q&A

Thank you!

Contact us via:

email - info@hudsonedc.org

phone - (201) 369-4370 ext. 2

website - www.hudsonedc.org

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