

IPR System in the U.S.

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Intellectual Property

- Industrial Property
 - Patents
 - Trademarks
 - Designs
 - Unfair Competition (Trade Secrets)
- Copyright and Related Rights
- IP Fundamentals: Territoriality, Registration Requirements (Ind. Prop.)

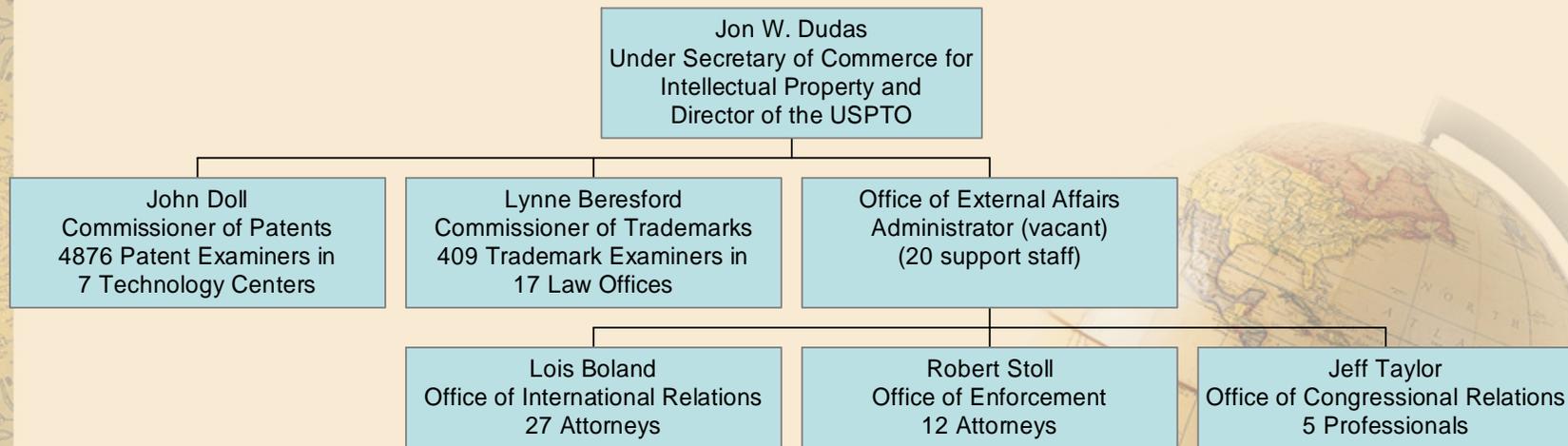


Benefits of IPR

- Stimulates innovation and creativity
- Provides incentive for investment
- Encourages wide dissemination
- Promotes technology transfer
- Deters unfair competition
- Serves society by bringing fruits of human creativity to the marketplace



USPTO Organization



Patents

- U.S. Constitution-Article 1, Sect. 8, Clause 8-
 - “Congress shall have the 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.”
- Washington signed first patent law in 1790.
- Thomas Jefferson, first Secretary Of State, responsible for examining and issuing first patents.
- Since then over 7 million U.S. patents issued



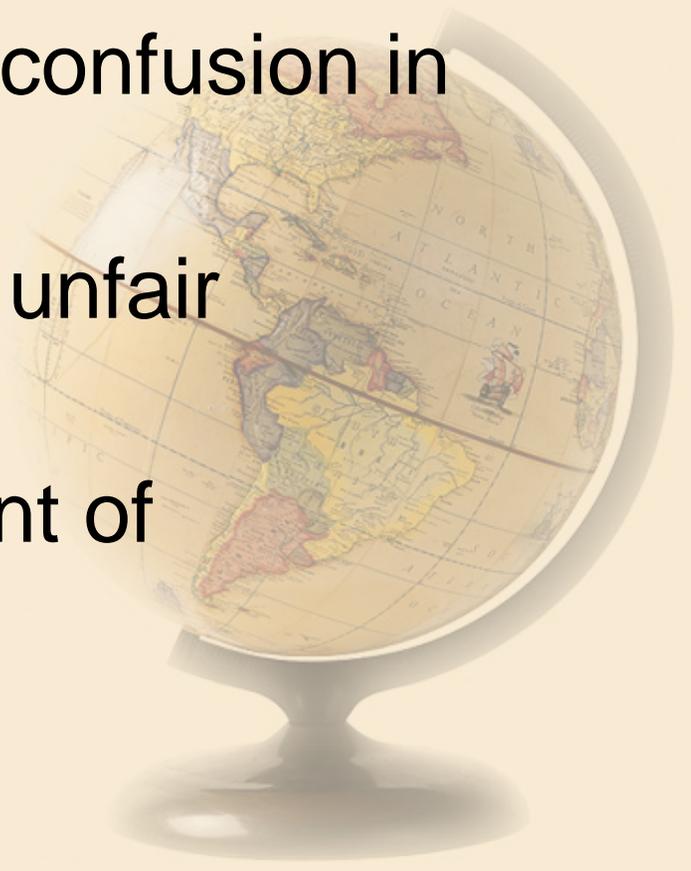
Patents

- Contract between State and Inventor: Full Disclosure of Invention for Exclusive Rights for Limited Time (20 years)
- Disclosure permits incremental innovation, design around, avoids duplication of research
- Must meet basic requirements: novelty, non-obviousness, and utility
- Permits limited exceptions



Trademarks

- Indicate source of origin of goods or services (service marks)
- Protects consumers from confusion in marketplace
- Protects businesses from unfair competition
- Prevents unjust enrichment of counterfeiters



Trademarks are linked to a good or service

- Coca-Cola is a trademark for soft drinks.
- Nike is a trademark for athletic shoes and clothing.
- Marlboro is a trademark for cigarettes.
- ESPN is a service mark for television sports shows.



Designs

- Protects shape or appearance of useful articles
- Protected by various means; minimum 10 year term of protection
 - Some countries (US, Japan, Korea) by design patent
 - U.S. Design Patent term is 14 years from grant
 - Others (European countries) by copyright-like registration (no examination)



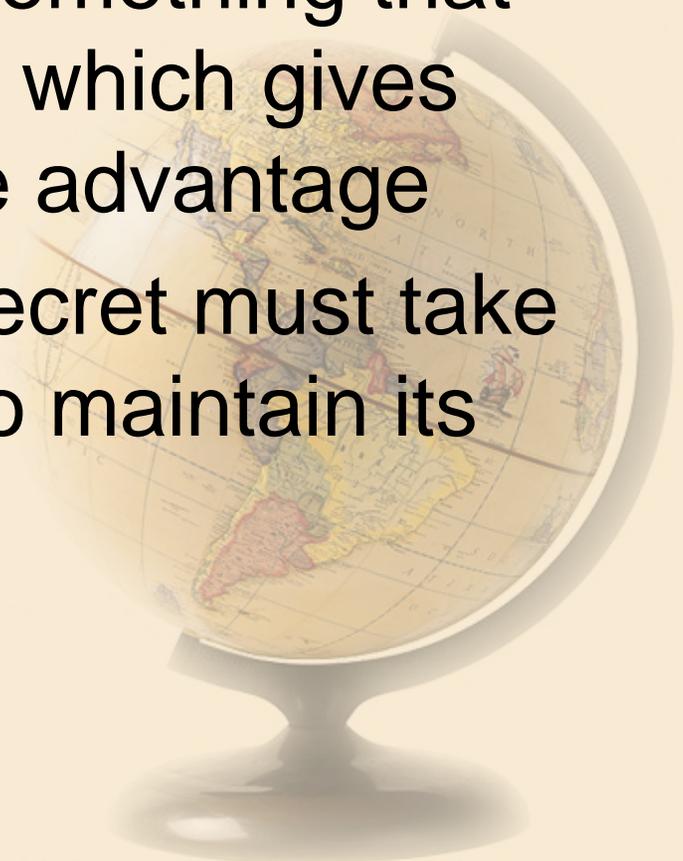
Trade Secret Law: Purpose

- To protect proprietary portions of technology
 - Formulae
 - Manufacturing processes
 - Business strategies
 - Business management information
 - Customer lists
 - Design concepts



Trade Secret Law

- Two fundamental concepts:
 - 1) Trade secret must be something that is used in business and which gives the owner a competitive advantage
 - 2) The owner of a trade secret must take reasonable measures to maintain its secrecy



Loss of Trade Secret

- A single “unprotected” disclosure may result in loss of trade secret
- Legal reverse engineering of a product to discover the trade secret



Patents vs Trade Secret

- Patents

- Disclose invention sufficient so others can make and use the invention
- Limited Duration of protection
- Protection against independent discovery

- Trade Secrets

- Kept in strict confidentiality
- Potentially indefinite duration
- Protection lost if independent discovery or reverse engineered



Copyright

- Origin
 - Printing press 1440 – created need
 - Venice 1476
 - Rights granted to tradesmen, exclusive rights to publish certain books.
 - England- Statute of Anne 1710
 - Precursor to modern copyright laws
 - Author's ownership established
 - Fixed term protection, 14 year limit.
- Multiple Rights; Terms; Exceptions



FY 2006 USPTO Statistics

- Patents

- 443,652 applications
 - 415,551 Utility
 - 1,173 Reissue
 - 1,095 Plant
 - 25,883 Design
- 121,307 provisionals
- 183,187 issued
- 31.1 months avg. pendency
- 22.6 months avg. first action pendency

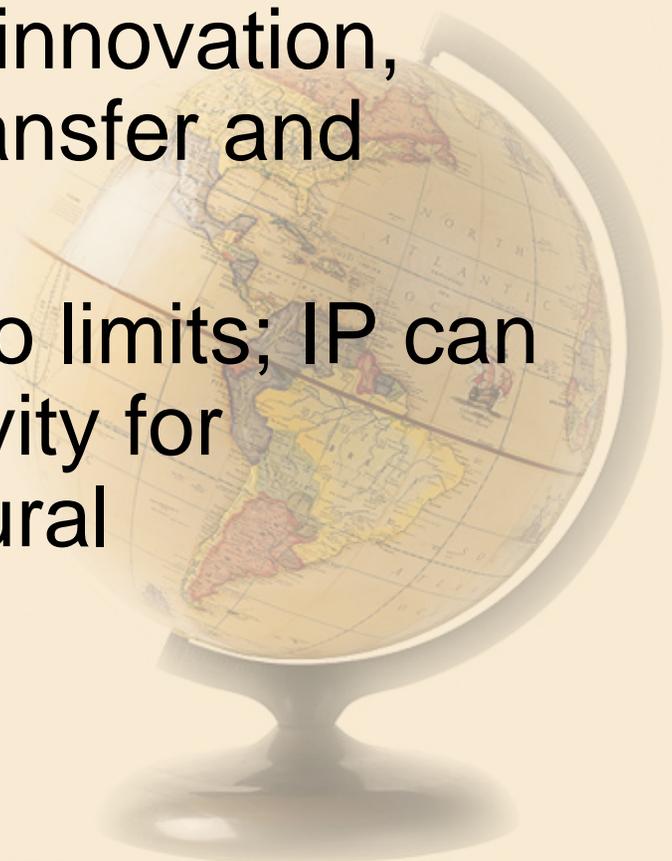
- Trademarks

- 275,790 applications
- 354,775 classes apps.
- 147,118 registrations
- 188,899 class regs.
- 1,322,155 certificates of registration
- 18.0 months avg. pendency
- 4.8 months avg. first action pendency



Conclusion

- IP protection a priority for USG since 1970's – domestically and abroad
- IP provides incentives for innovation, investment, technology transfer and deters unfair competition
- Human creativity knows no limits; IP can be used to harness creativity for economic, social and cultural development



THANK YOU!

Contact Information
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Web Sites of Interest:

www.uspto.gov

www.wipo.int

www.wto.org

