



UNDERSTANDING INTELLECTUAL PROPERTY AND WHAT IT CAN DO FOR YOU

Christopher Bown, PhD & Kevin O'Neill
Partners, Patent Agents

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- Focused on key global sectors, including energy, financial services, life sciences, natural resources, infrastructure, real estate and tech
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- Tax

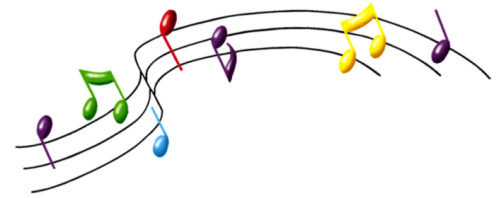
SECTORS

- Automotive
- Aviation, Aerospace & Defence
- Construction & Engineering
- Energy
- Financial Institutions & Services
- Infrastructure
- Life Sciences
- Natural Resources
- Real Estate
- Tech

WHAT IS INTELLECTUAL PROPERTY?

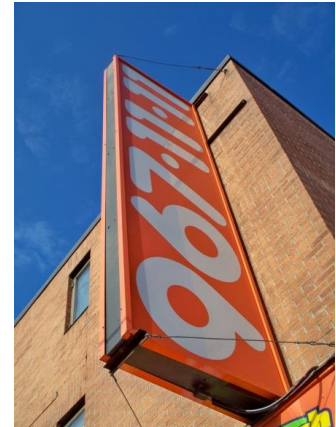
- **Shorthand term that describes a number of different rights**
 - Trade-marks
 - Copyright
 - Industrial designs
 - Trade secrets
 - Patents
- **Also**
 - Plant Breeder's rights
 - Integrated Circuit Topographies
 - Personality rights

TRADE-MARKS



- What can be protected?
 - Symbol or indicia that distinguishes the goods, services or business of one company from those of others

Microsoft®



amazon.com®

TRADE-MARKS

- What is not protected?
 - Indicia which do not distinguish goods or services



Kleenex[®] BRAND



TRADE-MARKS

- **Common law rights for simply using the mark**
 - Geographically restricted, more difficult to enforce
- **Trade-marks can be registered with the government**
 - Provides national protection, easier to enforce
- **Trade-marks are perpetual, so long as the mark still serves to distinguish goods and services**
- **Registration lasts for 15 years and can be renewed for additional 15 year terms**

COPYRIGHT

- **What is protected?**
 - Original literary, artistic, musical and dramatic works
 - Literary works: books, pamphlets, other text, software (code)
 - Artistic works: drawing, maps, photographs, art work
 - Moral rights: integrity in a work
 - Neighbouring rights: performer's performances

SNOW V. EATON CENTRE LTD.

70 CPR (2d) 105, [1982] OJ No 3645

- Artist Michael Snow sued the Eaton Centre for violating his moral rights for putting red ribbons on the geese during the Christmas season of 1981
- Argued that the ribbons offended the integrity of, and distorted, his work.
- The Court held that the sculpture's integrity was "distorted, mutilated or otherwise modified" which was "to the prejudice of the honour or reputation of the author"



MORAL
RIGHTS

COPYRIGHT

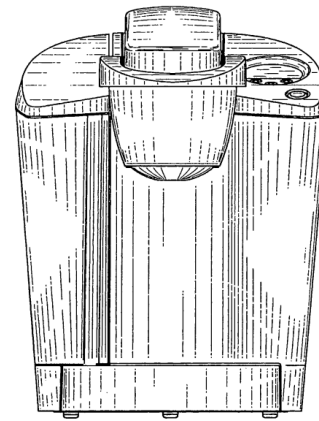
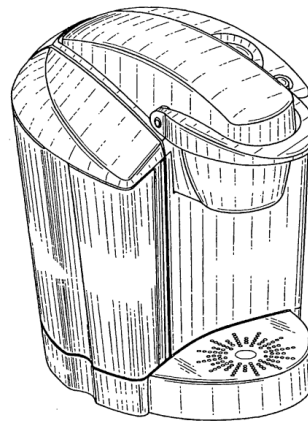
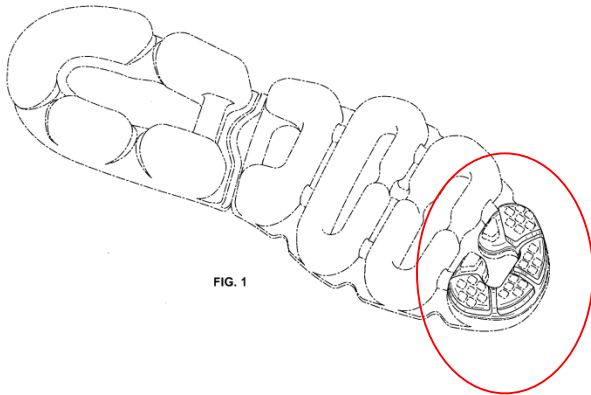
- **What is not protected?**
 - Unoriginal (i.e. copied) works, ideas, titles or names, facts
- **Infringement**
 - Copyright is infringed directly by anyone who does something in relation to a work that only the owner of the copyright has the right to do
 - Reproduce the work (or a substantial part thereof in any material form)

COPYRIGHT

- **Governed by the Copyright Act**
- **Registration is not required**
 - Copyright subsists automatically in a qualifying work
- **Term**
 - In Canada copyright generally lasts 50 years from the end of the author's year of death

INDUSTRIAL DESIGNS

- **What is protected?**
 - The unique and distinctive design of a product
 - Does not protect functional components of the product



INDUSTRIAL DESIGNS

- Governed by *Industrial Design Act*
- Application for design must include figures showing the design from all sides
- Protection is for 10 years
- Infringement is difficult to prove, infringing article must be identical
- Deterrent for knock-offs

TRADE SECRETS

- **Any information that**
 - is or may be used in trade or business
 - is not generally known in that trade or business
 - has economic value from not being generally known
 - is the subject of efforts that are reasonable under the circumstances to maintain its secrecy
- **Potentially infinite in duration (see Coca-Cola)**
- **Undisclosed and potentially patentable inventions**

TRADE SECRETS

- **Potentially inexpensive**
 - Costs associated with keeping the information secret may be substantial
- **Market share could be at risk, if third party independently develops the technology and elects to patent the invention**

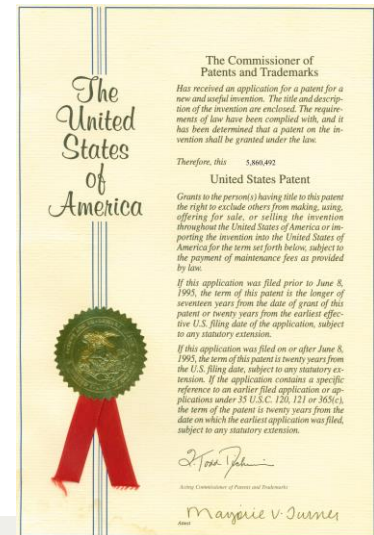
1997



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PATENTS

- What is a patent?
 - Bargain struck with the Government for 20 years
 - Describes implementation/operation of an invention
 - Country specific
 - Provides right to exclude others
 - Claims define the scope of protection



PATENTS

- **Business Benefits**
 - Business asset
 - Maintain competitive position
 - Exhibit industry leadership

PATENTS

- **Using Patents**
 - Stop competitors
 - Generate licencing income
 - Cross-licensing
 - Attract investment



PATENTS

- **What does patentability mean?**
 - Must be *useful*
 - Must be to statutory *subject matter*
 - Invention must be *new & non-obvious*
 - Not previously disclosed publicly

*one-year public disclosure grace period in some countries

PATENTS

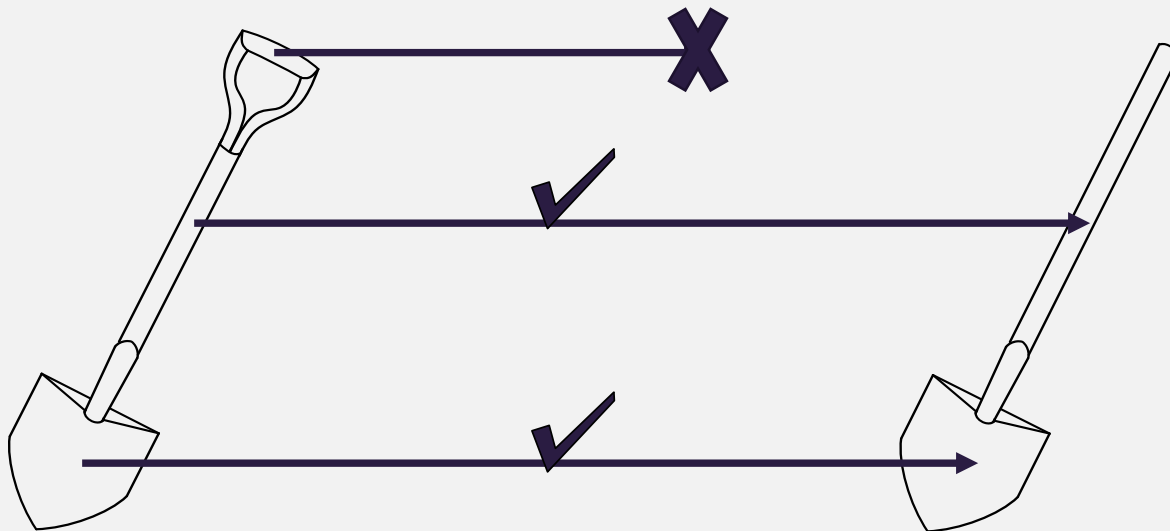
- **New**
 - Invention not already known
 - Not taught in a single prior art reference

PATENTS

NEW

Invention

Prior Art



PATENTS

- **Obvious**

- Exact invention not known
- Individual parts are known from different prior art

and

- Reason to combine the different prior art

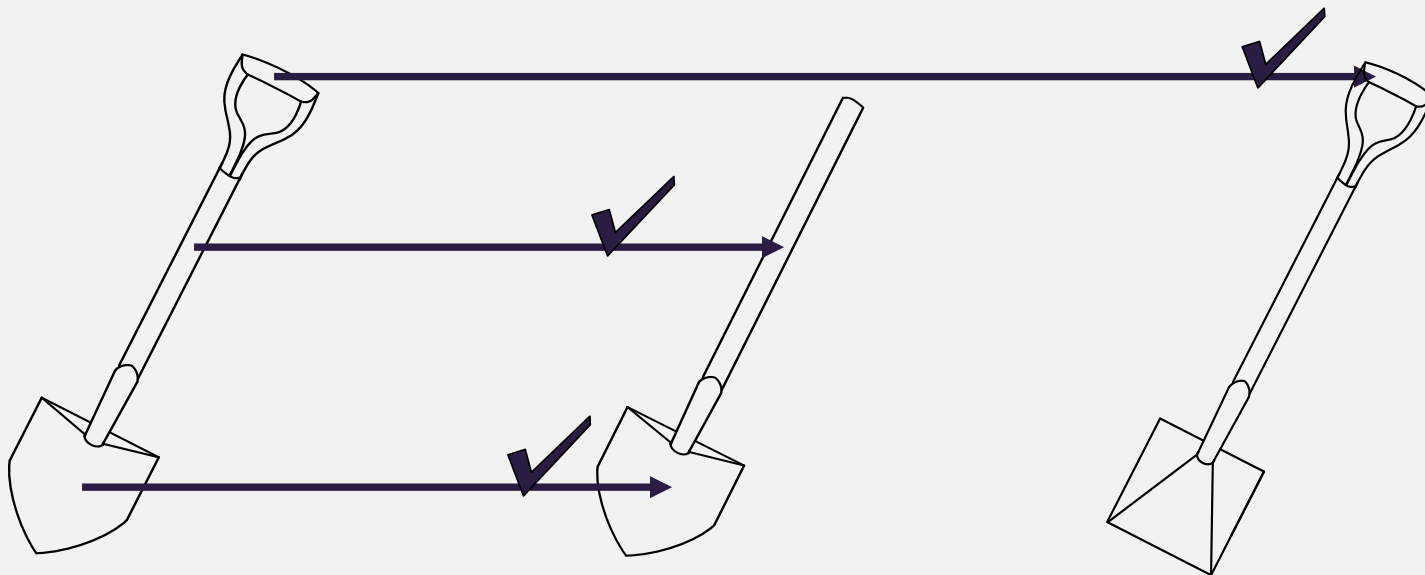
PATENTS

OBVIOUS

Invention

Prior Art #1

Prior Art #2



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PATENTS

- **Statutory Subject Matter**
 - Abstract ideas not patentable
 - Not enough to simply ‘do it on a computer’
 - Level of detail required depends on the invention
 - Implementation of how to do ‘something’

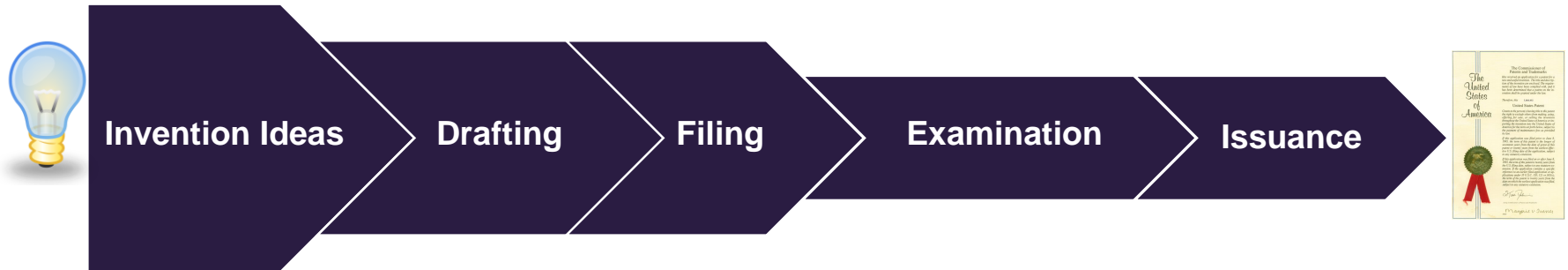
PATENTS

- **Claims**
 - Crux of patent
 - Define legal bounds after issuance
 - Jurisdiction dependent
 - Enforced by courts

PATENTS

- **Description**
 - Supports the claims
 - Describe the invention in complete detail
 - Include as much detail as possible
 - Pseudo code for key portions
 - Interface/message descriptions

PATENT PROCESS



QUESTIONS?



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CONTACT



Christopher Bown, PhD

*Partner
Patent Agent*



christopher.bown@gowlingwlg.com



613-786-0295



Kevin O'Neill

*Partner
Patent Agent*



kevin.oneill@gowlingwlg.com



613-783-8840



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