

# Acting on IP

**Valuing Students Rights as Intellectual  
Property Creators**

# Overview

- Overview of IP Law
- Students as Creators
- Management of Student IP Rights

# Overview of Intellectual Property Law

# Intellectual Property Law

Umbrella term for creations of the mind such as inventions, literary and artistic works, designs, symbols, names, and images used in commerce.

It includes:

- Patents
- Trademarks
- Copyright

# Patents

Patents protect procedures, processes and methods, e.g.

- Utility—functional features, processes, compositions
- Design—nonfunctional appearance
- Plant!



Photo Credit: [ww.ninjakitchen.com](http://ww.ninjakitchen.com)

# Securing a Patent

- Complicated
- Time consuming
- Expensive
- Must be awarded by the U.S. Patent and Trademark Office
- Generally lasts 20 years

# Trademark

A trademark is used to distinguish products and services of a company or organization from one another.

- Graphics, sounds, colors, etc.



Photo credit: <https://www.apple.com/>



Photo credit: <https://support.microsoft.com>



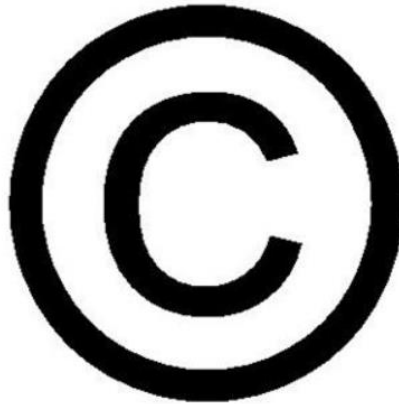
# Securing a Trademark

- Registration with the USPTO is optional
- Not necessarily easy, but not as complicated as a patent
- Registration grants certain benefits
- Protection generally last as long as you use it



# Copyright

Rights given to the creators of protectable works.



# Securing Copyright

- Original, creative, and fixed
- Costs are pretty reasonable
- Registration is not required but confers certain benefits
- Registration can be easily accomplished by someone who is not an attorney
- Generally, lasts for the life of the author +70 years

There is also...

# Trade Secrets



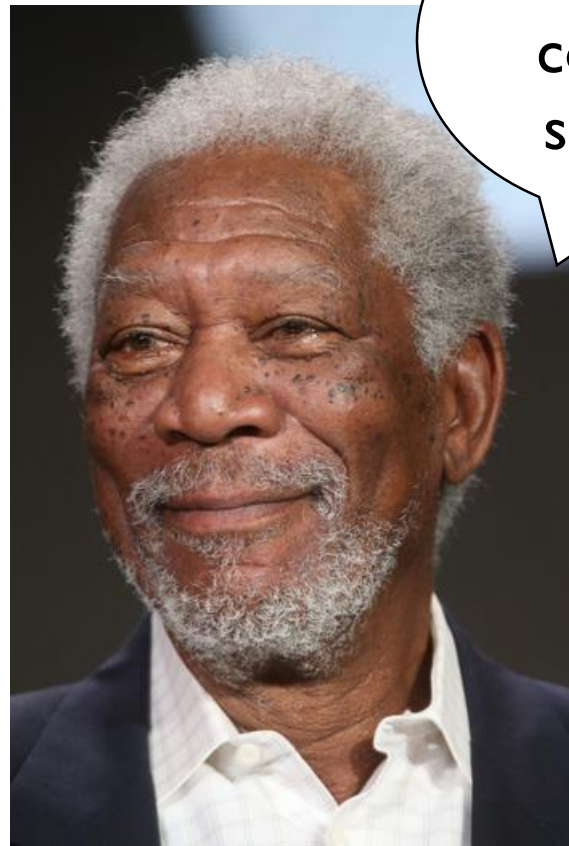
Photo credit: CNN.com & Coca  
Cola

# Trade Dress (Packaging)



Photo credit: <http://www.beyonddesignchicago.com>

# Right of Publicity/Celebrity



I love Carla's  
copyright  
sessions!

Photo credit: [www.biography.com](http://www.biography.com)

# Students as Creators

# Students Creating IP

- Patents
  - Medical and scientific research
  - Technology development
- Trademarks
  - Entrepreneurial/business students
  - Art/graphic design students
  - Musicians?
- Copyrightable Works
  - Research reports, presentations, photographs, art, audiovisual works, choreography, music works, etc.



# And...

- Trade secrets
  - Lab secrets, business secrets
- Trade dress
  - Art students, graphic design students
- Right of celebrity/privacy
  - Social media celebrity?
  - Student athletes
  - Photos and video captures at events or around campus

# Student IP Ownership

- Patents may be:
  - Independently owned by the creator
  - Jointly owned by co-creators
  - Owned (and/or co-owned) by the employer
- Trademarks may be:
  - Owned by the business/business owner
  - Fall under a contract/work made for hire situation
- Copyrightable works may be:
  - Independently owned
  - Jointly owned by a group of authors
  - Fall under a contract/work made for hire situation

Who Owns What?

# Questions to Ask

1. What type of work is it?
  - What type of IP protection might it be eligible for?
2. What was the role of the student when the work was created?
  - Student vs. employee
3. Under what circumstances was it created?
  - What resources were used to develop the work
  - Where the work was developed, e.g. lab, classroom, dorm room?

# Finding Specific Answers

- Campus IP Policy
- Employment contracts/special contracts
- Other campus policies

# Campus IP Policies - Purpose

In the course of research, scholarship, education, and other activities, Boston University faculty, staff, and students create patentable inventions, copyrightable works, and other forms of intellectual property that merit legal protection and have financial as well as scientific and scholarly value.

The University seeks purposeful translation of such intellectual property to societal good whenever possible.

The University is committed to timely assessment of legal protection and potential societal benefit of University intellectual property and to sharing equitably the rights and royalties resulting from intellectual property licensing.

The purpose of this policy is to define the rights and responsibilities of the University and its faculty, staff, and students with respect to ownership and administration of intellectual property.

<http://www.bu.edu/academics/policies/intellectual-property-policy/>

# Campus IP Policies – Will Address

- Who is covered by the policy
- What types of works are covered
- Who owns what
- Obligations to report/disclose

# Who Owns What (Generally)

- Student ownership of works created as part of class work
- Ownership of works created by staff as part of their employment (student employees)
- Ownership of faculty works created within the scope of their employment (graduate student teachers/teaching assistants)
- Ownership of scholarship co-authored with faculty
- Works created using “substantial university resources”



# Types of Works Usually Covered by IP Policies

- Copyright
- Patent

# What About Trademarks & Other IP Areas?

- Look for a policy outlining the acceptable use of institutional branding by students and student groups
- Look for a policy addressing the institution's ability to use student images captured around campus, during events, etc.
- Student athletes will likely have something in their contracts about the reuse of their likeness

# Case-by-Case Contracts

- Music major is hired to compose music for a campus event, campaign, etc.
  - Student employee, volunteer, voluntold
- Art student group develops and donates a sculpture for the campus
  - Ownership of the work, ownership of the copyright, reuse of the work in pictures, etc., & moral rights
- Research/lab contracts
- Faculty member hires photography student to take photographs at their child's birthday party

# IP Education for Students

# IP Rights

- What general info can you provide to students?
  - Books
  - Websites
  - Policy documents
- What specific services can you provide to students
  - Workshops
  - Consultations
  - Referrals
- Why should students care?

# Campus IP Policies

- Making students aware of them
- Helping students understand their rights and responsibilities under these policies
- Helping faculty understand student IP rights and their responsibilities to students
  - Reusing student works
  - Employing students (student employees)
  - Working with students (lab or otherwise)

# Other Policies

- Where can they be found?
- Who is the best person to help the student understand their rights and responsibilities under the policy?
- Having resources available when it comes to private contracts or personal endeavors/ventures

# Unfortunate Situations

Some real-life scenarios

- No one thinks of IP considerations at all
- No one thinks of them (or asks about them) until it's too late
- Student's lack of knowledge being taken advantage of
- Unethical behavior, e.g. bullying, misinformation, straight-out appropriation



# Helping Out

1. What's the motivating factor for the unfortunate situation?
2. What can be done about it?
3. Who is the best person to advocate/intervene?
4. In some situation's what the legal risk facing the institution?
5. Who all should be made aware of the situation?
6. How can it be prevented in the future?

# To-Do

1. Learn about IP
2. Find and read your campus IP policy
3. Identify your campus allies
  - Office of General Counsel
  - Research Office
  - Student Government
4. Model the behavior you'd like to see from others
5. Promote the use of Creative Commons Licenses

# Tools and Resources

- Campus IP Policy
- Office of General Counsel
- United States Patent & Trademark Office
- United States Copyright Office
- ALA, ACRL, ARL, OhioLINK, OhioNET, etc.

# Questions!

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