Categories of Intellectual Property

- Patent (Federal Law)
- Copyright (Federal Law)
  - U.S. Constitution: The Congress shall have power "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." (Art.1, sec.8 cl.8)
- Trade Secret (Mostly State Law)
- Trademark (Mostly Federal)
  - Promote "fair play" in business.

Patent Requirement

- Statutory Subject Matter
  - Any new and useful process, machine [article of] manufacture, or composition of matter
  - Not phenomena of nature, scientific principles, abstract ideas, (pure) mathematical formulas
  - Software?
  - Novelty – does not exist in the "prior art"
- Non-obviousness
  - At the time the invention was made
  - To a person "having ordinary skill in the art"

Copyright Requirements

- Automatic once work is tangible
- Copyright notice helpful, not required
- Registration optional (but easy, cheap and useful)
- Author exclusively may
  - Reproduce
  - Distribute
  - Create derivative works
  - Perform or display publicly
- Infringement is unauthorized use with
  - Substantial similarity
  - Access to copyrighted work
Copyright Does Not Protect ...

- Independent Creation
- Underlying ideas
- Portions in the public domain
- Aspects dictated by external constraints (e.g. Standards, compatibility, efficiency, common practice)
- "Fair Use"

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