

Session 12, 3/20/07

Guest Speaker, Dan Dardani from MIT's Technology Licensing Office, continuing from last class...

- patents last 20 years after patent application begins
- its a right to prevent others from doing things, not a right for you to do anything
- patents don't protect ideas, they just protect the living embodiment of that idea
- patents don't protect laws of nature, things that naturally occur, mathematical formulae
- if living organisms are engineered, they can be patented. Genes and pieces of cells have been patented
- but anything encompassing a human being is not patentable, so it protects ethics of science, mutation of humans
- 3 basic rules of patents: new, already known, useful
- have one year grace period to patent after idea has been disclosed, in rest of world, no grace period exists
- patents are not a holder of future event to happen
- have to have written enablement to show concrete practice
- In US, it's just the first to invent who has right to technology. In the rest of the world, it's the first to file for patent who has right to technology, which avoids arguments about who invented first, but controversial. It favors big companies who can easily afford to file patents immediately. US tries to accommodate this, but there is a movement to change US law in accordance with international law.
- utility rule is easiest to pass, rarely is a technology deemed not useful. Almost anything is useful, unless there is absolutely no utility, perhaps even destructive. Weaponry and bombs can sometimes fail this test, but can pass it as well.
- hardest test is the "not obvious" rule: is this new technology not obvious to people in society? People can cite different research papers done to prove that the idea was obvious, so can be very complicated, long, and expensive process.
- patents cost around \$30K to file, including hiring lawyers. Its \$5-7K to file it to Patents and Trademark Office (PTO)
- Copyright law – any of your own personal writing. Exists the moment you write it. Don't have to register it, but can. Don't have to put "C" inside a circle, but can. Photos are copyrightable. Duration is life of author plus 70yrs.
- derivatives – something taken and changed. As copyright owner, you have right to allow or not allow that
- doctrine of fair use – things like news reporting, teaching, etc. have some breathing room, because by nature they have to show copyrighted materials
 - for example, professor can put 10% of a textbook on website and distribute
- effect on market is biggest factor: during Watergate Scandal, when Gerald Ford pardoned Nixon, he wrote about it in his memoirs. People only cared about this part of the autobiography. A magazine was given a sneak-peak at the book, distributed the ten pages about the pardon, (out of 500 total) and no one bought the book. Publishers sued magazine and won because although less than 10% taken, it effected market sales dramatically.

- Trade secrets – have to take active steps yourself to keep it secure
- disclosure nullifies trade secrets
- nondisclosure agreements - “I agree to keep your secret a secret”
- same as confidentiality agreements – Going over a sample one handed out to class
- this is the standard one MIT's TLO uses
- Says what each party is responsible for doing.
 - Example: Student goes to Professor and discloses idea only to him/her. What if professor had already thought of it before? Get's complicated!
 - Last part of agreement mentions how long this agreement will last. Can last as long as parties agree to.
 - Can license a trademark, which lasts indefinitely
 - Open-source does not equal public domain. Over 30-40 licenses under Open-source foundation, so not free.
 - Intellectual property in international scene: GAT, IPO (offshoot of UN) which is more of a consulting body
 - Student question: how do students typically fund the patent process through MIT?
 - Different organizations (like Deshpande Center) or get business community to invest while your patent is pending
 - Student question: Are US patents valid abroad? No, need individual patents for each country you plan to sell in.

Student Case Study - Ghana Pottery Making

- Diffusion of innovations don't always fit in community (outsiders tried to “improve” pot making but failed because it was not needed)
- Benefits of traditional Clay Pot Making
 - natural/simple tools
 - flexible schedule
 - near home
 - no material cost/ transport cost/ energy and training cost
 - flexibility in how they sell their product: could sell on their own at village or could go to market
 - year-round occupation
 - provides decent wage to older and/or uneducated women
 - demand (storage of water, cooking and eating)
- Constraints
 - running out of clay in 30 years
 - varies on schedule
 - culturally bound
 - age bound
- Shortcomings of Article
 - small data set
 - presumptions with no references
- Good Points of Survey
 - covered several aspects
 - novel idea to do pre-appraisal before try to diffuse innovations
- Susan Murcott presents her own photos and stories of visiting traditional potters in Ghana

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