

Chapter 6- Patents

Utility Patents processes, machine, business method-s(not recognized outside the U.S.

Design Patents new,original, ornamental

Plant Patents inventions/disc-overies pertaining to plants

Patent Trade-Off inventor discloses how invention works in xchange 4 monopoly(protection against other to sell, use, make) for 20 yrs. then its public domain

Patent Requirement Correct Subject Matter- New/novel, useful, non-obvious

Patent App Process written app(online),- specific descrip. of invention., descrip. of what it does, drawings,oath,all info kept confidential until patent granted or 18 mos.

Who gets the patent? 9/15/2011-person who registers. prove you were first w/workbooks, testimony of witnesses, other data

Software patents if app is artistic-copyright=longer protection.if more functional=patent=stronger

Chapter 6- Patents (cont)

Multiple Inventors NO. must prove u were present at conception and had 75% of creation.

Infringement unauthorized use. substitute something similar but not exact.

Biz. method patents no prior art. prevents updating new tech.not recognized by most countries

Patents give you the right to exclude.

Chapter 7-Trade Secrets

anything that gives a business advantage in their market. no time limit as long as secret is kept. Remedies injunction-shut biz down & sue for \$damages. Don't stop reverse engineering. EEA-Economic Espionage Act-owner takes responsibility of secret.UTSA-Uniform Trade Secret Act-a model for statutes to adopt by all states. Awareness-told to keep secret,limited access. Misappropriation-acquisition of trade secret by improper means or wrongful disclosure w/o consent. Def. case-no trade secret/access to it, it was rev.

Chapter 7-Trade Secrets (cont)

engineered or already public. remedies=injunction prevent use. temp. restraining order.perm.injunction. prelim.injunction..

Chapter 8- Jurisdictions

Personal Juris. Subject Matter Juris. In Rem Juris.Long arm-jurisdiction reach out to grab non-resident bring it into state of plaintiff for its illegal acts. differ across states. they establish personal juris based on biz transactions or torts. in rem=courts ability to hear case based on subject matter being physically present in the state. personal jurisdiction in cyb.sp-ace-sliding scale test- 3 yes' to determine where the case takes place: 1. Interactivity-buying, selling, chatrooms.2.Aimed activity-who's the market, where are you trying to penetrate the market.known effect-has person been effected.passive web=transmit info not solicit biz.

Chapter 8- Jurisdictions (cont)

interactive web= solicit biz.Forum selection clauses- Must be responsible, conspicuous, work hardship on defendant. choice of law-the parties agree to which state laws will be applied to the result/issue..

Chapter 9-Contracts

Legally enforceable agreement-xchange for goods/services.requirements=agreement, consideration(xchange somethin of value),capacity-legal/mental ability, legality-subject matter must be legal(nodrugs), form-must be in writing.Offer-intent-must be serious,expression to act in the present.time-how long is the offer open. promissory estoppel-stopped from withdrawing promise. Acceptance must be communicated, silence not acceptance, must be received by offerer. mail box rule-becomes effective upon mailing.

Chapter 9-Contracts (cont)

Mirror image rule-acceptance must be mirror image of offer. unilateral mistake-one party makes a bad deal. bilateral-a material mistake by both parties. capacity-minority, intoxication, guardianship, mental illness, legality. Form-written, oral and implied (unstated) are valid. Statute of frauds-prevents frauds. novation-1 party can be substituted for another. signature-name, initial, symbol, (x). parol evidence rule-oral evidence about a written contract cannot introduce evidence in court /change terms. express warranties-terms definite, known, not ambiguous, written/oral. implied warranty-guarantees products are reasonably fit. click wrap agreement-don't know the terms til the purchase occurs. consumer has right to reject terms & receive refund. uniform electronic transaction act-electronic records are writings, electronic signatures are legally effective, provides for state law supremacy one Federal Law. In-licensing-receiving/-bringing new tech.

Chapter 9-Contracts (cont)

from outside that is market ready. Out-licensing-granting another entity use of your technology. Cross-licensing-2 companies share each others tech..

Security&Computer Crime

Firewalls: "Moats" - with limited access choke points. Protection from the outside - but not from internal breaches, Easily deactivated, VPN's - seen often with private intranets and networks limiting public access. Access Points: Check points, Password protection/Script-based, Single Sign On (SSO), Digital certificates/Certificates of authority, Biometrics, Tokens. U.S.A. Patriot Act (October 2001) Greater flexibility to track & intercept communications w/o a warrant With permission (ISP, telephone provider), can intercept & track trespassers within a system Nationwide subpoena power for stored data

Security&Computer Crime (cont)

Nationwide pen register and trap & trace for all electronic communications. Data mining permitted at the start of an investigation to generate suspicion. Internet crime-Any illegal act for which the knowledge of computer technology is essential for either its Perpetration, Investigation, or prosecution. The Computer as a TARGET: Hardware (a laptop, chips, mobile drivers are stolen) Software (programs, games, etc.. are stolen) Alteration of data (cracking) Browsing of data (hacking) Theft of data. Denial of services. Counterfeit Access Device and Computer Fraud and Abuse Act. Makes all crimes having to do with computers a federal offense 1996 - amended by the National Infrastructure Protection Act to protect all computer activity.

Chapter 12-Privacy

9th amendment-just because its not on the list doesnt mean it doesnt exist.

Chapter 12-Privacy (cont)

people have other rights not listed and are still protected. 4th amendment-people have the right to be secure in their persons, houses, papers, effects against unreasonable searches & seizures, shall not be violated. 5th amendment-not compelled to be a witness against himself. corporations do not fall under this. 14th amendment-u.s. constitution applies to all government action. Intrusion upon seclusion-were you spied upon in a place you believed you had privacy. privacy protection act-prohibits gov't seizure w/o warrant. work expected to be public. cable communications protection act-can't disclose what you watch/purchase. video privacy protection act-video stores. telephone consumer protection act-fax ads, do not call list, telemarketing. fair credit reporting act 1970-cant release consumer info. computer fraud & abuse act-accessing of personal info on govt computers & financial institutions. Bank secrecy act 1970-makes money laundering illegal..

Obscenity

1st Amendment applies to federal action. 14th Amendment applies freedom of expression to state's action. "Itching, longing; uneasy with desire or longing; of persons, having itching, morbid or lascivious longings; of desire, curiosity, or propensity, lewd" Patently Offensive

Hard core "ultimate sexual acts, normal or perverted, actual or simulated" that include "masturbation, excretory functions, and lewd exhibition of the genitals"- Intent (Mens Rea) Only have to prove that the provider had knowledge of the character and nature of the material. No requirement to prove actual knowledge that the material was obscene. Communication

Decency Act (CDA) of 1996- Designed to protect minors from pornography, \$100,000 fine and up to 5 years for 1st offense, Makes it a crime to knowingly. Protection of Children from Sexual Predators Act or 1998- Prohibits the use of the internet for child pornography. Prohibits using the internet to prey upon minors (sexual activities)..

there is no international law on obscenity.



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