

An Overview of Intellectual Property Law, Policy, and Controversy

Michael J. Madison

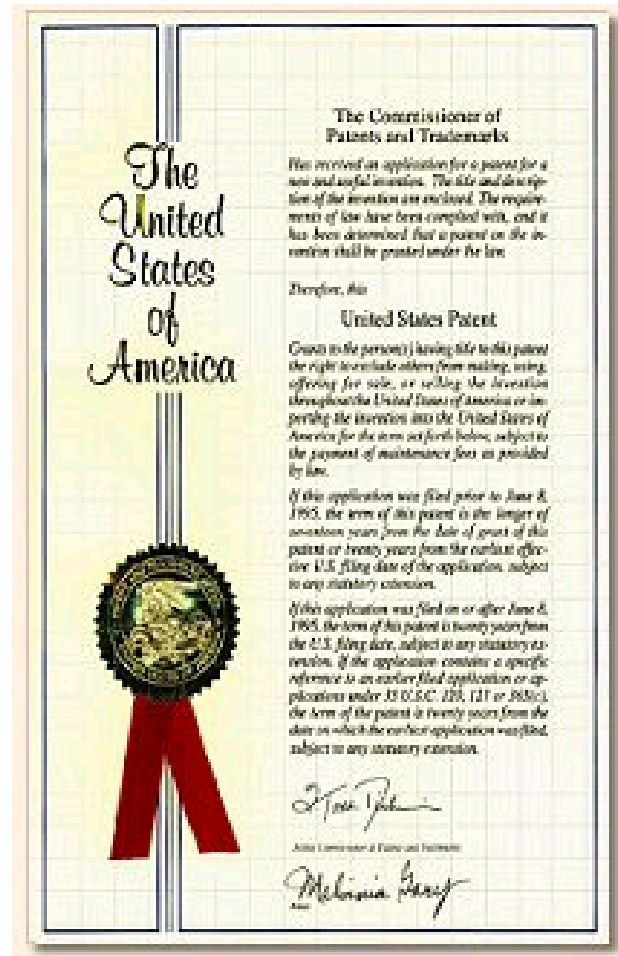
University of Pittsburgh School of Law

February 28, 2008

Copyrights

Patents

Trademarks



Limited legal rights designed to promote specific public policies:

Copyrights – to encourage the production and distribution of “expressive” works

Patents – to encourage the development and disclosure to the public of “new and useful” devices and processes

Trademarks – to promote fair competition by reducing consumer confusion in the marketplace

Copyrights

“Original works of authorship fixed in a tangible medium of expression”

No copyright in facts or ideas

Copyright arises automatically and belong to the “author(s)” for life + 70 years

Copyright owner has exclusive right to reproduce, distributive, modify, perform, display “the work”

Distinguish between tangible object and intangible copyrighted “work”

Defenses to infringement include “first sale,” “fair use”

Promoting or contributing to infringement leads to “secondary” liability

Plagiarism, “theft” are different

Patents

“Novel, nonobvious, and useful machines, methods, devices, compositions of matter”

No patents in abstract ideas, principles or products of nature

Patent granted by Patent Office after application and examination, and lasts for 20 years

Patent owner has exclusive right to make, use, sell, import “the invention”

Patentable invention defined by written “claims” in the patent

Few defenses

Promoting or contributing to infringement leads to “secondary” liability

Trademarks

Any symbol or device capable of distinguishing products or services, from the perspective of the consumer

No trademark protection for “functional” things

TM rights arise automatically, though TM can be registered in Trademark Office, and last for as long as the mark is used commercially

TM owner has right to prevent use of the mark in ways that cause **consumer confusion**. Limited additional rights belong to owners of “famous” marks

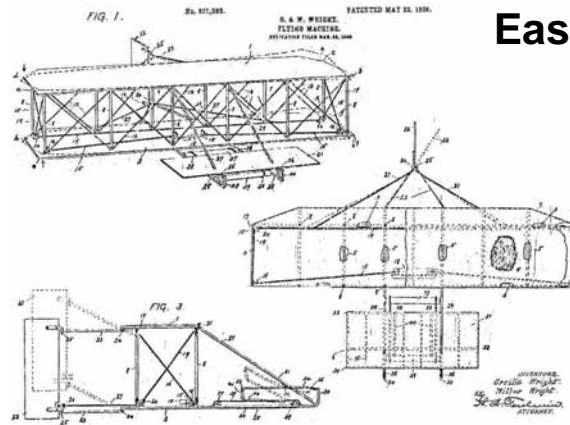
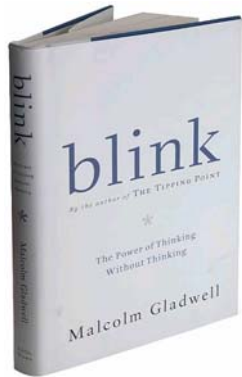
Defenses to infringement include “first sale,” “fair use,” noncommercial use

Copyrights

Patents

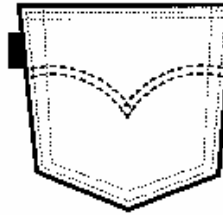
Trademarks

Easy



Easy

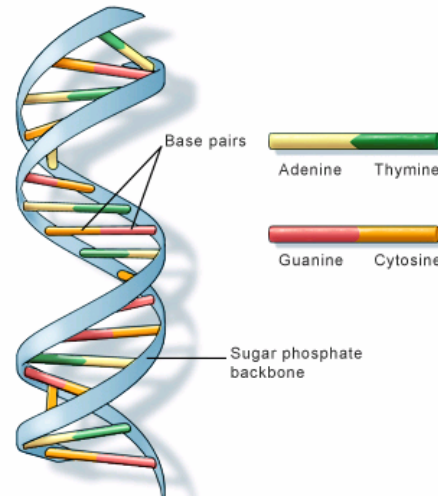
Five of the companies Levi Strauss has sued in the last decade.



Hard



Hard



Sources: Thomson West; court documents

The New York Times



“Sidamo, Harar and Yirgacheffe”

```

01000111011011110110111101
10010000100000011101110111
00100110100101110100011010
01011011100110011100100000
01100011011000010110111000
10000001101101011000010110
10110110010100100000011101
00011010000110010100100000
01101000011001010110000101
11011001100101011011100111
00110010000001101101011011
110111011001100101

```

U.S. National Library of Medicine

Current Controversies:

- Fair Use
- P2P Networks
- User-generated content
- Patent Trolls and innovation
- Biomedical Pathways (BMPs)

