



OTBC Legal Series

Protecting Your Intellectual Property

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Warning

- Bird's eye view – omits things that may be important



- Not legal advice – Not a client

Legal Advice

Intellectual Property



- Legal rights – intangible
- Creations of the mind
- Sword not shield; bullet, not body armor
- Barrier to entry

Agenda

1. Copyright
2. Trademark
3. Patent
4. Trade Secret

What is a Copyright?



- Work of authorship
- Fixed in a medium of expression
- Examples: book, computer program, user manual, advertising material, photograph
- Protects against: copying

Obtaining Copyright



- Author has copyright when work is fixed
- May also register
- Register before suit
- Register before infringement to get statutory damages, attorney fees

Copyright Costs

- \$35 on-line filing fee
- \$300-500 attorney fees

Copyright Tips

- Make sure you own it
- Register

What is a Trademark?

- Something perceptible, e.g., word, name, symbol:
 - business name, domain name, logo, tag line, product name, etc.
- Used . . .
- To identify and distinguish goods or services.

Trademark Rights

In U.S., using mark gives exclusive right to:

- Use the mark;
- Prevent use of confusingly similar marks;
- Sue for infringement.

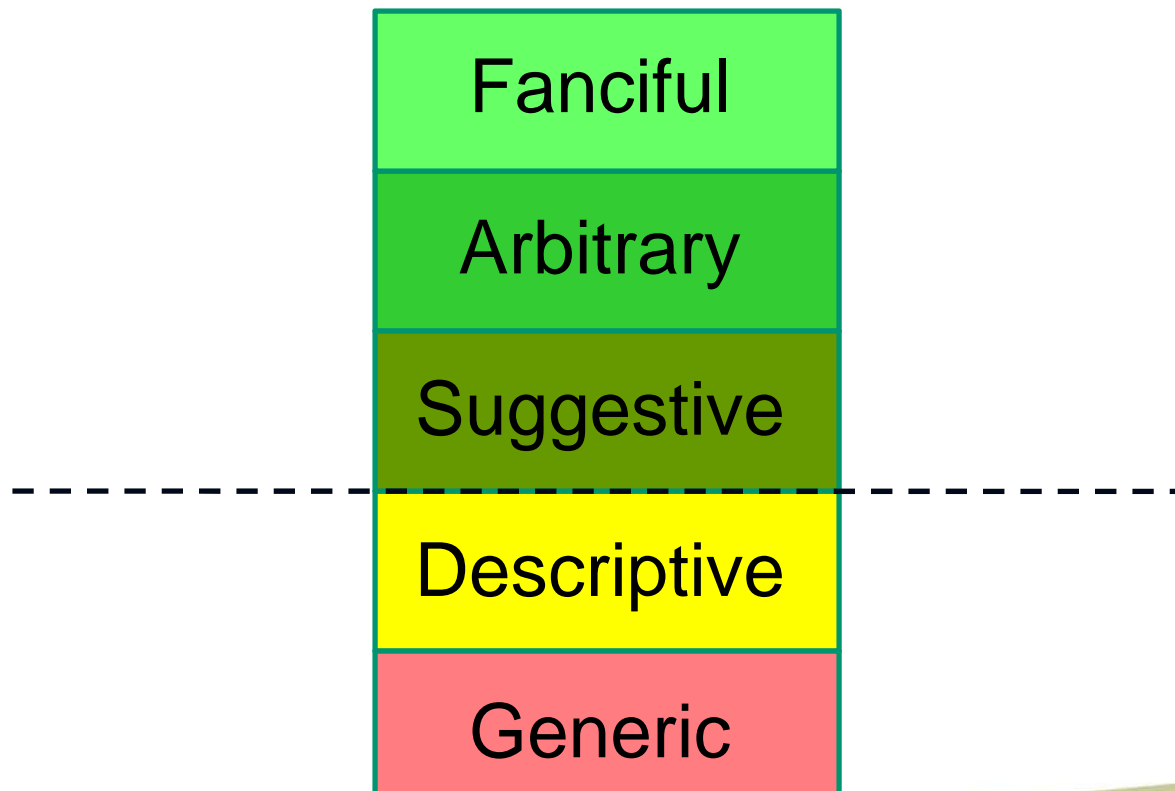
Registration is not required.

Territory: Area in which the mark is used.

Trademark Costs

- Search (optional): \$500-\$1,200
 - knockout, web, commercial, foreign
- Filing: \$375/class
- Prosecution: \$1,500-2,000

Spectrum of Distinctiveness



Trademark Tips

1. Pick inherently distinctive marks.
2. Research before using.
3. Use marks properly.
4. Register marks.

What is a Patent?

- Process, machine, product, composition
- New
- Non-obvious

Patent – Protection



- Can prevent others from:
 - Making
 - Using
 - Selling or offering to sell
 - Importing
- In the US

Obtaining a Patent



- Application
- Examination
- Grant

Obtaining a Patent



- Prior art
- “Statutory bars”
- Must apply within one year of commercial exploitation

Patent – Scope

- Depends on “Claims”
- Not WYSIWYG

Claim defines scope

- Every word counts
- Process for making pastry
- Claims limited to “heating the resulting batter-coated dough to a temperature in the range of about 400° F. to 850° F.”

United States Patent [19]	[11] Patent Number: 4,761,290
Meraj et al.	[45] Date of Patent: Aug. 2, 1988
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[54] PROCESS FOR MAKING DOUGH PRODUCTS	[56] References Cited
[75] Inventors: Paul Meraj, Encino; Teri Nagle, Alta Loma, both of Calif.	U.S. PATENT DOCUMENTS
[73] Assignee: General American Foods Manufacturing Corporation, Sylmar, Calif.	1,483,704 2/1924 Wilcox 426/290
[21] Appl. No.: 4,987	4,190,757 2/1980 Turpin et al. 426/107 X
[22] Filed: Jan. 20, 1987	4,283,427 8/1981 Winters et al. 426/107
[51] Int. Cl.⁴ A21D 10/00	4,645,673 2/1987 Wilmes 426/94
[52] U.S. Cl. 426/90; 426/92; 426/94; 426/95; 426/290; 426/291; 426/107	<i>Primary Examiner</i> —Joseph Golian
[58] Field of Search 426/290, 291, 94, 92, 426/95, 107, 90	<i>Attorney, Agent, or Firm</i> —Nilsson, Robbins, Dalgarn, Berliner, Carson & Wurst
	[57] ABSTRACT
	Dough products convertible by heating to light, flaky, crispy dough products are produced by applying shortening flakes to a dough, coating a light batter upon the dough product and heating the batter-coated dough to first set the batter and then subsequently melt the shortening flakes, thereby forming air cells within the batter and at the surface of the dough.
	9 Claims, No Drawings

Patent Legal Fees

- Search (optional) \$800-\$1,500
- Preparation & filing \$6,000-\$15,000
- Prosecution \$2,500-\$8,000

Provisional Application

- Option for earlier filing date for a regular application
- Avoids intervening “prior art”
- Option expires in 1 year
- Limited to what’s in provisional application
- No such thing as a “provisional patent”

Patent Tips

- Early application, consideration of foreign protection
- Reduce legal fees by doing your homework
- On average, you get what you pay for

What is a Trade Secret?

- Information not generally known in trade
- Must take reasonable steps to keep secret
- Protects against acquisition by improper means

Trade Secret Tips

- Make sure you own it
- Protect it
- Use NDAs
- Consider noncompetition agreements

Questions?

Thanks for your attention

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