

# Intellectual property (IP) basics and helpful resources



UNITED STATES  
PATENT AND TRADEMARK OFFICE ®

# Notice

This content is for informational purposes only and is not legal advice. Please consult with appropriate sources for legal authority and guidance on these matters.

# In this session, we will cover:

- What is the USPTO?
- Overview of IP
- IP as a business strategy
- Resources
- Q&A

# What is the USPTO?

The United States Patent and Trademark Office (USPTO) is the **federal agency** established in 1790 that grants U.S. patents and registers trademarks.

The mission of the USPTO is **to drive U.S. innovation and global competitiveness for the benefit of all Americans.**



# The USPTO in FY 2024

## 14,078 employees

- **9,016** patent examiners
- **765** trademark examining attorneys
- **221** administrative patent judges
- **28** administrative trademark judges

## Patents

- **663,591** applications filed
- **365,614** patents issued

## Trademarks

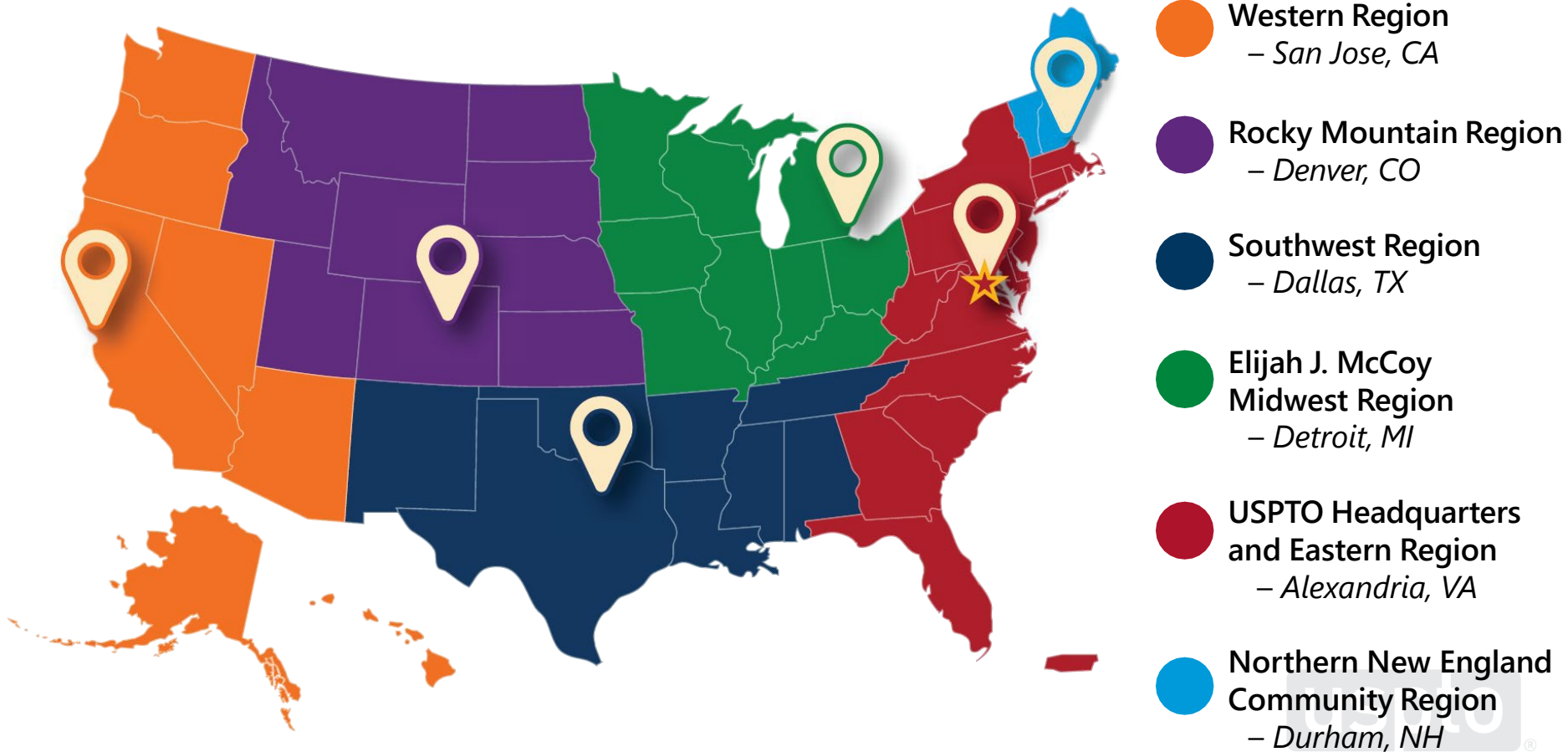
- **767,297** trademark applications
- **338,854** certificates of registration



*USPTO headquarters in  
Alexandria, Virginia*



# USPTO Regional Outreach Offices



# What is intellectual property?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names, and images used in commerce.

There are four main types of IP:

- Patents
- Trademarks
- Copyrights
- Trade secrets



# Types of intellectual property



## Patent

New, inventive ideas



## Trademark

Identifies the origin of goods or services



## Copyright

Creative expression stored in a tangible form



## Trade secret

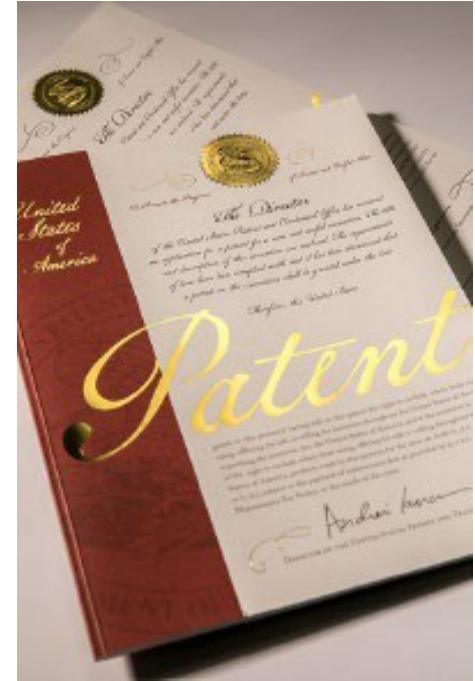
Any information that is valuable & kept confidential



# Patents

A U.S. patent is

- Is a property right granted by the United States government to an inventor; **no world-wide patent**
- **Excludes others** from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States
- Has a limited term of protection
- Requires full disclosure of invention details



# What is eligible for protection?

## What can be patented:

- Process
- Machine
- Article of manufacture
- Composition of matter
- Improvement of any of the above
- Ornamental design of an article of manufacture
- Asexually reproduced plant varieties

## What cannot be patented:

- Law of nature
- Physical phenomena
- Abstract ideas
- Literary, dramatic, musical, and artistic works



# Patentability

Inventions that are new, useful, non-obvious, and accompanied by a written description disclosing how to make and use the invention may be patented.



# How do I know if my invention is new and nonobvious?

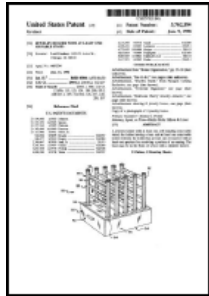
- Search
  - U.S. patents
  - Foreign patents
  - Printed publications
  - The internet

# Types of patents

## Utility

Protects how an invention functions or is produced

Term: 20 years from filing date



## Design

Protects the ornamental expression of a product; the way it looks and feels.

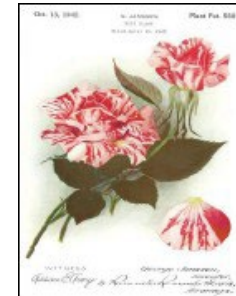
Term: 15 years from the date of grant



## Plant

Protects a distinct and newly invented variety of asexually reproduced plant.

Term: 20 years from filing date



# Benefits of a patent

- Attract lenders and investors to obtain funding
- Establish a business to market, sell, or license the invention
- Assert/enforce rights against infringement by filing with the U.S. Customs and Border Protection and/or filing a federal lawsuit against the infringer.

# Enforcement

- Onus is on the owner to enforce their patent rights
  - Monitor marketplace for infringing products
  - Respond to infringement when detected
- **Government enforcement resources**
  - [STOPfakes.gov](https://stopfakes.gov)
  - U.S. Customs and Border Protection

# What is a trade secret?

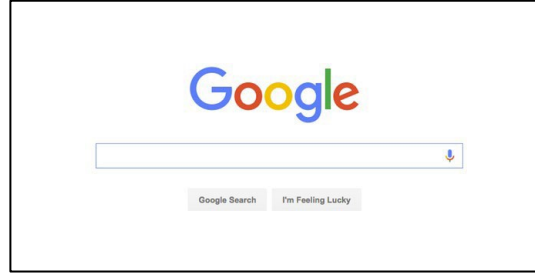
- An intellectual property right that derives **economic value** from being **not publicly known** or ascertainable
- Protects ***commercially valuable proprietary information***, e.g., formulas or business information that gives a ***competitive advantage***
- Trade secrets are not publicly disclosed and must be subject to reasonable efforts to preserve confidentiality



# Examples of trade secrets

Examples can include:

- Formulas
- Recipes
- Test data
- List of clients or vendors
- Marketing strategies
- Combination of methods, techniques, or processes



# Why are trade secrets useful?

- May be useful when a product or process does not meet patentability criteria
- No set term for protection
- No filing fees or registration costs
  - *Some investment may still be required to secure information*

# How to lose a trade secret

- Failure to take adequate steps to prevent disclosure
  - Failure to protect the secret (locked cabinets, encrypted files, double passwords)
  - Lack of non-disclosure agreements, non-compete contracts, or written policies with employees and contractors
- Owner or owner-authorized disclosure
- Unauthorized access, data breaches
- Reverse engineering
- Independent development



# What is a trademark?

- An intellectual property right that allows the owner to control the use of a mark
- A mark may be a word, symbol, name, color, shape, sound, or smell
- Identifies **the source** of products or services
- Provides legal protection for a brand



# Examples of trademarks

Trademarks can be **WORDS**

STARBUCKS

NIKE

TARGET

Trademarks can be **DESIGNS**



# Examples of trademarks

- A trademark can be any **word, slogan, symbol, design**, or **combination** of these, including **product packaging, product design**, and **trade dress**.
- A Trademark can also be a **sound, color, or smell**.



# What does a trademark not do?

- Trademark
  - Does **not** mean you legally own a word or phrase
  - Does **not** mean you can stop other people from using a word or phrase
  - Does **not** mean people owe you money if they use a word or phrase

# Common law trademark rights

- Trademark that is **used** in commerce in connection with specified goods and services, but ***not registered***
- Rights are limited to geographic area
- Symbols
  - Optional: TM SM
  - Never ®
- U.S. is a first-to-use country
  - Most countries are first-to-file



# Federal trademark registration rights

- Created when you federally register a trademark
- Symbol permitted: ®
- Legal presumption you own the trademark
- Legal presumption you have the right to use the trademark in all 50 states and the U.S. territories
- Notice to the public of your rights in the trademark



# Federal trademark registration rights

- Rights
  - Can bring legal action concerning trademark in federal court
  - Enables recordation of registration with U.S. Customs and Border Protection
  - Can be used as a basis for filing in another country

# Benefits of a trademark

- Can bring legal action concerning trademark in federal court
- Enables recordation of registration with U.S. Customs and Border Protection
- Can be used as a basis for filing in another country
- Term: Protection lasts as long as the mark is in continuous use in connection with goods or services
- Must be renewed by year 6, then at year 10, then every 10 years



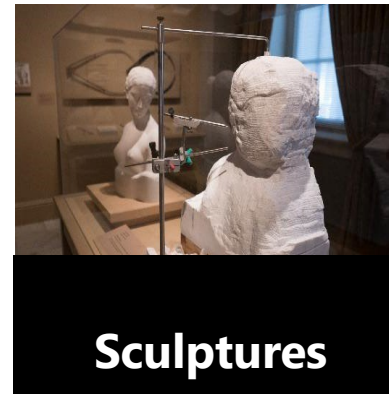
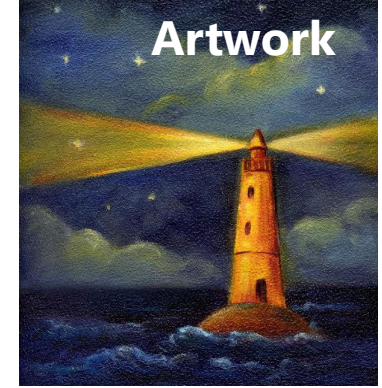
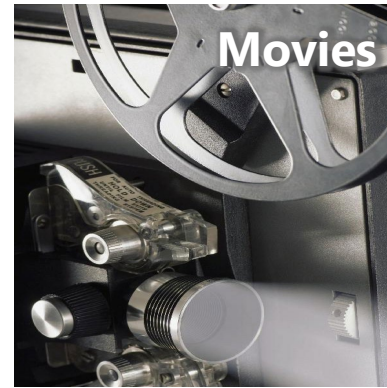
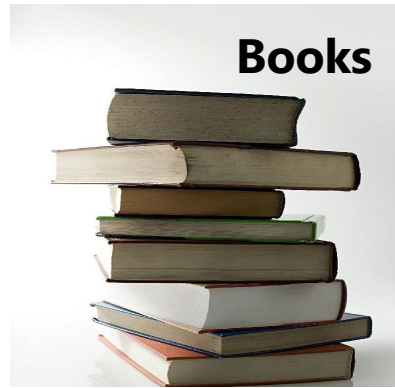
# What is a copyright?

- An intellectual property right that protects authors of **original works**
- **Fixed work:** one that can be communicated, reproduced, or perceived at a later time
- Registration administered by the U.S. Copyright Office
- © symbol can be used **without** registration



Copyright.gov

# What does copyright protect?



... **plus** many other forms of creative works, including: plays, choreography, architecture, software, and compilations

# Rights of a copyright owner

- Provides an exclusive right to:
  - Reproduce the work as copies
  - Prepare derivative works
  - Sell, lease, or lend copies
  - Publicly perform literary, musical, dramatic, or choreographic work
  - Authorize others to exercise exclusive rights

# Duration of a copyright

- Protection = life of author plus 70 years after death
- For hire and anonymous or pseudonymous works:
  - –95 years from publication or 120 years from creation, whichever is less

# Registration of a copyright

- Copyright protection is automatic at the time the work is created
- Protection can be enhanced through registration
- Registration is necessary to enforce the exclusive rights through litigation

# Benefits of registration

- Is necessary for U.S. works before an infringement suit can be filed.
- Establishes *prima facie*, or *first impression*, evidence of a valid copyright and facts.
- Permits a copyright owner to establish record with U.S. Customs and Border Protection for enforcement purposes.

# Types of intellectual property



## Patent

New, inventive ideas



## Trademark

Identifies the origin of goods or services



## Copyright

Creative expression stored in a tangible form



## Trade secret

Any information that is valuable & kept confidential



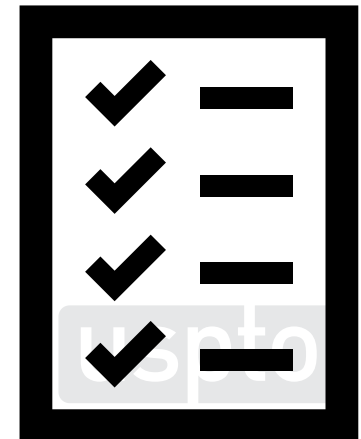
# IP strategy is a business strategy

- Can generate additional revenue
- Adds value to an asset portfolio
- Is attractive to investors and buyers
- Can increase leveraging power for mergers and acquisitions
- Establishes brand and competitiveness
- Can deter infringement lawsuits



# Developing an IP strategy

- Identify, assess and prioritize your IP assets within your business plan
- Understand filing, fees, protection and enforcement processes
- Define clear policies and limitations with existing or potential partnerships
- Understand your competition and likelihood of infringement
- Consider the pace of innovation and opportunities for IP growth
- Develop a plan, set goals and implement
- Consult with an SBDC counselor
- Seek legal advice from an IP attorney



# Identify your IP type(s)

Learn about the type of IP you have and how to protect it

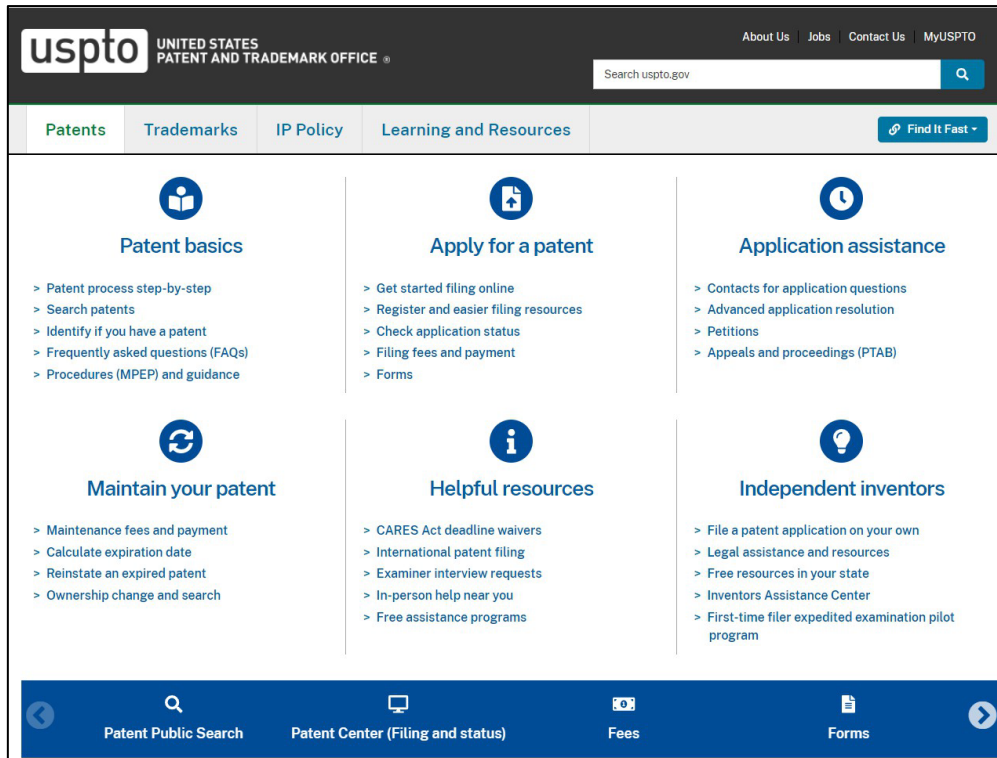
- Basic IP Identifier
- Advanced IP Identifier

<https://ipidentifier.uspto.gov/>



# Patent resources

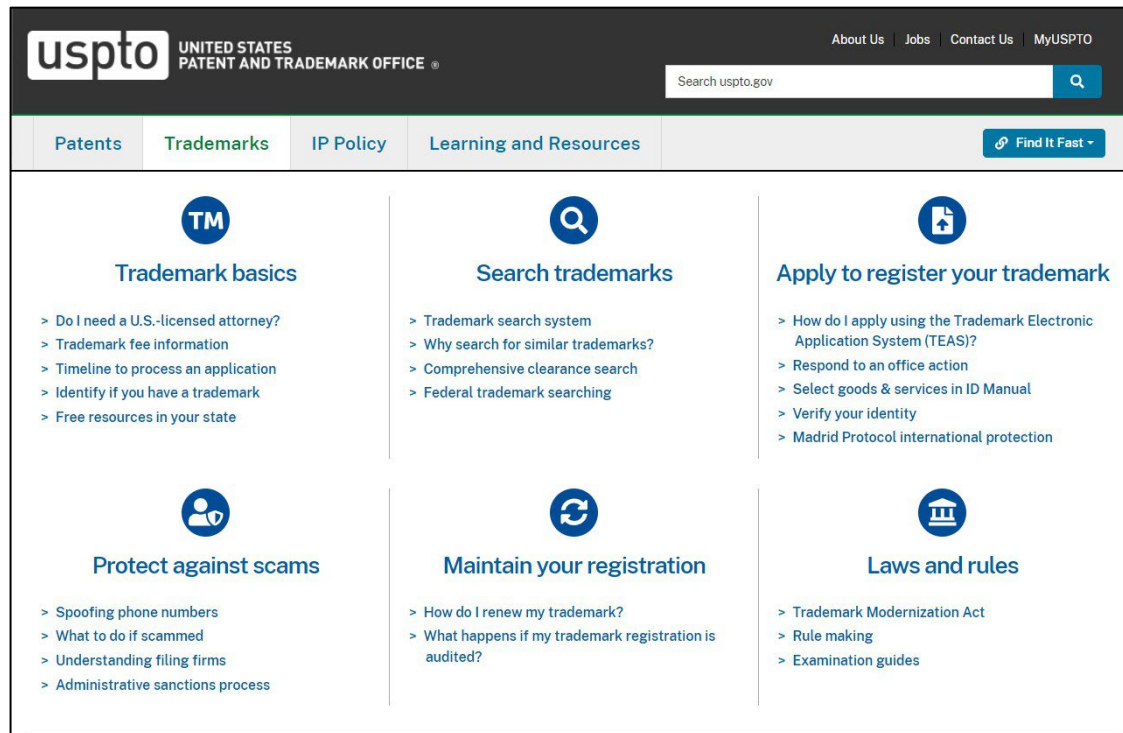
- Patent basics
- Apply for a patent
- Application assistance
- Forms
- Fees
- ...and more!



[www.uspto.gov/patents](http://www.uspto.gov/patents)

# Trademark resources

- Trademark basics
- Search trademarks
- Apply for registration
- Protect against scams
- Forms
- ...and more!



The screenshot shows the USPTO website's Trademark resources page. The header includes the USPTO logo, the text "UNITED STATES PATENT AND TRADEMARK OFFICE", and navigation links for "About Us", "Jobs", "Contact Us", and "MyUSPTO". A search bar with the placeholder "Search uspto.gov" is also present. Below the header is a navigation bar with tabs for "Patents", "Trademarks" (which is highlighted), "IP Policy", and "Learning and Resources". A "Find It Fast" button is located on the right side of the navigation bar. The main content area is divided into six sections, each with an icon and a list of links:

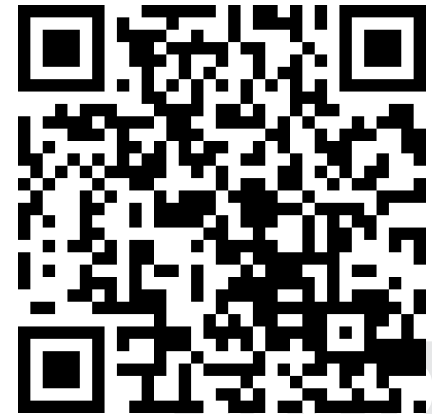
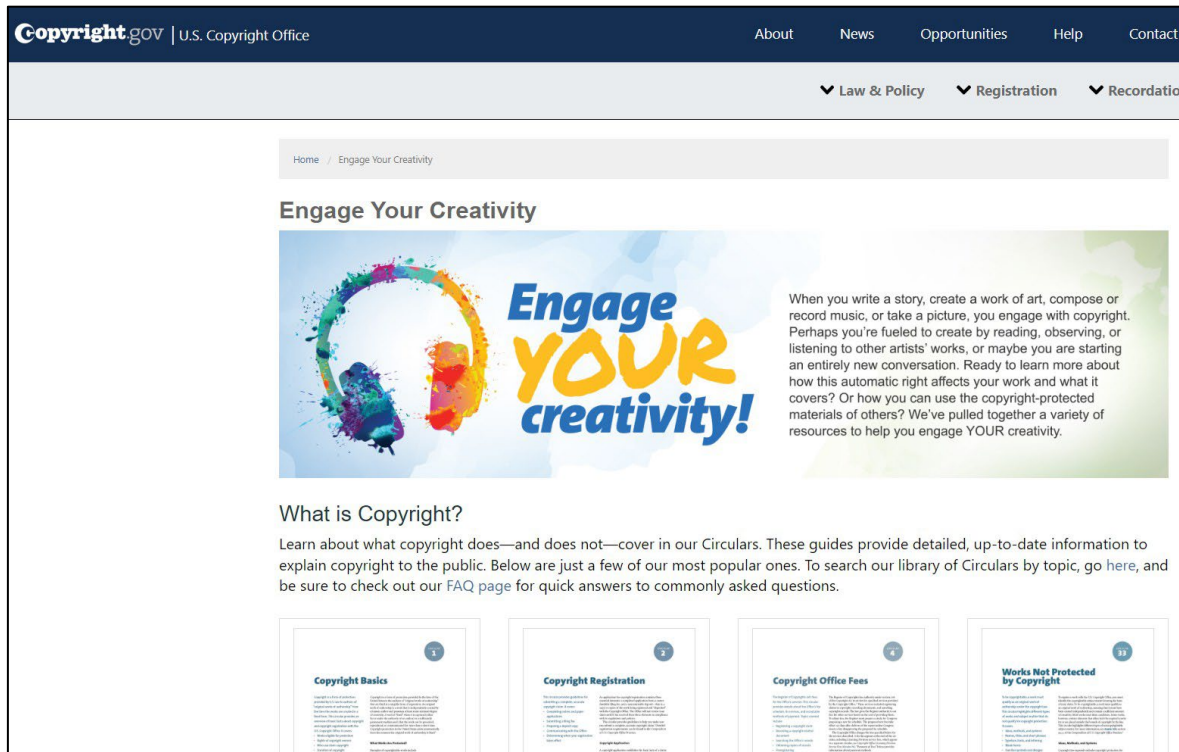
- Trademark basics** (TM icon):
  - > Do I need a U.S.-licensed attorney?
  - > Trademark fee information
  - > Timeline to process an application
  - > Identify if you have a trademark
  - > Free resources in your state
- Search trademarks** (Search icon):
  - > Trademark search system
  - > Why search for similar trademarks?
  - > Comprehensive clearance search
  - > Federal trademark searching
- Apply to register your trademark** (Apply icon):
  - > How do I apply using the Trademark Electronic Application System (TEAS)?
  - > Respond to an office action
  - > Select goods & services in ID Manual
  - > Verify your identity
  - > Madrid Protocol international protection
- Protect against scams** (Scam icon):
  - > Spoofing phone numbers
  - > What to do if scammed
  - > Understanding filing firms
  - > Administrative sanctions process
- Maintain your registration** (Renew icon):
  - > How do I renew my trademark?
  - > What happens if my trademark registration is audited?
- Laws and rules** (Law icon):
  - > Trademark Modernization Act
  - > Rule making
  - > Examination guides



[www.uspto.gov/trademarks](http://www.uspto.gov/trademarks)

# Copyright resources

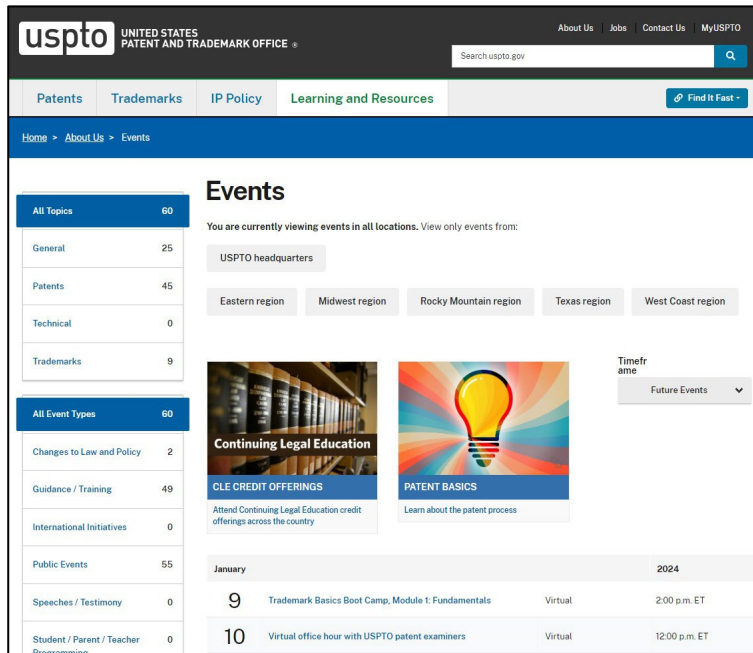
- Copyright basics, registration, office fees, and more!



[www.copyright.gov/engage/](http://www.copyright.gov/engage/)

# USPTO training and programs

- In-person and virtual events
- Training
  - Path to a Patent, Trademark Basics Bootcamp, and more!



The screenshot shows the USPTO Events page. The header includes the USPTO logo, navigation links (About Us, Jobs, Contact Us, MyUSPTO), and a search bar. The main navigation bar has links for Patents, Trademarks, IP Policy, and Learning and Resources. The Events section is titled "Events" and includes a filter for "All Topics" (60) and "All Event Types" (60). The "All Topics" filter shows counts for General (25), Patents (45), Technical (0), and Trademarks (9). The "All Event Types" filter shows counts for Changes to Law and Policy (2), Guidance / Training (49), International Initiatives (0), Public Events (55), Speeches / Testimony (0), and Student / Parent / Teacher Programming (0). The main content area displays "Events" and includes a filter for "You are currently viewing events in all locations. View only events from:" with options for USPTO headquarters, Eastern region, Midwest region, Rocky Mountain region, Texas region, and West Coast region. There are also filters for "Timeframe" (Future Events) and "Patent Basics". Two featured event cards are shown: "Continuing Legal Education" (CLE CREDIT OFFERINGS) and "PATENT BASICS". A table lists upcoming events for January 2024:


January	2024
9	Trademark Basics Boot Camp, Module 1: Fundamentals
10	Virtual office hour with USPTO patent examiners



[www.uspto.gov/events](https://www.uspto.gov/events)

# USPTO in your region

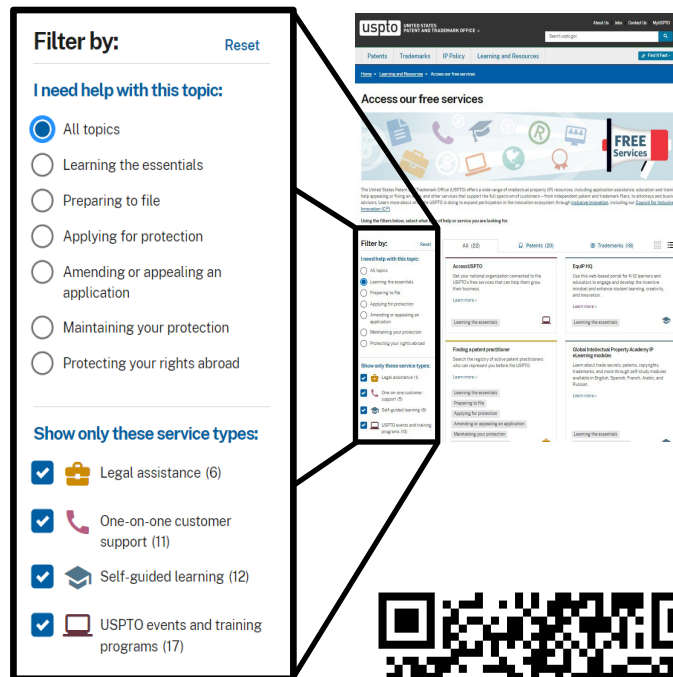


-  USPTO Headquarters
-  Regional Outreach Offices
-  Patent and Trademark Resource Center (PTRC)



# Looking for something else?

- Legal assistance
  - Pro Bono Program
  - Find an attorney or agent
  - Law School Clinics
- One-on-one customer support
  - Pro Se Assistance
- Protection abroad
  - International IP Attaché Program

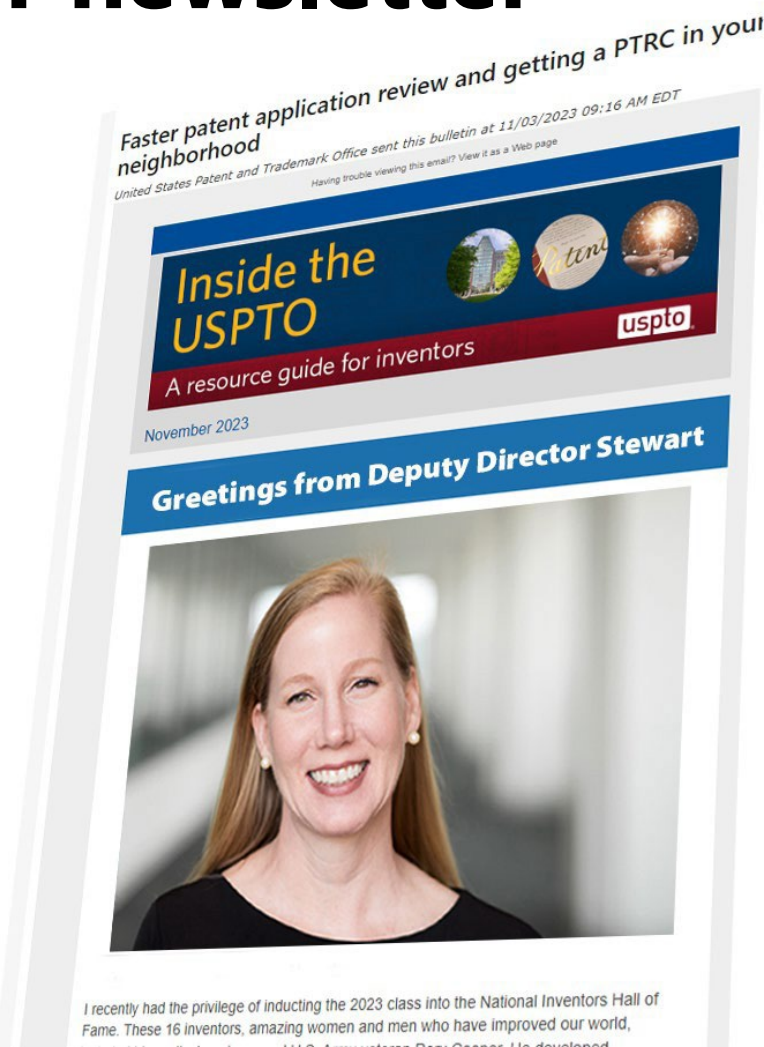


[www.uspto.gov/learning-and-resources/  
access-our-free-services](https://www.uspto.gov/learning-and-resources/access-our-free-services)



# Sign up: USPTO inventor newsletter

- Monthly one-stop-shop for inventors and entrepreneurs
- Latest updates from the Director of the USPTO
- Info on resources to protect your innovation and grow your business



# Contact us

## Students and Learners Division Office of Public Engagement

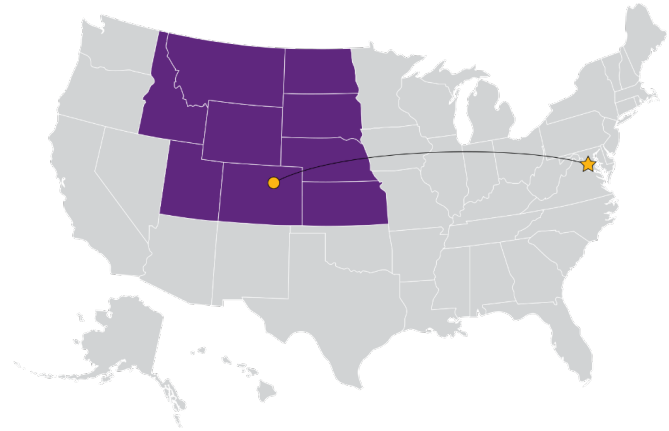
Juan Valentin

Education Program Advisor

[Juan.Valentin@uspto.gov](mailto:Juan.Valentin@uspto.gov)

[Education@uspto.gov](mailto:Education@uspto.gov)

<https://www.uspto.gov/Education>





# Backup Slides



UNITED STATES  
PATENT AND TRADEMARK OFFICE ®

# Copyright – Fair Use

- General rule is to seek permission from the copyright owner
- Fair use, a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances:
  - criticism, comment, news reporting, teaching, scholarship, and research
- For more information, see the USCO Fair Use Index [www.copyright.gov/fair-use/](http://www.copyright.gov/fair-use/)



# USPTO fee schedule

- Fee Help Desk:
  - 1-800-786-9199 (select option 3, then option 4) [FeesHelp@uspto.gov](mailto:FeesHelp@uspto.gov)

[www.uspto.gov/learning-and-resources/fees-and-payment](http://www.uspto.gov/learning-and-resources/fees-and-payment)



# Enforcement – U.S. government resources

- [STOPfakes.gov](https://stopfakes.gov)
- U.S. Customs and Border Protection

[www.uspto.gov/ip-policy/enforcement-policy/enforcement-resources](https://www.uspto.gov/ip-policy/enforcement-policy/enforcement-resources)



# Student and educator resources

- USPTO website:

<https://www.uspto.gov/learning-and-resources/kids-educators>

