Facts

Answers to your intellectual property questions

Your innovation commercialization journey begins at the Office of Technology Management with the process of protecting your idea, typically via the U.S. Patent and Trademark Office. But such a journey can end abruptly and without success if you somehow publicly disclose your idea before a patent application is filed.

The U.S. Patent law makes that point clear: “A person shall be entitled to a patent unless: a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent; or b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application of patent in the United States...”

What constitutes a public disclosure of your intellectual property?

In short, more than you might imagine. Here’s a list of activities that may be deemed a public disclosure of your idea:

- Publishing anything -- abstract or journal article, for instance.
- Giving a talk or a poster presentation at an “open” meeting.
- Sharing the content of a patent application or any description of the invention with someone outside of the university.
- Talking with external parties about the invention without the use of a confidentiality agreement.
- Transfer of scientific materials with the use of a material transfer agreement.
- Posting messages on a Web site, public news group or blog that describe your invention.
- Grant progress reports -- for the same reason as above.
- Student theses (under some circumstances) -- even if nobody ever actually reads them.
- Classroom presentations -- including distribution of handouts.
- Department seminars.

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What activities probably wouldn’t be considered a public disclosure of your intellectual property?

- Lab meetings -- as long as they are attended only by University employees.
- Faculty meetings -- again, as long as they are attended only by University employees.
- Confidential submissions for publications -- but only prior to acceptance.
- Unfunded government grant applications -- proposals that have not yet been accepted for funding.

How can you protect your innovation from public disclosure?

- Invention Disclosure -- As early as possible, work with the Office of Technology Management to fill out an Invention Disclosure, which will ensure that your innovation will be considered for patent protection at the earliest opportunity.
- Confidentiality Agreements -- signed by outside parties prior to discussion of your inventions. You can find a copy of an agreement on the OTM Web site, although we would encourage you to let OTM facilitate any agreement.
- Material Transfer Agreements -- Found on the Office of Research’s Web site, these agreements will protect from misappropriation, misuse or infringement any materials that you send to other research organizations for their own commercialization efforts using your materials.

HOW TO REACH...

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