

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Intellectual Property, and Resources for Small Businesses, Entrepreneurs, and Independent Inventors

Damian Porcari
Regional Director
Elijah J. McCoy Midwest Regional Office

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PATENT AND TRADEMARK OFFICE



IP and the U.S. economy

27.9m

IP intensive jobs (2014)

38.2%

IP intensive industries share of total US
GDP (2014)

\$6.6 trillion

Value add of IP-intensive industries
(2014)

\$1,312/week

(46% higher)
Avg. weekly wages for workers in IP-
intensive industries

\$115.2 billion

Revenue specific to the
licensing of IP rights totaled
(2012)

28 industries

Deriving revenues
from licensing

Source: Department of Commerce. 2016. "Intellectual Property and the U.S. Economy: 2016 Update". September 26.
www.uspto.gov/sites/default/files/documents/IPandtheUSEconomySept2016.pdf (January 3, 2018).



The USPTO in FY19

12,652 employees

- **9,614** patent examiners
- **701** trademark examining attorneys
- **383** Patent Trial and Appeal Board team
- **73** Trademark Trial and Appeal Board team

Patents

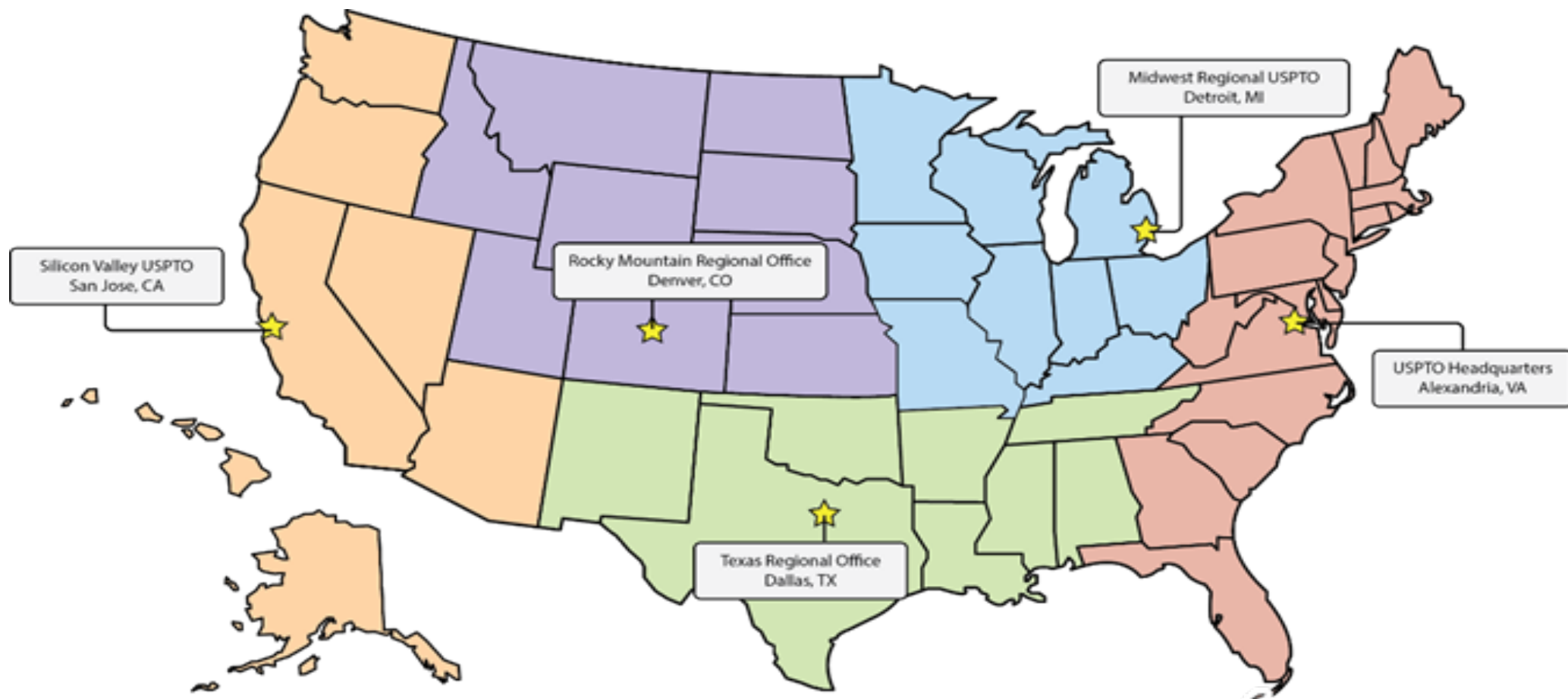
- **665,231** applications filed
- **370,434** patents issued

Trademarks

- **673,233** trademark applications
- **297,774** Certificates of Registration

USPTO headquarters in
Alexandria, VA

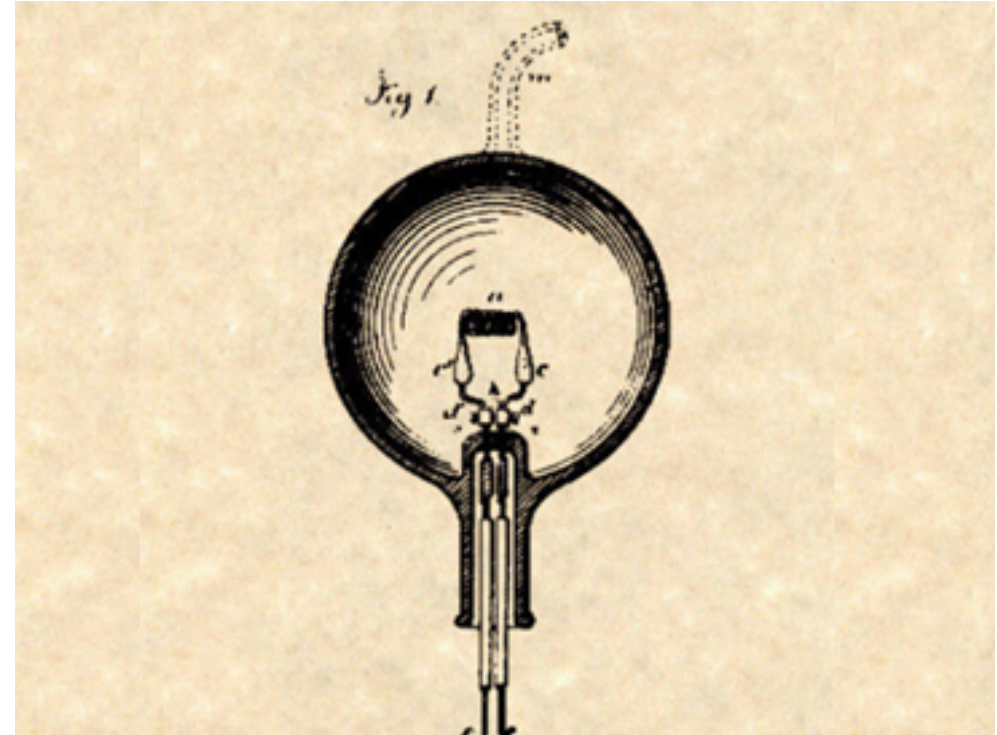




What is intellectual property?



Real property



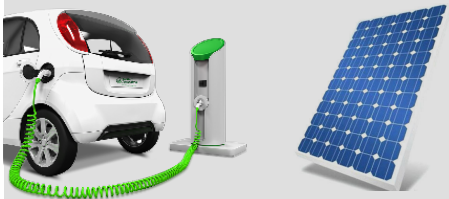
Intellectual property

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



Trade secrets



Google

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Ways to lose a trade secret

- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development



Things protected by copyrights



Songs



Books



Movies



Sculptures



Copyright

- Library of Congress
- Protects “original works of authorship” including literary, dramatic, musical, artistic, and certain other intellectual works
- Term: Author’s life + 70 years
- www.copyright.gov

TM ®

Different purposes, different results

- Domain name \neq Trademark registration
- Business name \neq Trademark registration

Common law trademark

- Trademark that is **used** in commerce in connection with specified goods and services, but **not registered**
- Rights are limited to geographic area (based on use in that area)
- Optional symbols: TM SM
- U.S. is a first-to-use country
 - most countries are first-to-file



Federal registration advantages

- Public notice of claim of ownership
- Legal presumption of ownership and exclusive right to use mark in U.S. on/in connection with the goods/services listed in registration
- Ability to bring an action in federal court
- Use of U.S. registration as a basis to obtain registration in foreign countries
- Right to use the federal registration symbol ®
- Listing in the United States Patent and Trademark Office's online databases
- Registration may be recorded with U.S. Customs to prevent importation of infringing foreign goods
 - Recordation fee for trademarks is US \$190 per International Class of goods



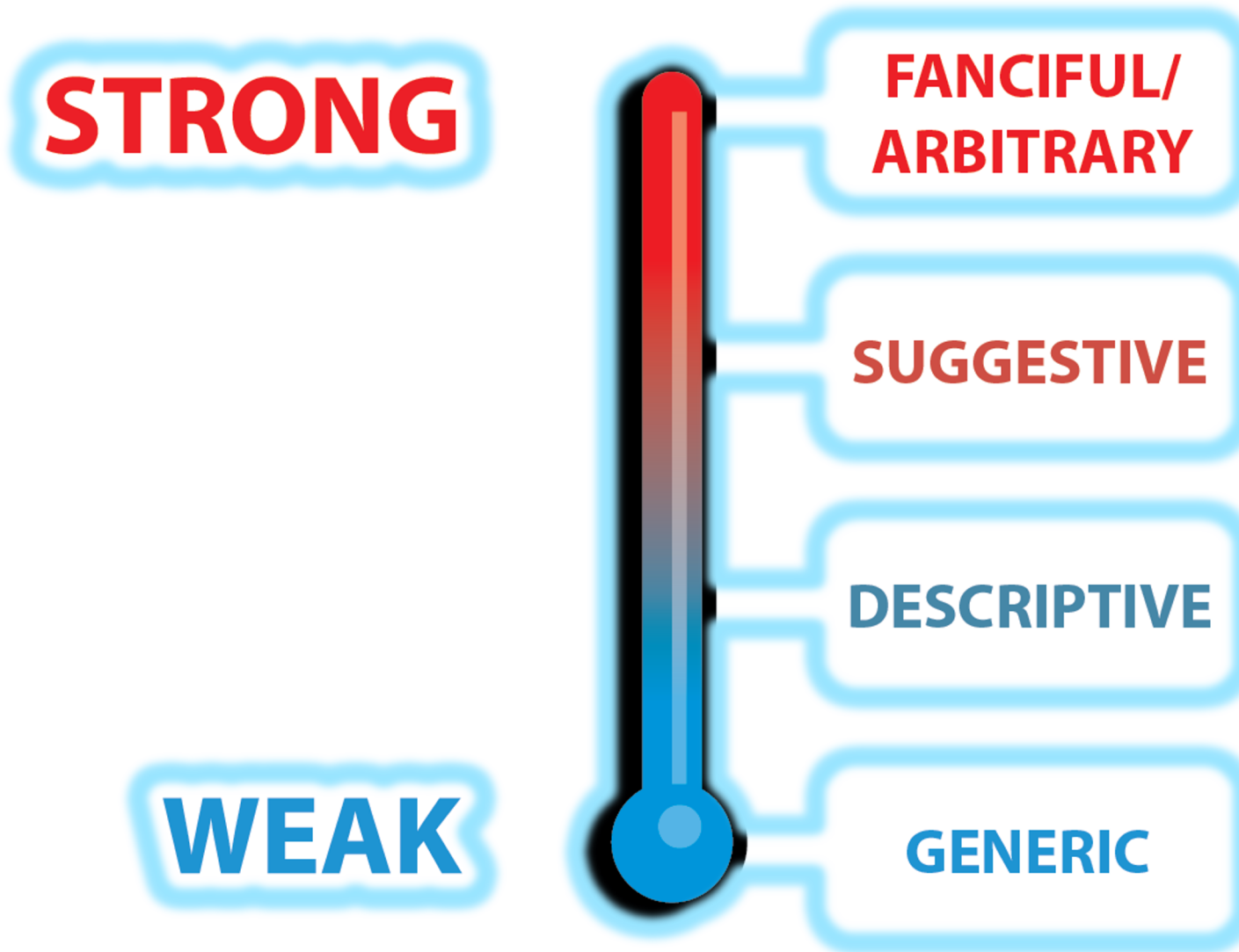
Trademark fees

- Trademark
- Application fee: \$225 per class (electronic filing, TEAS plus)
- Post-registration fees
 - Affidavit of use \$125 per class (after five years)
 - Application for renewal \$300 per class (after nine years)

Likelihood of confusion

- Are the marks confusingly similar?
 - Look alike? Sound alike? Have similar meanings?
Create similar commercial impressions?
- Are the goods and/or services related?
 - Encountered in the same channels of trade?
Complementary?

Strength of mark



Examples of trademarks

Trademarks can be **WORDS**

STARBUCKS

NIKE

TARGET

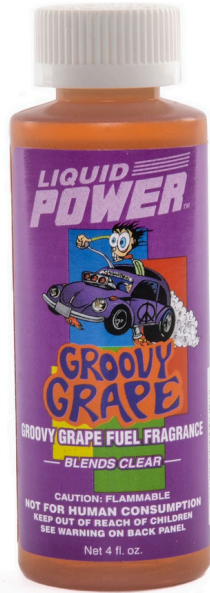
Trademarks can be **DESIGNS**



Nontraditional marks – colors



Nontraditional marks – scents



verizon[✓]



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Nontraditional marks – sounds



Trade dress

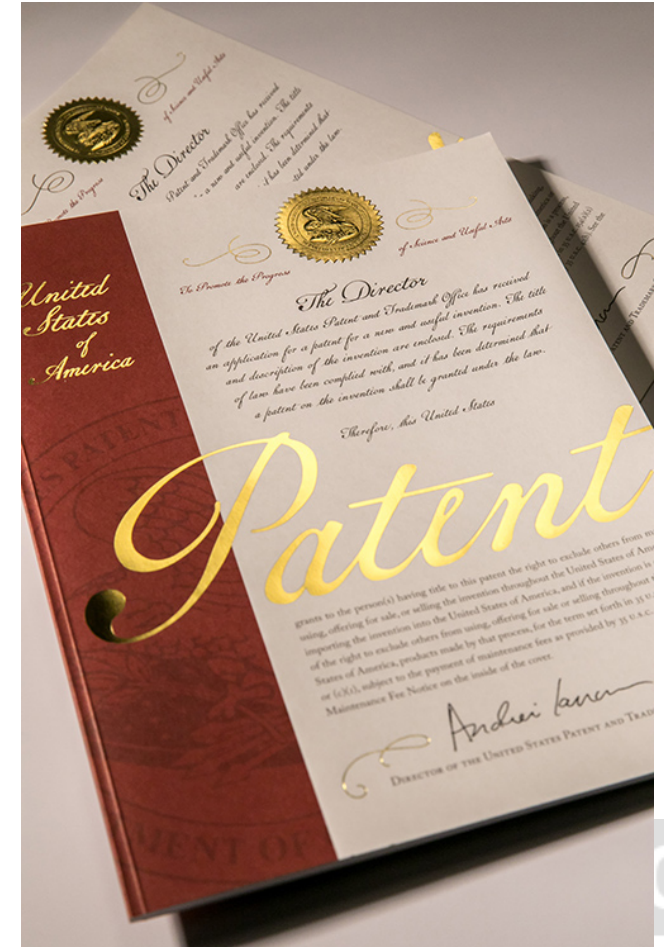


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Patents

A U.S. patent is

- A property right granted by the United States government to an inventor
- To exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States
- For a limited time
- In exchange for public disclosure of the invention



Why get a patent?

- Gain entry to a market
- Exclude others from a market
- Use it as a marketing tool to promote unique aspects of a product
- Sell or license, like other property

Why invention matters

- Patents promote innovation and help safeguard your inventions.
- Innovation benefits the community by making new goods and services available.
- Patents help companies grow.
- Patents shape industries.

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Patent eligibility requirements

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
- Inventions which are:
 - Not useful or
 - Offensive to public morality

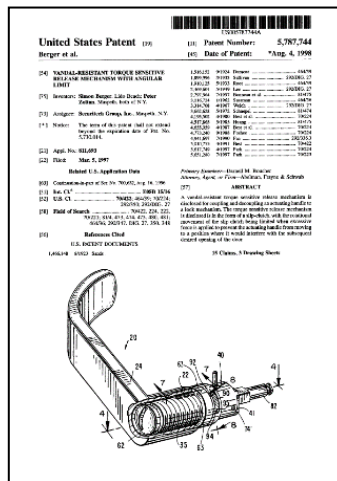
How do I know if my invention is patentable?

- Search
 - U.S. patents
 - Foreign patents
 - Printed publications
 - The internet
- Part II of this presentation in two weeks is focused on searching

Types of patents

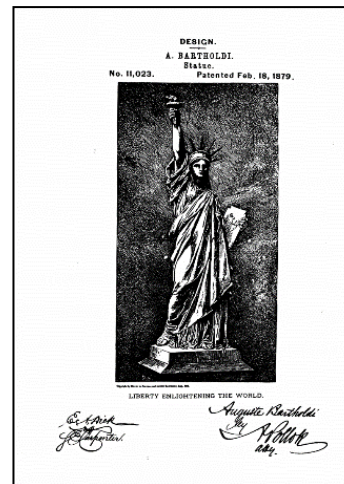
Utility

New and useful process,
machine, article of
manufacture, or
composition of matter,
or any new and useful
improvement thereof



Design

Any new, original
and ornamental
design; protects
the way an object
appears



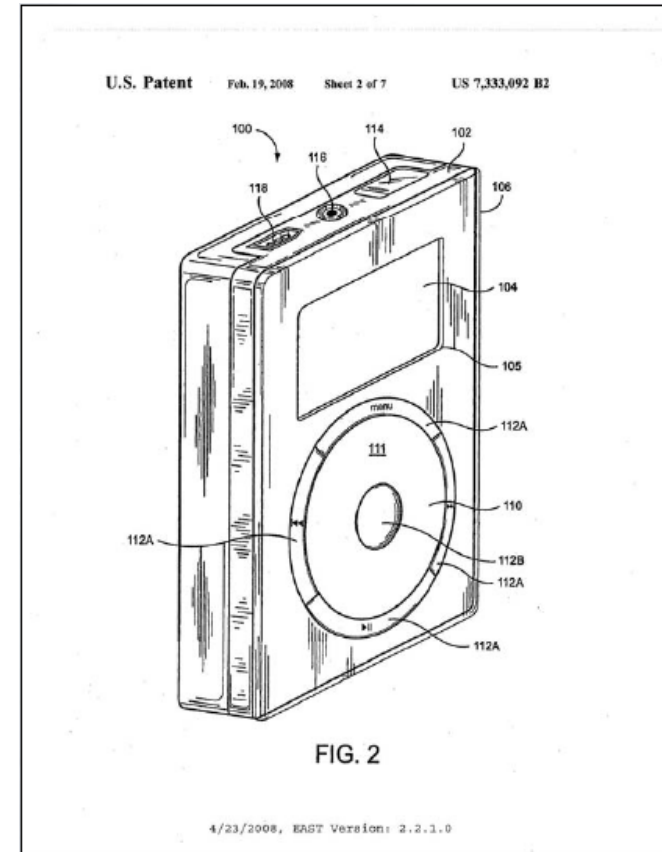
Plant

Whoever invents or discovers and asexually produces any distinct and new variety of plant



Utility patents

- Protect the function of an invention—the way it works
- Valid for 20 years from the date the application is filed



Provisional vs. nonprovisional

Provisional application

- Establishes a filing date
- No claims required
- Inexpensive
- Not published or examined
- One year to pursue nonprovisional

Nonprovisional application

- Statutory requirements for what has to be filed
- More expensive
- Published and examined
- Can result in a patent

Filing your application

- Submit online using EFS-Web
 - Upload all necessary documents
 - Payment of required fees
- Receive an application number and filing date

Small entity

- Must be
 - an individual or
 - a small business (less than 500 employees) or
 - a non-profit organization

Independent micro-entity

- Qualify as a small entity
 - Filed no more than four previous applications
 - Income not greater than 3x median income
 - September 2019: \$184,116
 - Not assigned to other than a micro-entity
 - Inventions assigned to employer don't count against you
 - A 75% reduction in fees

Utility patent fees

	Large entity	Small entity	Micro entity
Basic filing fee	\$300	\$150	\$75
Search fee	\$660	\$330	\$165
Examination fee	\$760	\$380	\$190
Initial cost	\$1720	\$860	\$430
Issue fee	\$1000	\$500	\$250

Electronic Business Center (EBC)

- The EBC can assist with:
 - Submitting your patent application via EFS-Web
 - Viewing application information in Public and Private PAIR
 - Searching for patents in AppFT and PatFT
 - Digital certificate, customer number issues, and assistance
 - Java and web browser problems
 - Technical problems or errors with your patent application
 - PDX/DAS registration inquiries and issues
 - Technical problems with biotech tools

Contact Info

Hours: Monday – Friday,
6 a.m. to midnight ET,
except federal holidays

Telephone Numbers:

- Toll-Free: 866-217-9197
- Local: 571-272-4100

Email: ebc@uspto.gov



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)
 - Customs and Border Protection

STOPfakes.gov

- The International Trade Administration (ITA), U.S. Department of Commerce, manages STOPfakes.gov to assist U.S. businesses in protecting and enforcing their intellectual property rights against counterfeits and pirated goods in the global marketplace
- Provides information, guidance, and trainings for businesses and consumers by both industry and country of interest
- www.stopfakes.gov/IPR-Toolkits

U.S. Customs and Border Protection

- Customs and Border Protection (CBP) can detain and seize imported goods which violate intellectual property rights in the United States
- CBP officers can access the recordation database at each of the 317 ports of entry

USPTO resources



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Startup Resources

Many startup businesses face unique IP-related challenges, such as IP portfolio prerequisites to secure funding, and the possibility of costly patent infringement demand letters and lawsuits. We have tailored this area of our website to suit the specific needs of startup businesses, a segment of our stakeholders that continues to be recognized as an outsized engine of job creation, economic growth, and unparalleled innovation in the United States.

Patents for startups

The patent process can be challenging if you are not familiar with it. Here is basic information on the patent process.

- [Patent Process Overview](#)
- [Inventors Assistance Center](#)
- [Patent FAQs](#)
- [Patent Homepage](#)
- [Search for Patents](#)

Trademarks for startups

The trademark process can be confusing for a beginner, so here is basic information on registering a trademark.

- [Trademark Basics](#)
- [Search for Trademarks](#)
- [Filing online](#)
- [Trademark Homepage](#)

Startup assistance

The Inventors Assistance Center and Trademark Assistance Center provide information and services to the public. Center staff can answer questions on patent and trademark processes, but cannot provide specific legal advice.

- [Inventors Assistance Center](#)
- [Trademark Assistance](#)

Current events

Information about conferences, conventions and other opportunities to engage.

- [Upcoming USPTO Events](#)

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Trademark Assistance Center (TAC)

The Trademark Assistance Center (TAC) provides general information about the trademark registration process and responds to inquiries about the status of trademark applications and registrations. The location of the Trademark Assistance Center is Madison East, Concourse Level, 600 Dulany Street, Alexandria, VA 22314. Telephone assistance is available Monday through Friday (except federal holidays) from 8:30 a.m. to 8 p.m. ET. Walk-in assistance is available Monday through Friday (except federal holidays) from 8:30 a.m. to 5 p.m. ET.

You can also check the status of an application or registration through Trademark Applications and Registrations Retrieval ("TARR") database at <http://tarr.uspto.gov/>.

800-786-9199 (toll-free) | 571-272-9250 (local)



Inventors Assistance Center (IAC)

- **What IAC can do for you:**
 - Answer general questions regarding patent examining policy
 - Answer questions concerning necessary formats and items needed for your patent application
 - Assist you with forms needed and with filling out the forms
 - Direct your calls to appropriate USPTO personnel or www.USPTO.gov web pages, as necessary
 - Provide you with general information concerning patent examining rules, procedures, and fees
 - Send you patenting information and forms via USPS mail or facsimile
- **What IAC cannot do for you:**
 - Give an opinion as to whether an invention is patentable
 - Provide legal advice or legal interpretations
 - Provide patent searches or other intellectual property research
 - Provide specific line-by-line completion of forms (but can provide directions)

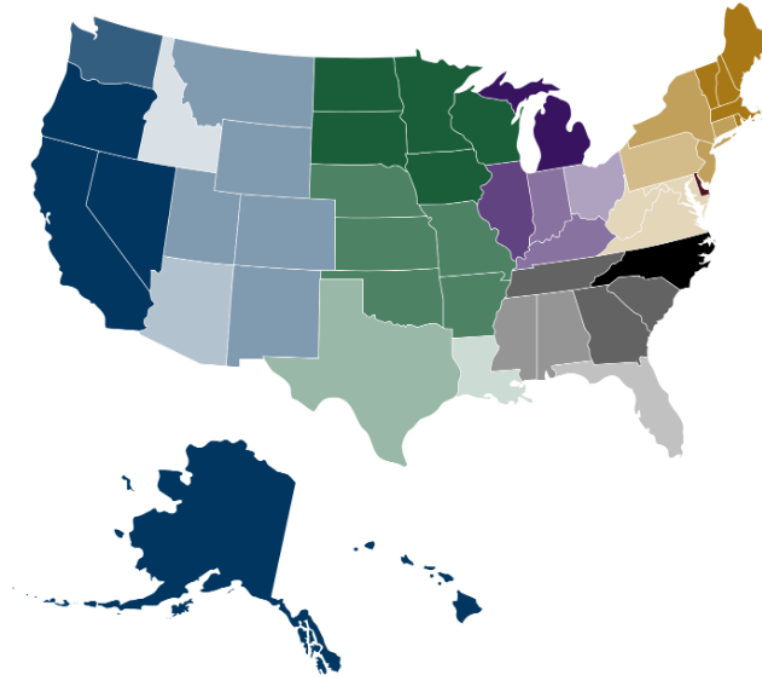
USPTO Patent Pro Bono Program

Nationwide network that assists financially underresourced independent inventors and small businesses.

- Coverage in all 50 states achieved and maintained since August 2015
- Program participants must:
 - Have income of 300% below federal poverty guidelines
 - Pay USPTO filing fees and costs
 - Demonstrate knowledge of the patent system
 - Take training course at www.uspto.gov/video/cbt/certpck/index.htm
 - Have application prescreened to ensure that there is more than an idea



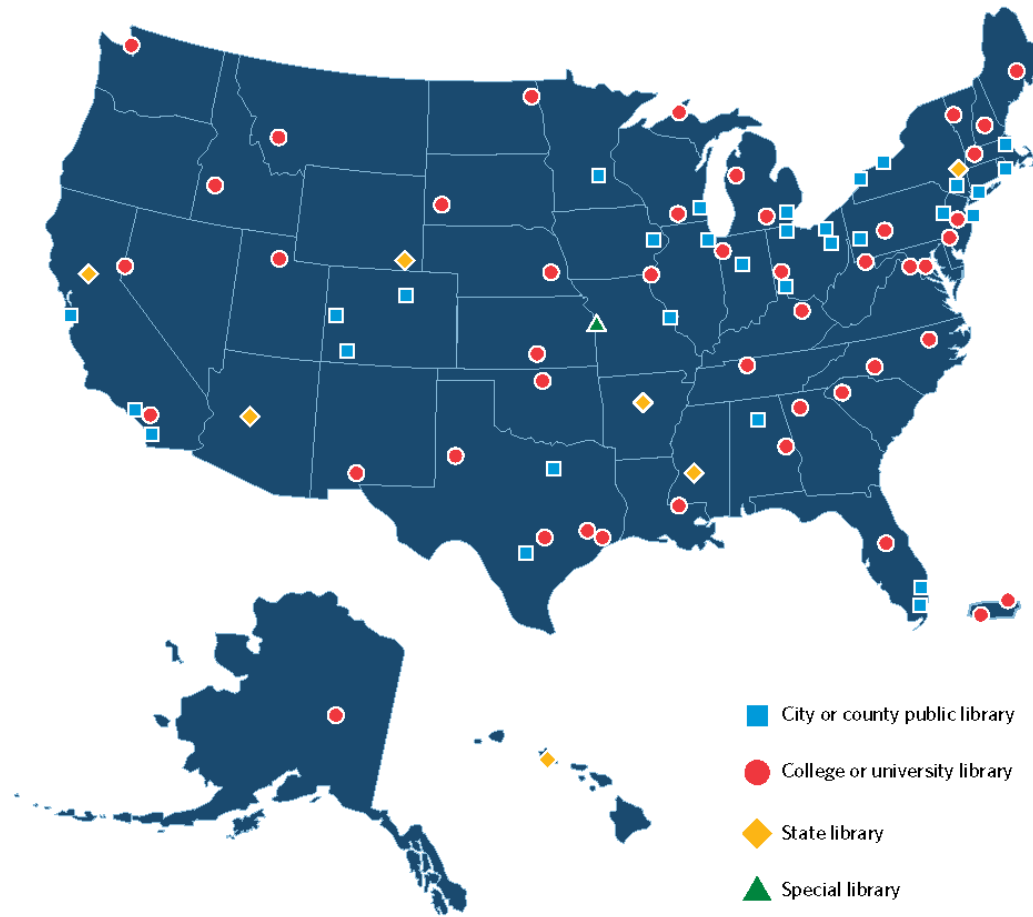
Pro Bono Program organizations



- | | | |
|--------------------------------------|--------------------------------------|------------------------------|
| ■ Washington Pro Bono Patent Network | ■ Gateway Venture Mentoring Service | ■ New York Tri State Program |
| ■ Idaho Patent Pro Bono | ■ TALA | ■ Delaware Program |
| ■ CLA | ■ The Ella Project | ■ FCBA (Mid-Atlantic) |
| ■ ProBoPat | ■ Chicago-Kent Patent Hub | ■ PA Patent |
| ■ Arizona Public Patent Program | ■ PatentConnect for Hoosiers (IN KY) | ■ NC Leap |
| ■ LegalCorps (MN) | ■ Ohio Inventis | ■ Georgia Patents |
| ■ Pro Bono Patent Project (MI) | ■ BBVLP Patent Program (MS AL) | ■ Patent Pro Bono FL |
| | ■ New England Program | |



Patent and Trademark Resource Center (PTRC) locations



Pro Se Assistance Program

The USPTO recognizes that the cost of legal assistance is prohibitive for many applications, particularly independent inventors and small businesses.

The Pro Se Assistance Program is dedicated to help independent inventors and small businesses meet their goal of protecting valuable intellectual property

- Provides outreach and education to applicants who file patents applications without the assistance of a registered patent attorney or agent
- The USPTO aims to increase the quality of pro se applications and assist pro se applicants with making informed decisions regarding their patent applications
- One-on-one assistance via video conference or telephone to meet with applicants to answer questions and assist in filing applications
- innovationdevelopment@uspto.gov
- 1-866-767-3848

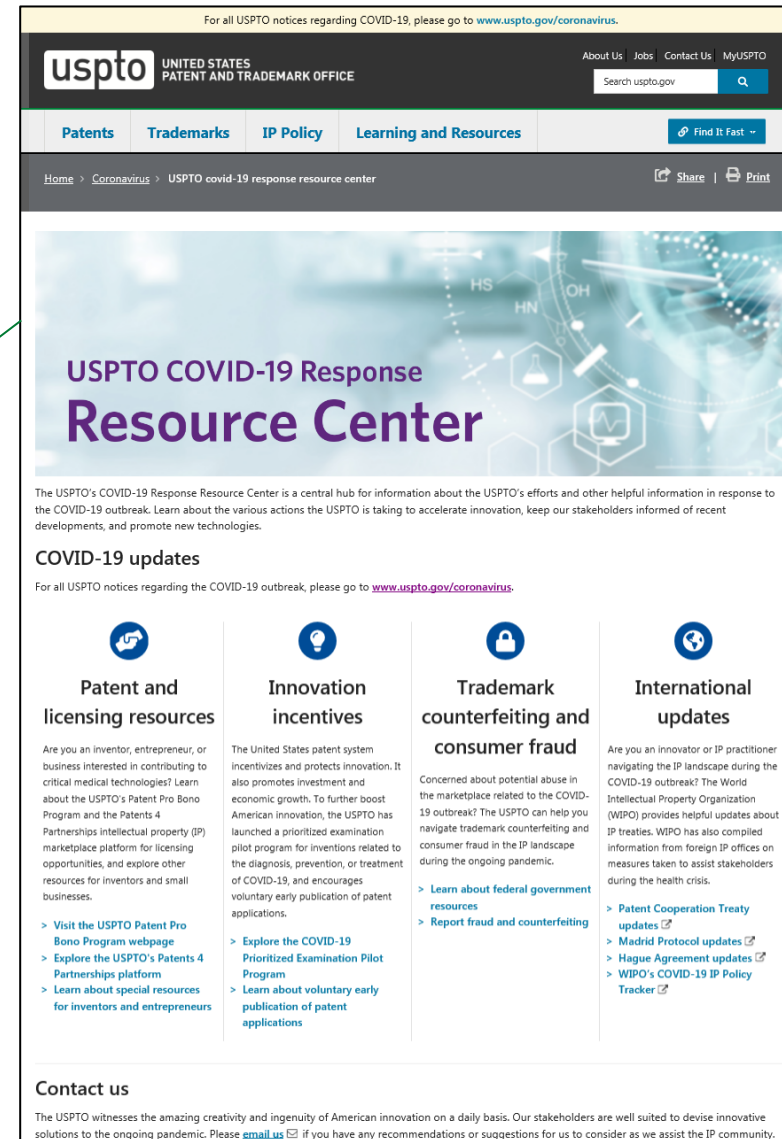
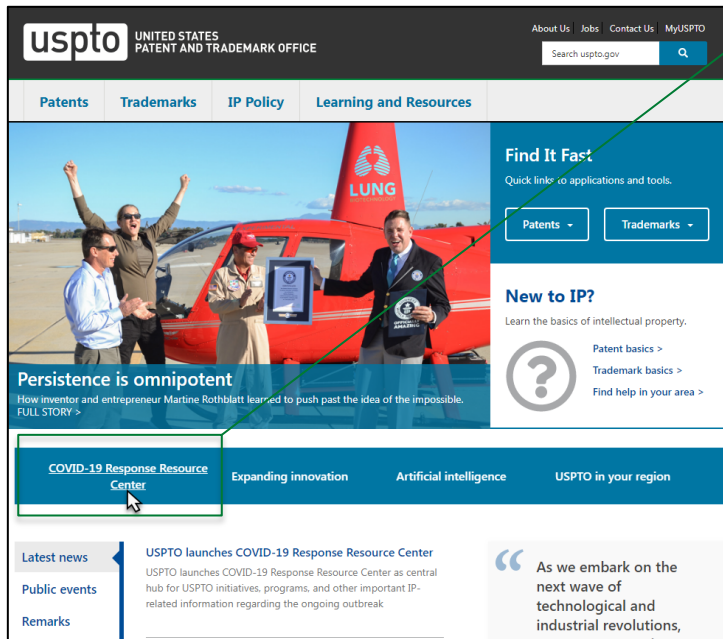


COVID-19 Response Resource Center

Response Resource Center

The United States Patent and Trademark Office (USPTO) has posted all COVID-19 resources and updates on a page dedicated solely to COVID-19.

The COVID-19 Response Resource Center webpage is accessible via the USPTO homepage.



Response Resource Center

- The COVID-19 Response Resource Center is a central hub for information about the USPTO's efforts to accelerate innovation, keep our stakeholders informed of recent developments, and promote new technologies.
- The webpage details:
 - Patent and licensing resources
 - Innovation incentives
 - Trademark counterfeiting and consumer fraud
 - International updates
 - Contact information for the USPTO

For all USPTO notices regarding COVID-19, please go to www.uspto.gov/coronavirus.

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USPTO COVID-19 Response Resource Center

The USPTO's COVID-19 Response Resource Center is a central hub for information about the USPTO's efforts and other helpful information in response to the COVID-19 outbreak. Learn about the various actions the USPTO is taking to accelerate innovation, keep our stakeholders informed of recent developments, and promote new technologies.

COVID-19 updates

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Patent and licensing resources

Are you an inventor, entrepreneur, or business interested in contributing to critical medical technologies? Learn about the USPTO's Patent Pro Bono Program and the Patents 4 Partnerships intellectual property (IP) marketplace platform for licensing opportunities, and explore other resources for inventors and small businesses.

- > Visit the USPTO Patent Pro Bono Program webpage
- > Explore the USPTO's Patents 4 Partnerships platform
- > Learn about special resources for inventors and entrepreneurs



Innovation incentives

The United States patent system incentivizes and protects innovation. It also promotes investment and economic growth. To further boost American innovation, the USPTO has launched a prioritized examination pilot program for inventions related to the diagnosis, prevention, or treatment of COVID-19, and encourages voluntary early publication of patent applications.

- > Explore the COVID-19 Prioritized Examination Pilot Program
- > Learn about voluntary early publication of patent applications



Trademark counterfeiting and consumer fraud

Concerned about potential abuse in the marketplace related to the COVID-19 outbreak? The USPTO can help you navigate trademark counterfeiting and consumer fraud in the IP landscape during the ongoing pandemic.

- > Learn about federal government resources
- > Report fraud and counterfeiting



International updates

Are you an innovator or IP practitioner navigating the IP landscape during the COVID-19 outbreak? The World Intellectual Property Organization (WIPO) provides helpful updates about IP treaties. WIPO has also compiled information from foreign IP offices on measures taken to assist stakeholders during the health crisis.

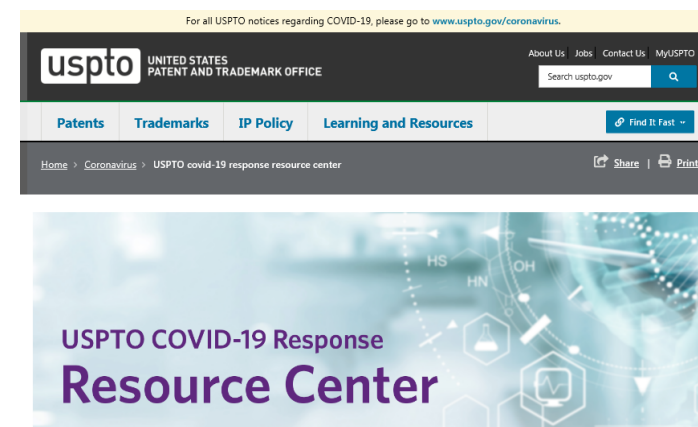
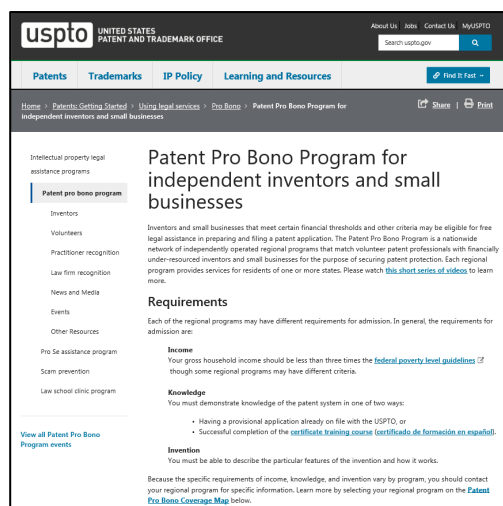
- > Patent Cooperation Treaty updates
- > Madrid Protocol updates
- > Hague Agreement updates
- > WIPO's COVID-19 IP Policy Tracker

Contact us

The USPTO witnesses the amazing creativity and ingenuity of American innovation on a daily basis. Our stakeholders are well suited to devise innovative solutions to the ongoing pandemic. Please [email us](mailto:email.us) if you have any recommendations or suggestions for us to consider as we assist the IP community.

Response Resource Center

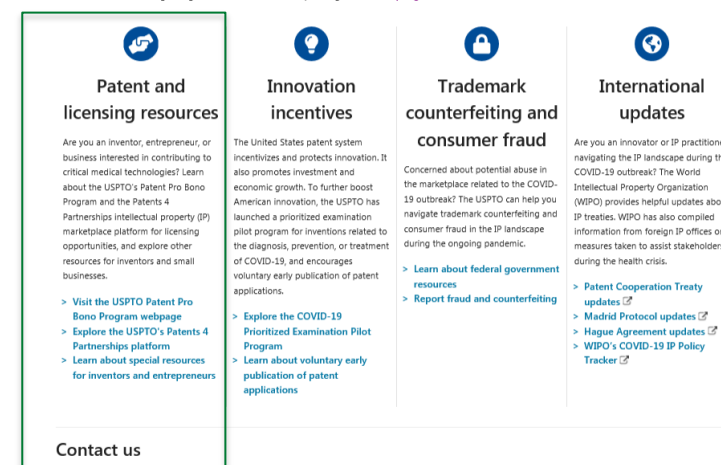
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Response Resource Center

Innovation incentives:

- COVID-19 Prioritized Examination Pilot Program
- Voluntary early publication of patent applications



Related pages
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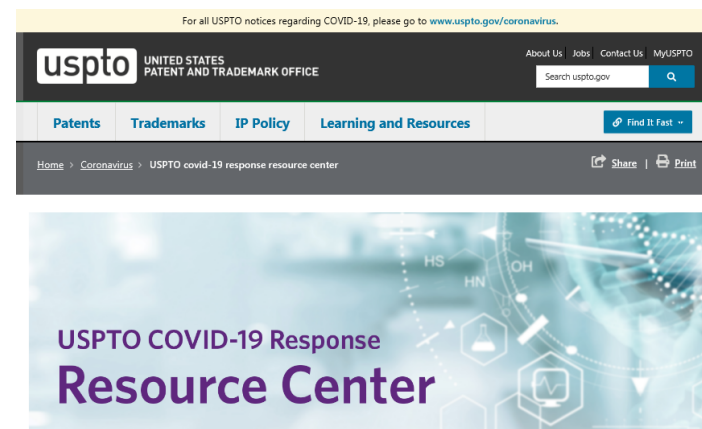
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Voluntary early publication of patent applications

The COVID-19 outbreak is a global crisis in need of creative solutions. The American patent system has long facilitated such creativity. It serves as the engine of economic growth in the United States by securing exclusive rights for inventors and disseminating technical knowledge to the public. The patent system has endured war, crises, and economic turmoil by providing society with a steady pipeline of solutions. To further this long tradition, the USPTO reminds patent applicants to consider voluntary early publication of patent applications involving technologies related to the diagnosis, prevention or treatment of COVID-19.

The USPTO recognizes the value of free-flowing technical information among the nation's brightest minds, and patent publications are an important source of information for researchers and inventors. Early publication of patent applications will yield a significant benefit to these communities, especially those working hard to find creative solutions to the COVID-19 outbreak. Early voluntary publication can facilitate collaborations, partnerships, or joint ventures. These, in turn, can spur and expedite the development of critically needed technologies.

Generally, the USPTO publishes pending patent applications 18 months after the earliest effective filing date. No fee is required for publishing an application. Existing USPTO regulations also provide for earlier publication at the request of an applicant. Interested applicants may submit a request for early publication of their application in compliance with 37 CFR 1.219. The USPTO will publish the application as soon as possible if it is otherwise ready for publication. For more information, visit the USPTO's [Manual of Patent Examining Procedure \(MPEP\)](#).



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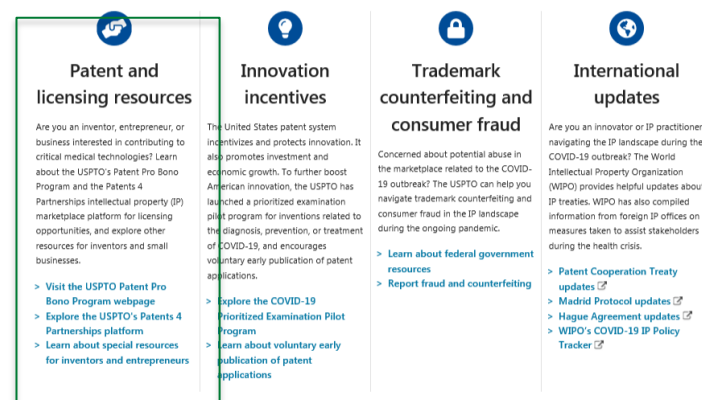
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- > Learn about [federal government resources](#)
- > Report fraud and counterfeiting

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Response Resource Center

Trademark counterfeiting and consumer fraud:

- Federal government resources
- How to report fraud and counterfeiting

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Trademark counterfeiting and consumer fraud related to the COVID-19 outbreak

The COVID-19 outbreak has led to a surge in fraudulent activity, including the advertising and sale of counterfeit treatments and products. This is an immediate and growing concern, as criminals seek to take advantage of the high demand for healthcare and other consumer products. Below are several resources to help healthcare workers and the general public identify and report instances of fraud and counterfeiting related to the COVID-19 outbreak. Additional resources are available at the [USPTO COVID-19 response resource center](#).

Federal government resources

The following federal agencies offer information on the COVID-19 outbreak and ways to avoid scams:

- [White House](#)
- [Food and Drug Administration](#)
- [Department of Homeland Security](#)
- [Federal Trade Commission](#)

Ways to report fraud and counterfeiting

If you have encountered fraud or counterfeiting related to the COVID-19 outbreak, report:

- fraudulent schemes and suspected counterfeit products to the [Department of Homeland Security](#)
- scams or other consumer problems to the [Federal Trade Commission](#)
- unlawful internet sales of medical products related to the COVID-19 outbreak to the [Food and Drug Administration](#)

How to spot a counterfeit

The "four Ps" for consumers and healthcare workers

Place

Are you buying from a trusted source, either in-person, on-line or at a physical store?

Price

If the price sounds too good to be true, it probably is.

Packaging

Does the packaging look "off," e.g., graphics and printing blurred, colors imbalanced, labels not on straight, misspellings?

Product

Does the product and labeling have a quality look? Does it look comparable to what you've purchased before? Is this product known to have been counterfeited?

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Patent and licensing resources

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Innovation incentives

The United States patent system incentivizes and protects innovation. It also promotes investment and economic growth. To further boost American innovation, the USPTO has launched a prioritized examination pilot program for inventions related to the diagnosis, prevention, or treatment of COVID-19, and encourages voluntary early publication of patent applications.

- > Explore the [COVID-19 Prioritized Examination Pilot Program](#)
- > Learn about [voluntary early publication of patent applications](#)

Trademark counterfeiting and consumer fraud

Concerned about potential abuse in the marketplace related to the COVID-19 outbreak? The USPTO can help you navigate trademark counterfeiting and consumer fraud in the IP landscape during the ongoing pandemic.

- > [Learn about federal government resources](#)
- > [Report fraud and counterfeiting](#)

International updates

Are you an innovator or IP practitioner navigating the IP landscape during the COVID-19 outbreak? The World Intellectual Property Organization (WIPO) provides helpful updates about IP treaties. WIPO has also compiled information from foreign IP offices on measures taken to assist stakeholders during the health crisis.

- [Patent Cooperation Treaty updates](#)
- [Madrid Protocol updates](#)
- [Hague Agreement updates](#)
- [WIPO's COVID-19 IP Policy Tracker](#)

Contact us

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Response Resource Center

International updates:

- Patent Cooperation Treaty Updates
- Madrid Protocol Updates
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COVID-19 IP Policy Tracker

The WIPO COVID-19 IP Policy Tracker provides information on measures adopted by IP offices in response to the COVID-19 pandemic, such as the extension of deadlines. In addition, the policy tracker provides information on legislative and regulatory measures for access and voluntary actions.

NOTE: The tracker relies on contributions made by IP Offices, Member States and other entities. The tracker does not reflect an exhaustive list of all actions taken regarding COVID-19. It might also not fully reflect the IP measures taken by countries and organizations in response to COVID-19. WIPO does not assume responsibility for the accuracy or completeness of the information.

WIPO's global IP systems and other services are continuing operations, with most staff working remotely. Updates can be found on [WIPO's COVID-19 response](#).

IPO Operations [By Country](#) [Legislative and reg. measures](#) [Voluntary Actions](#)

This table provides a brief overview of operational changes and measures taken by national and regional IP offices. Further detailed information is provided by country or office, or by clicking the view more link in each row.

Country/Region	Office	Office Status	Operational hours	Teleworking	Working Remotely with Customers	Correspondence	Processing existing applications	Processing new applications	Time limits	Fee relief	Last updated	Details
Africa	ARIPO	Open (initially)		Yes	Yes		Yes	Yes	Case-by-case basis	Case-by-case basis	2020-05-04	view more
Africa	OAPI	Open (initially)	Reduced hours		Yes		Yes	Yes	Extended		2020-05-04	view more
Algeria	Algerian National Institute of Industrial Property	Open	Reduced hours	Yes	Yes		Yes	Yes	Extended	Deadlines extended	2020-04-10	view more
Aranda	Aranda Institute	Closed					No	No	Extended	Deadlines extended	2020-04-23	view more

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The USPTO's COVID-19 Response Resource Center is a central hub for information about the USPTO's efforts and other helpful information in response to the COVID-19 outbreak. Learn about the various actions the USPTO is taking to accelerate innovation, keep our stakeholders informed of recent developments, and promote new technologies.

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We encourage our stakeholders to send any recommendations or suggestions for us to consider as we assist the intellectual property community to COVIDcomments@uspto.gov.

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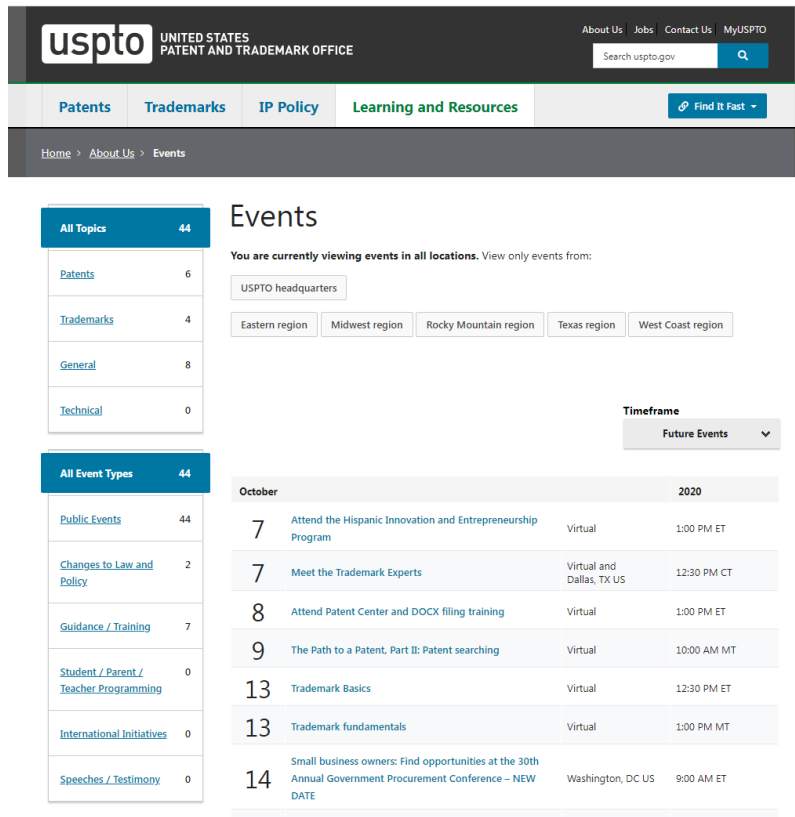
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Upcoming Programs

Where to Find Programs?



The screenshot shows the USPTO website's 'Events' page. At the top is the USPTO logo and navigation links. Below is a search bar and a 'Find It Fast' button. The main content area is titled 'Events' and includes a filter sidebar on the left with categories like 'All Topics' and 'All Event Types'. The main list shows events for October 2020, including 'Attend the Hispanic Innovation and Entrepreneurship Program' and 'Meet the Trademark Experts'.

All Topics	
Patents	6
Trademarks	4
General	8
Technical	0

All Event Types	
Public Events	44
Changes to Law and Policy	2
Guidance / Training	7
Student / Parent / Teacher Programming	0
International Initiatives	0
Speeches / Testimony	0

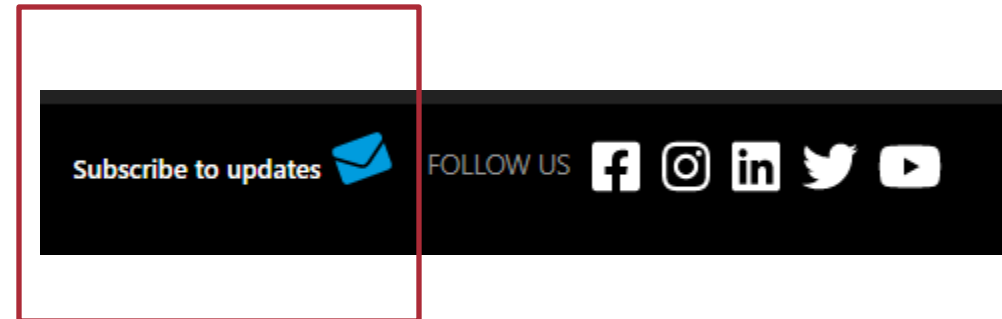
October		2020	
7	Attend the Hispanic Innovation and Entrepreneurship Program	Virtual	1:00 PM ET
7	Meet the Trademark Experts	Virtual and Dallas, TX US	12:30 PM CT
8	Attend Patent Center and DOCX filing training	Virtual	1:00 PM ET
9	The Path to a Patent, Part II: Patent searching	Virtual	10:00 AM MT
13	Trademark Basics	Virtual	12:30 PM ET
13	Trademark fundamentals	Virtual	1:00 PM MT
14	Small business owners: Find opportunities at the 30th Annual Government Procurement Conference – NEW DATE	Washington, DC US	9:00 AM ET

Search for all events at:

<https://www.uspto.gov/about-us/events>

Can refine search as needed

Link at the bottom to subscribe for notifications.



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