

# Introduction to Intellectual Property

by Nathan Price Chaney





# What is Intellectual Property?

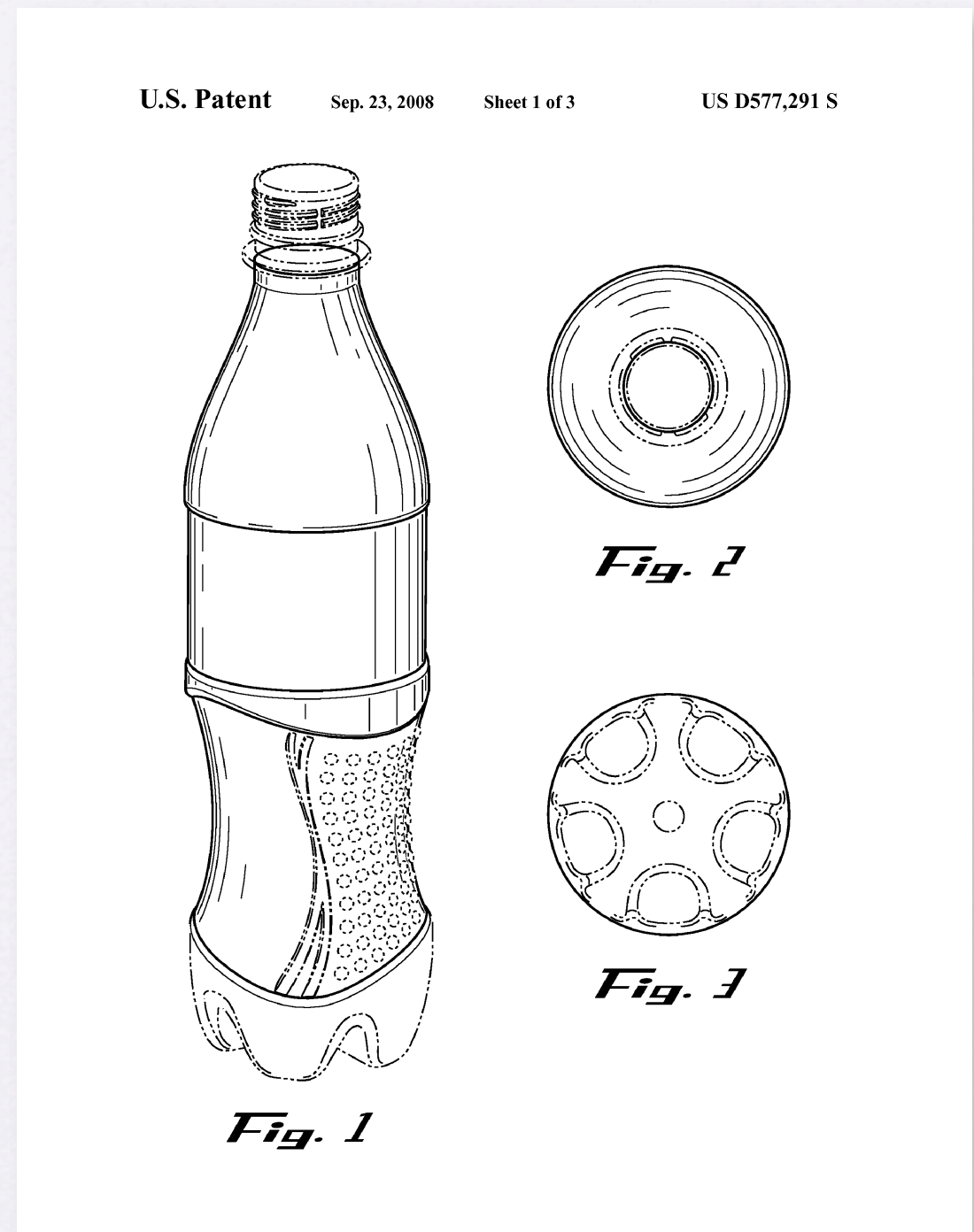
- A standard coke bottle represents **FIVE** types of intellectual property
- Can you name all five?





# Five Types of Intellectual Property

- Did you ever wonder why Coke bottles are different than Pepsi bottles?
- **DESIGN PATENTS**
- Design patents protect the ornamental, exterior shape of the product
- They last 14 years from the date of issue
- What are some other examples of design patents?





# Five Types of Intellectual Property

- Who do you think invented the tamper-resistant bottle cap?
- That inventor received a **PATENT**
- Patents protect new and useful products, methods of making things, or methods of doing business
- They last 20 years from the date of filing
- What are some other examples of patents?

U.S. Patent

Jan. 3, 2006

Sheet 6 of 21

US 6,981,602 B2

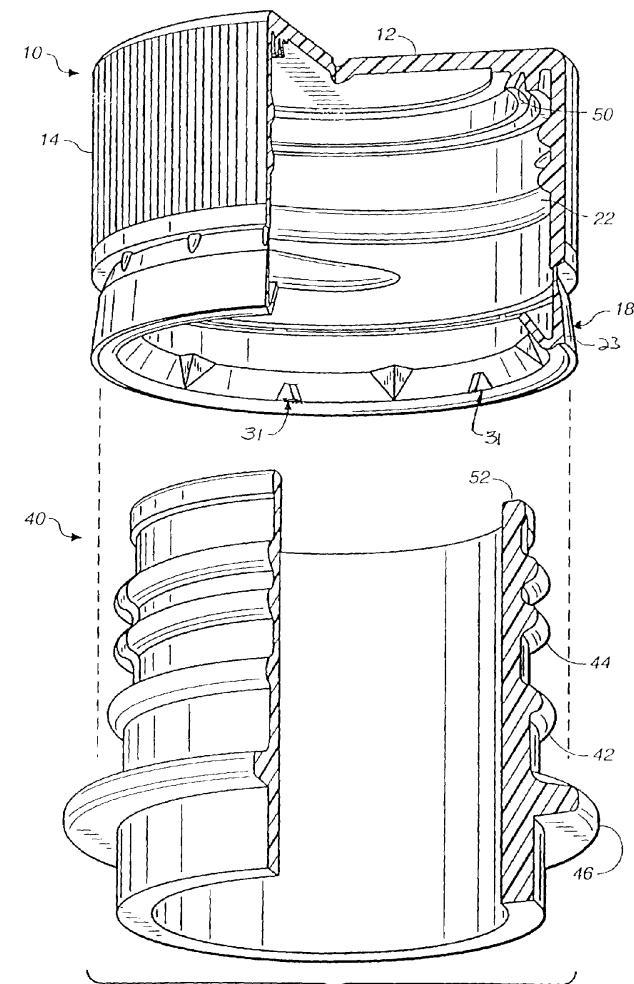


FIG. 9



# Five Types of Intellectual Property

- When you see this bottle, what name pops in your head?
- COCA COLA — one of the most famous brand names in the world
- A brand name is one type of **TRADEMARK**
- A trademark is a word or symbol that distinguishes someones brand in commerce
- A trademark lasts as long as the mark is used in commerce





# Five Types of Intellectual Property

- Who knows what Coke tastes like?
- Who knows how to make Coke?
- The Coke formula is a **TRADE SECRET**
- A trade secret is information that has value because it isn't publicly known, and is the subject of reasonable precautions against disclosure to others
- A trade secret lasts as long as the information is kept secret
- What are some other examples of trade secrets?





# Five Types of Intellectual Property

- Who writes the Coke label?
- **COPYRIGHT** protects the writing on the label
- How to remember copyright — think newspapers, which call articles “copy”
  - A copyright protects copy from copying
- Copyrights begin right when the author creates something new
- Copyrights last 75 years after the death of the author
- What are some other examples of copyrights?





# Basis for Intellectual Property: Patents & Copyrights

- What's the basis for intellectual property?
- U.S. Constitution — Article I, section 8, clause 8
- Congress shall “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries”





# Basis for Intellectual Property: Patents & Copyrights

- **“Promote the Progress of Science and useful Arts”**
- Patents can only be granted for scientific discoveries
  - But no laws of nature or mathematical formulas
- Copyrights on most types of artistic works
  - movies, songs, books, magazines, sculptures, etc.





# Basis for Intellectual Property: Patents & Copyrights

- **“By securing for limited Times to Authors and Inventors”**
- Patents have reasonable terms — 20 years from the date of filing
- Copyrights last much longer — 75 years after death
- Why?
- The Walt Disney rule — every time Mickey Mouse’s copyright gets close to expiring, Disney lobbies Congress to get its copyrights extended
- Question: Is it constitutional to keep extending copyright terms?





# Basis for Intellectual Property: Patents & Copyrights

- “The exclusive Right to their respective Writings and Discoveries”
- Owners can **exclude** others (in court) from making, selling, copying, or otherwise using their inventions and writings
- Owners can sell, license, and transfer intellectual property just like other personal property (cars, jewelry, etc.)





# Basis for Intellectual Property: Trademarks

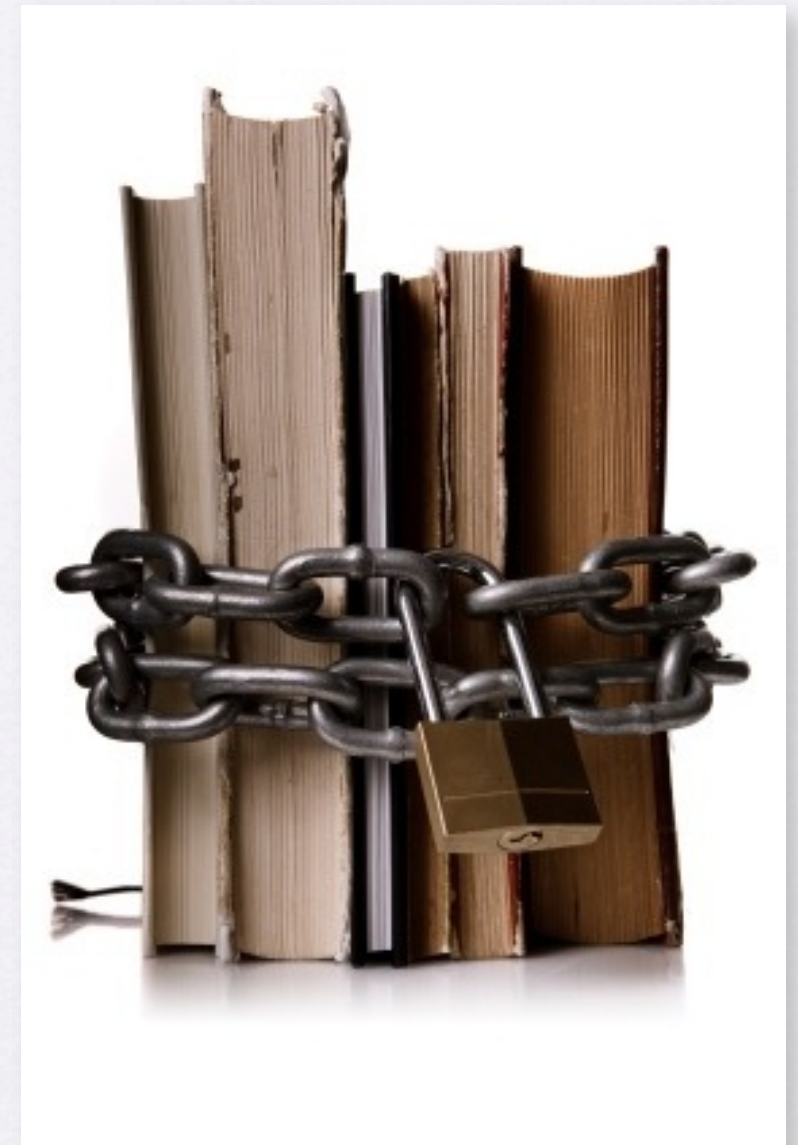
- What's the basis for intellectual property?
- The U.S. Constitution
- Article I, section 8, clause 3
- Congress shall have power to regulate commerce "among the several States"
- Trademark law stems from the Commerce Clause
- Trademarks are part of a broader set of laws that prohibit **unfair competition**
- Unfair competition laws prohibit things like counterfeiting and mislabeling goods about where they're from or what type of product they are





# Basis for Intellectual Property: Trade Secrets

- Trade secrets are created by **State law**
  - Different states have different trade secret laws
- Protect proprietary business information
  - customer lists
  - product formulas
  - machinery designs
  - other valuable secrets
- Employers often have trade secret clauses in employment agreements to show they are taking steps to protect their trade secrets





# Why is Intellectual Property Law Important?

- Justification No. 1: Morality
- Moral issues — Stealing
  - Proponents of intellectual property say you shouldn't steal ideas
  - Others believe ideas should be shared so society can advance more quickly
- (Copyright law says it's OK to use Rembrandt's *Ten Commandments* because it's in the public domain)
- Which way do you lean?





# Why is Intellectual Property Law Important?

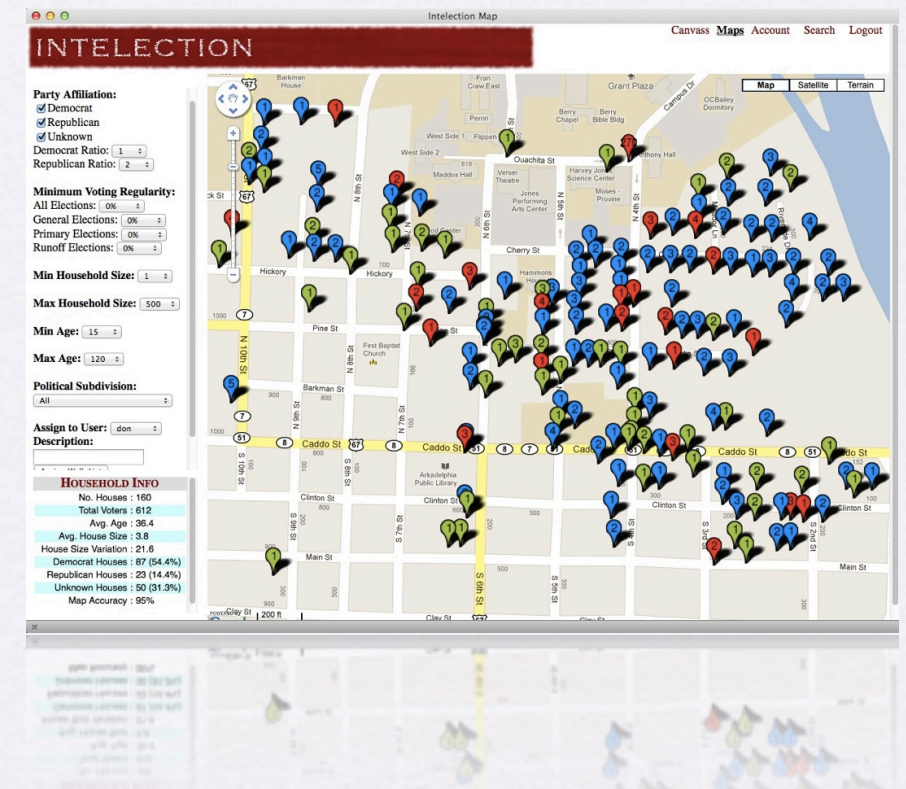
- Justification No. 2: Economics
- Intellectual Property = Big Business
- Example: The iPhone
  - 100's or 1000's of patents
  - Example: Worldwide patent fight between Apple and Samsung over phones and tablets
  - Loser gets products taken off the billion-dollar smartphone market
- Proponents say intellectual property helps companies bring cool new products to market
- Others think that being first to make a new product, or making the best product, results in the best company rising to the top
- Which argument do you think is better?





# Why am I an Intellectual Property Lawyer?

- I like reading cases about things and companies I've actually heard about
- I'm a gadget geek
- I'm a computer programmer and have filed patent applications on my own computer programs





Questions?



## About Nathan Price Chaney

Nathan Price Chaney is a registered patent attorney at the CHANEY LAW FIRM, P.A. in Arkadelphia, Arkansas, who has extensive federal intellectual property litigation experience. His practice involves a substantial amount of IP litigation and prosecution, other business and tort litigation, election consulting, and state licensure procurement.

Nathan's IP practice focuses on providing conservative yet creative solutions to clients requiring counsel on new product design, IP procurement, technology licensing, infringement prosecution and defense, branding, trade secret protection, and other IP issues. He has particular skill in designing and implementing database-driven solutions to data-intensive problems that arise during litigation.

Nathan's election practice primarily deals with two facets of political campaigns: (1) legal compliance with election laws and ethics codes; and (2) microtargeting individual voters based upon voting history and other metrics, with the goal of maximizing voter turnout. The largest election in which he has been involved covered a quarter-million people, and his candidate won with a 2–1 margin.

The remainder of his practice involves civil litigation, including personal injury, medical malpractice, and other tort litigation. He works with doctors and other healthcare providers who utilize the latest in medical technology to provide maximum medical improvement to his clients, and he seeks to establish favorable legal precedent adopting such technologies for use in courtrooms across the State of Arkansas and the nation.

Nathan also devotes time giving back to the legal profession. He currently serves in leadership positions in various legal organizations, and has presented several CLE classes on technology and legal ethics. Nathan's legal writing has been published on numerous occasions, and he was awarded the 2011 Most Outstanding Member of the Young Lawyers Division award from the Arkansas Trial Lawyers Association. In 2010–11, Nathan won a case confirming that Arkansas insurance policyholders have a right to be represented by lawyers who exercise independent judgment for their clients, not lawyers who simply follow orders from the insurance companies.

Nathan also gives back to his community at large. After returning home to practice law, Nathan joined the executive committee of a successful ballot initiative campaign that sought to spur growth in Clark County. These community efforts are nothing new for Nathan. When he was a teenager, Nathan led a group Boy Scouts in publishing a guide for activities for local children and youth as part of earning his Eagle Scout award.