# SciTech IDEAS IN ACTION

## *The Changing Landscape of Intellectual Property Protection for Biotechnology Inventions*

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For those who wanted to know more about the laws on Intellectual Property, Mr. Charles Calkins had much information to share with the SciTech audience in his lecture entitled: *The Changing Landscape of Intellectual Property Protection for Biotechnology Inventions*. As an Intellectual Property attorney and partner with Kilpatrick, Townsend & Stockton, he explained that there were four categories associated with Intellectual Property which were Trade Secrets, Copyrights, Trademarks and Patents.

As the name Trade Secrets implies, it must be maintained within a company and have economic value, such as the case with the Coke formula and the Krispy Kreme Doughnut recipe. The category of Copyrights is somewhat different in that it protects the expression of an idea, but not the idea itself, and is the work of authorship, literary, audio-visual, advertising or computer codes. Examples of this category are the PCR Machine Manual and software.

Trademarks are identifying names, characteristics or symbols firmly associated with, and legally reserved, for a person or thing referring to its ownership as the maker or seller. He gave very identifiable examples as Roche, a pharmaceutical company, and Life Technologies which is a global solutions provider of consumables, instruments and services that support scientists.

Patents are sub-divided into three parts: *Utility, Design* and *Plant*. The description of *Utility,* with a patent term of 20 years from the filing date, involves the compositions of matter, processes and machines, e.g. Lipitor, robotic platforms and software with bioinformatics. The examples used for *Design,* with a patent term from issue date of 14 years, were ornamental designs, such as the iPhone. A typical example of the sub-division of *Plant,* with a patent term of 20 years, was asexually reproducing plants, such as roses. Mr. Calkins then explained in detail that in order to obtain a patent, granted by the US Patent and Trademark Office, the applicant must submit an application, have an item that is new, not obvious and of patentable subject matter.

Mr. Calkins then cited some high-profile cases involving patent rights/decisions. One particular case named was the *Association of Molecular Pathology et al. v. U.S. Patent and Trademark Office et al.* The case was heard in District Court in 2010, the Federal Circuit Court in 2011 and the Supreme Court in 2012, which further proves and substantiates how complex these rulings can be and how long it can take to bring the cases to some kind of resolution. With this point, Mr. Calkins opened the floor for questions and discussion to which the audience responded with several items for clarification and explanation, and to which he answered in great detail by sharing his expertise and years of experience.

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