Protecting Innovation in Blockchain Technology

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Technical Minds. Legal Muscle.
Protecting Blockchain and DLT Innovation

• Patent Protection

• Brand and Trademark Protection

• Navigating in a fast-moving IP stream
Patent Protection

"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." 35 U.S.C. § 101.
Patent Protection

• Not Patent Eligible:
  – Laws of Nature
  – Mathematical Equations**
  – Natural Phenomena
  – Abstract Ideas**
Brand and Trademark Protection

**Trademarks**: Developing proprietary names for software platforms, products that incorporate blockchain technology, blockchain services.

- Approximately 1900 active trademark applications and registrations that cover “blockchain/block chain” goods and services.
- Approximately 1600 active trademark applications and registrations for “cryptocurrency”.
- Approximately 200 active trademark applications and registrations for “distributed applications”.
Examples of registrations covering software platforms for developing, building, and operating distributed applications:

• HYPERLEDGER
• ETHEREUM
• RED HAT
• TENDERMINT
Example of registration for software licensing services

• **BITCOIN CASH** – pending for “computer software licensing” (license the mark for use by others in connection with peer to peer electronic bitcoin cash computer software – free user license)
Brand and Trademark Protection

Certification Marks: certify that those using your technology are using it properly, and that the quality of the services meet standards set by the owner.

• HOT WALLET, WARM WALLET, COLD WALLET -- certifications related to type of encryption/level of safety for cryptocurrency wallets and exchanges; certification related to digital currency

• CCSS (Cryptocurrency Certification Consortium) – certifications for software and services relating to cryptocurrency technology

• -- pending for certification of blockchain technology regulatory compliance for facilitation of ICO’s
Navigating in a fast-moving IP stream

• Unique considerations for blockchain use cases
  − Global use cases, but IP enforcement remains largely local
    ▪ Where to patent, how to patent, and what to patent?
  − Many actors/participants raises issues of divided infringement
    ▪ Under what circumstances can one entity be responsible another’s performance of, for example, a step in a method claim?
  − Open Source
    ▪ Are there restrictions, implied or express, on your use of open source code?
  − GDPR: EU’s General Data Protection Regulation
    ▪ Right to be forgotten, right to edit, right to consent
Navigating in a fast-moving IP stream

• Why should I care about IP?
  − Companies (practicing and non-practicing) and individuals are protecting their IP and obtaining patents
  − Patents are now a commodity
    ▪ Bought, sold, and aggregated on the open market
    ▪ Investors will look for ROI
    ▪ If you become moderately successful, you will likely run up against someone (competitor, IP investor) looking to assert their IP rights
  − Patent pools, non-aggression agreements, defensive publications, monitor and kill, obtain defensive IP
Panelists

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