



Protecting Innovation in Blockchain Technology

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9/18/2018

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**



Hardware
(e.g., mining ASIC)

Software

Use Cases

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”

Brand and Trademark Protection

Examples of registrations covering software platforms for developing, building, and operating distributed applications:

- **HYPERLEDGER**
- **ETHEREUM**
- **RED HAT**
- **TENDERMINT**

Brand and Trademark Protection

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?
 - Extra-territorial reach of US patent law? 35 U.S.C. 271(f)
 - 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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