

# Intellectual Property

2014 Southeast Regional  
**Life Sciences Startup Accelerator**

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- Patent Attorney, Board Certified in IP Law (Florida Bar)
- Was in-house patent attorney at Med. Device company
- Represent numerous Med. Device companies
- *M.Eng.* In Bioengineering
- Chair-elect of the IP Section of the Atlanta Bar Assoc.
- Author of *MedicalDevicePatentCounsel.com* blog



# What is Intellectual Property?

- Patent – a Right-to-Exclude
  - Function/Utility
- Trademark – a Source Indicator
  - Business
- Copyright – Exclusive Rights to Use
  - Artistic Expression
- Trade Secret – your “secret sauce”



# What can be Patented?

- Process
  - Ex: Method for designing contact lenses
- Machine
  - Ex: Apparatus for molding contact lenses
- Article of Manufacture
  - Ex: Contact lenses
- Composition of Matter
  - Ex: Hydrogel plastic used to form contact lenses

# Requirements for Patentability

- Utility (35 U.S.C. 101)
  - Function, not abstract laws of nature
- Novelty (35 U.S.C. 102)
  - Not described in any publication anywhere
- Non-Obvious (35 U.S.C. 103)
  - Not obvious to one of ordinary skill in the art

# Invention!? Where do you start?

- Identify the functional elements
  - What makes it work effectively?
- Patentability Search
  - Search for those functional elements
    - Google; Google Patents; USPTO engine
  - Compare search results to your invention
    - Are the differences obvious?

# Yes, I've got something here!

- File a patent application ASAP
  - New First-Inventor-to-File laws are strict
  - Non-Provisional Application
    - Formal Drawings, Claims, Expensive
    - Description of Invention is Final
  - Provisional Application
    - Non-formal Drawings, No Claims, Cheaper
    - Patent Pending for 12 months

# When Can I Sell Products?

- Quick: As soon as you want
  - No patent “necessary” to sell product
- Medium: At least be *Patent Pending*
  - Provides “some” protection
- Complete: Not until FTO is performed
  - Beware of infringing other patents



# Miscellaneous...

- Aren't Patents Expensive? It depends
  - USPTO discounts: small entity & micro entity
- How Long Do Patents Last?
  - 20yrs from filing (Design patents different)
- Is Enforcement Realistic? \$\$\$
  - It depends.
  - Reasons to patent: Investment, Licensing

# Thank You. Questions?

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