

# Intellectual Property for Health Hackers and Hackathoners in a Hurry

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Hacking Health Café Toronto  
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**THIS IS NOT  
LEGAL ADVICE  
I MAY HAVE MADE UP  
SOME OF THIS STUFF**

Kinds of things you may be  
able to get intellectual  
property protection for in the  
healthcare x tech space

- Patents => Inventions

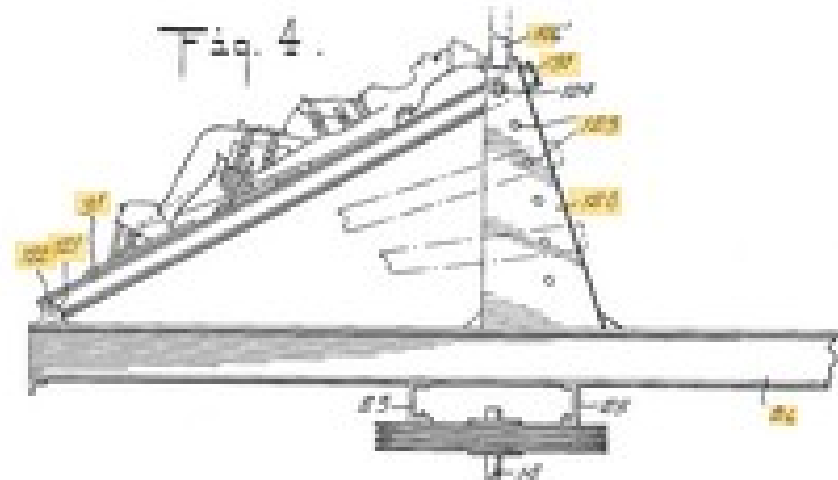
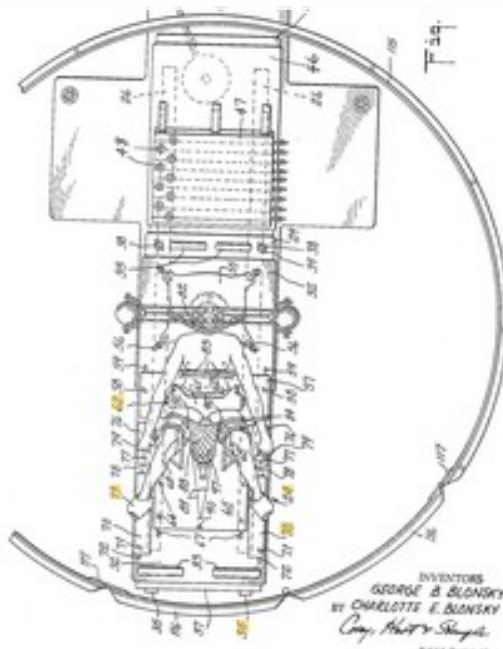
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**G. B. BLONSKY ETAL**  
**APPARATUS FOR FACILITATING THE BIRTH OF**  
**A CHILD BY CENTRIFUGAL FORCE**

**3,216,423**

5, 1963

4 Sheets-Sheet 2



- **Trademarks => “brands” = distinctive names, logos, slogans, sounds, etc. associated with specified goods or services**

1215363 - APPLE DESIGN



**SickKids**  
THE HOSPITAL FOR  
SICK CHILDREN

0828260 - ZERO XPOSURE

(Expunged)

**Word Mark**  
**Goods and**  
**Services**

**MOFO**

IC 041. US 100 101 107. G & S: Educational services, namely conducting seminars in the field of law.  
20010801

- Copyright => “expression” => e.g. books, art, music, movies, performances, COMPUTER CODE
- Trade secrets => commercial/industrial “secrets” => e.g. algorithms, data sets, testing protocols, applications for market authorizations
- Industrial designs => unique shape of an article e.g. drug dispenser, furniture
- Integrated circuit designs
- Plant breeders’ rights

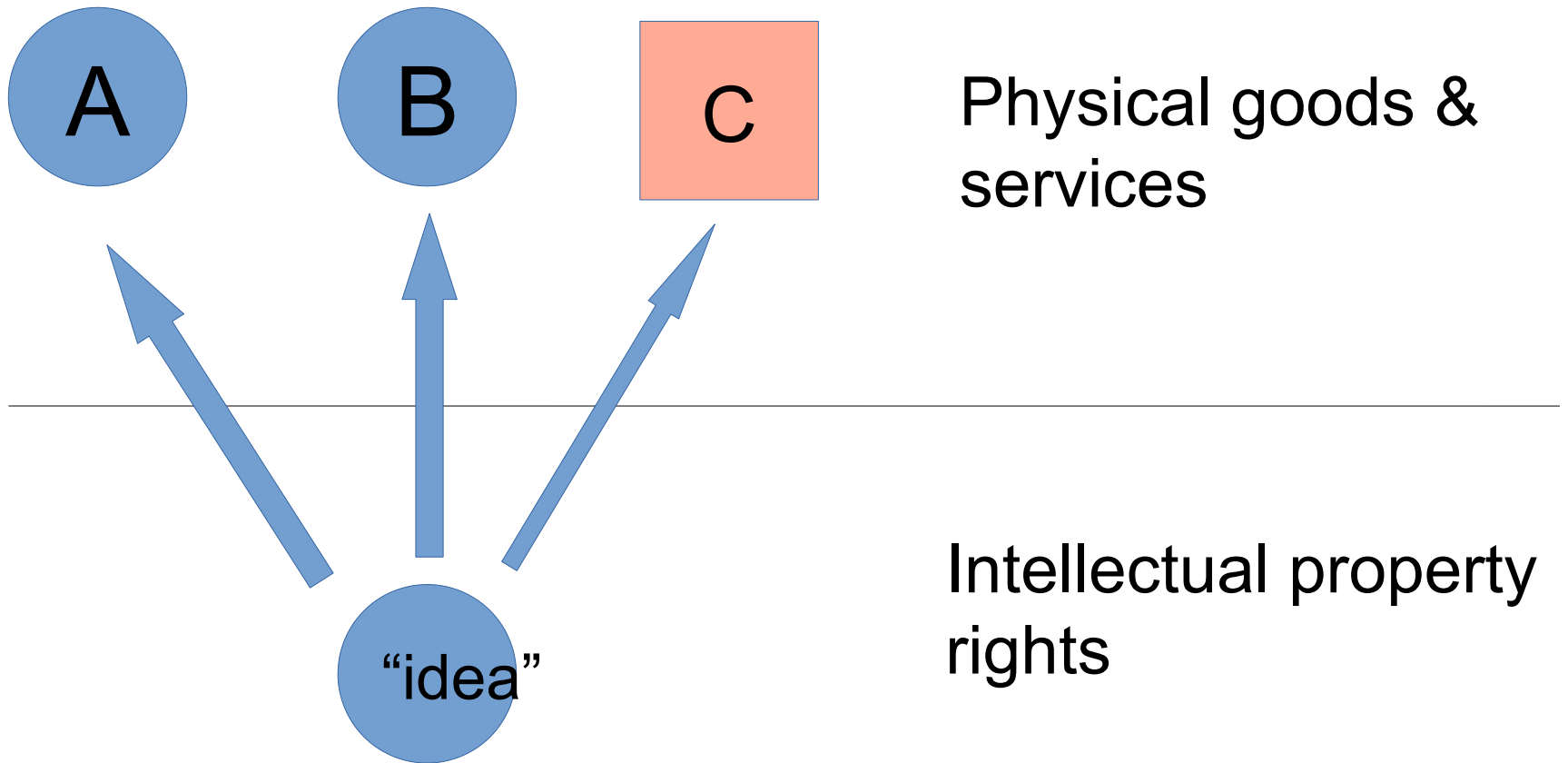
What is the value of  
protecting IP rights?

IP rights give you a “**monopoly**” over your idea, and the power to:

1. make many physical “incarnations” (or just one) from one “idea”, and
2. control how the idea will be used

Note: you may still need to comply with other laws before you can make/sell your protected goods/services e.g. medical devices, drugs

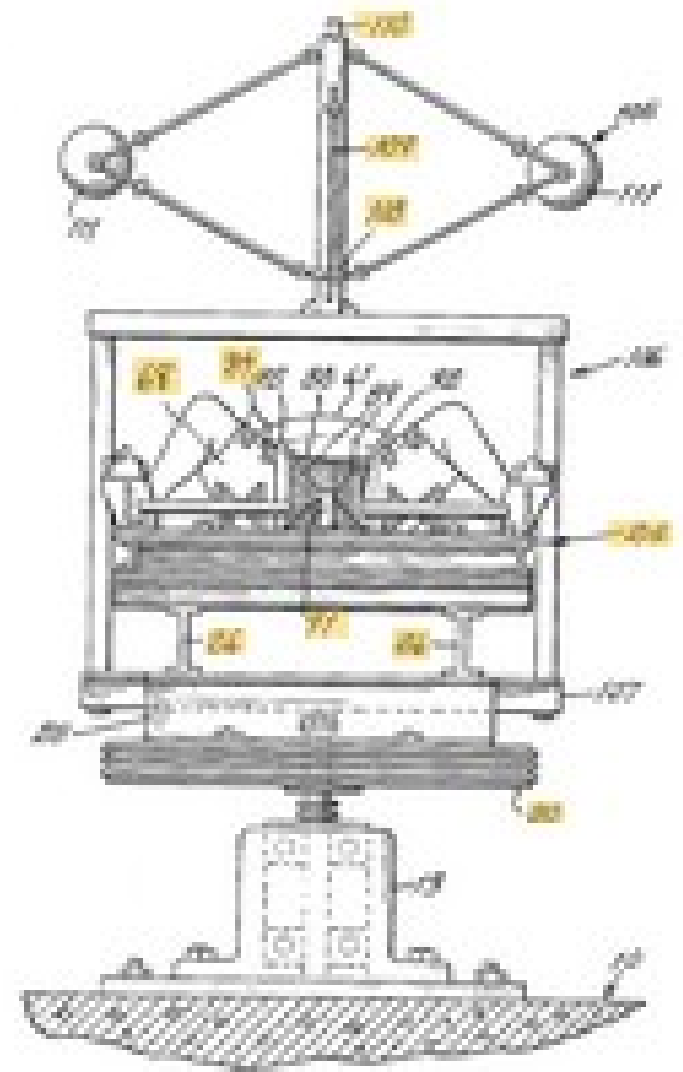




**WARNING**  
**GOOD IP RIGHTS**

**≠**

**COMMERCIAL  
SUCCESS**



However, failure to properly  
secure or protect IP rights may  
limit or impede commercial  
success

IP-TY THE FOOL

An IP lawyer's  
expression when a  
client says that they  
have a question about  
an agreement that they  
already signed and it's  
obvious the client  
hadn't read it before  
signing

- Examples of documents where there are IP provisions that should be looked at carefully:
  - Employment agreements
  - Hackathon agreements
  - Freelancing/consulting/outourcing agreements
  - Co-development/partnership agreements
  - IP agreements/policies applying to partners (e.g. university researchers)

# Avoiding IP-ty

Step 1: Read, read, read!

Step 2: Ask yourself some questions

Step 3a: Talk about any issues with the other party/parties, consult with a lawyer if necessary

Step 3b: Put any changes in writing!

Step 4: Sign (or not) the agreement

Note: there may also be non-IP issues in the agreement

# Step 2 – Questions for yourself

1. Who is going to get what IP rights?
2. If I'm giving away my IP rights, what am I getting in return?
3. Is this trade fair? Does the IP that the other party wants to claim have any relationship to the substance of the agreement?
4. Even if it's not entirely fair, can I live with the way the IP rights will be divided? What can I live with?
5. Will the IP provisions impact what I'm doing now or I might want to do in the future?

# Example Employment Agreement Clause



- You've just been hired to write code for some manufacturing equipment software
- In the employment agreement, you're going to get:
  - A full-time job
  - A salary that is appropriate for a programmer
  - Decent vacation time
  - Some health and other benefits

- They want you to :
- “assign any and all intellectual property that is, in whole or in part, discovered, invented, created, expressed, produced or implemented by you, whether acting alone, jointly or in collaboration with any third party during the term of employment and for the three month period following the termination of employment”
- Who is getting what IP rights?
- Is this clause fair? If not, what would you change?

- They want you to :
- “assign any and all intellectual property that is, in whole or in part, discovered, invented, created, expressed, produced or implemented by you, whether acting alone, jointly or in collaboration with any third party during the term of employment and for the three month period following the termination of employment”
- Would your answer to the last question change if you were hired to be a researcher in a lab?
- What are examples of situations where this clause might cause a problem if signed without changes?

# Possible revisions

- “assign any and all **copyrights** and inventions (whether or not patentable) ~~intellectual property~~ that is, in whole or in part, discovered, invented, created, expressed, produced or implemented by you **in the course of the your employment duties**, on the Company’s premises, or through the use of property belonging to the Company, ~~whether acting alone, jointly or in collaboration with any third party during the term of employment and for the three month period following the termination of employment”~~
- **Red font** = quite favourable to the employee
- **Red font** + **green font** = employee gives away more rights, but it might still be considered to be within the limits of being fair

One last thing...

What should you do  
if you see IP rights  
might arise but  
there is no  
agreement?

INSOMNIA!

Hackathon Collaboration  
Multiple-Choice “Agreement” Template  
[cherylcheung.com/tools.html](http://cherylcheung.com/tools.html)

Email: [info@cherylcheung.com](mailto:info@cherylcheung.com)

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