

IP Issue Spotting for the Non-IP Practitioner

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Panelists



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IP Basics: What is a Trademark?

A trademark is a **SOURCE IDENTIFIER**: a word, symbol, design, color or sound that is used to identify and distinguish your products or services from those products and services of others

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Use of the mark (not registration) is how you gain rights

- Registration, however, does have important benefits
- Rights last as long as the mark continues to be in use

Notices

- Use (R) if you have a registration
- Use TM/SM if you do not have a registration

IP Basics: What is a Patent?

Must be: New, Useful and Non-obvious Invention

Cannot be: Idea, Law of Nature or Scientific Principle

Right to Exclude – NOT Right to make or use

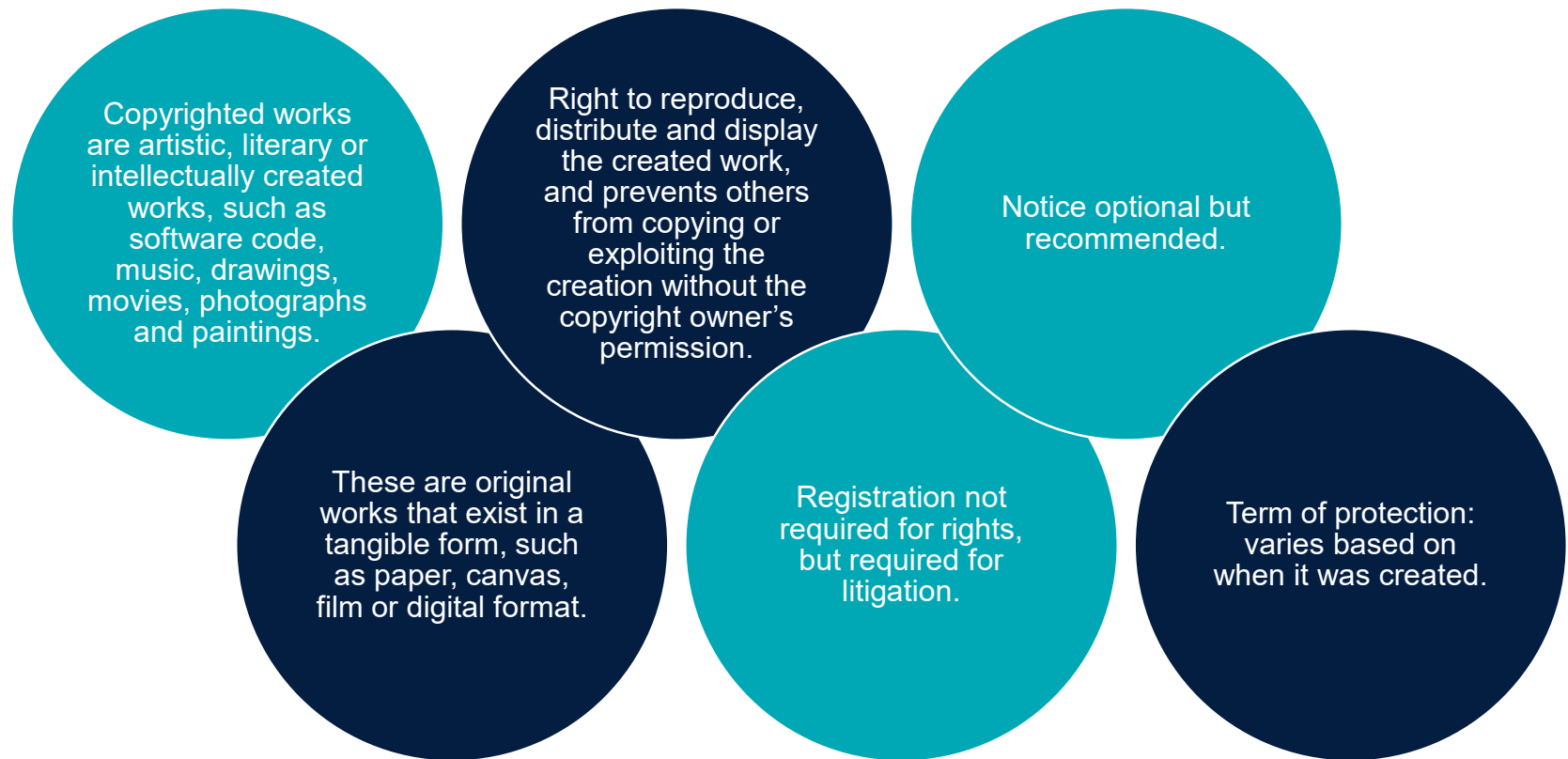
Scope of Rights defined by the Claims

Term = 20 years from earliest filing date

Ownership and Assignment

Public Disclosure – Not Trade Secret and Know How

IP Basics: What Is a Copyright or Copyrighted Work?



IP Basics: What is a Trade Secret?

Elements of a trade secret:

Information that has either actual or potential independent economic value by virtue of not being generally known

Has value to others who cannot legitimately obtain the information, and

Is subject to reasonable efforts to maintain its secrecy.

Critical to protecting valuable, confidential information

Some examples:

customer lists

confidential business practices

secret recipes.

No registration

No time limit on protection if kept secret

Spotting IP Issues in Agreements

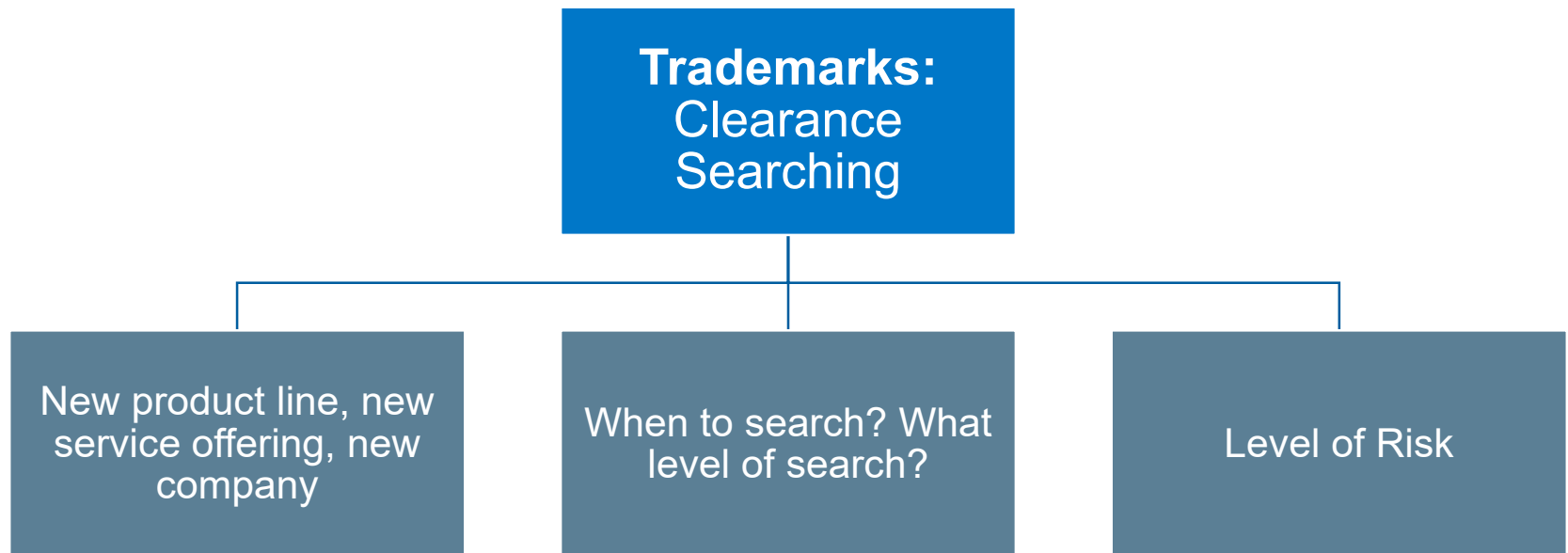
Who has what rights coming into the agreement?



Who has rights to anything that comes out of the agreement?

- Who owns feedback?
- Are rights given to use existing IP?
- Is there “co-ownership”?

Spotting IP Issues in Marketing



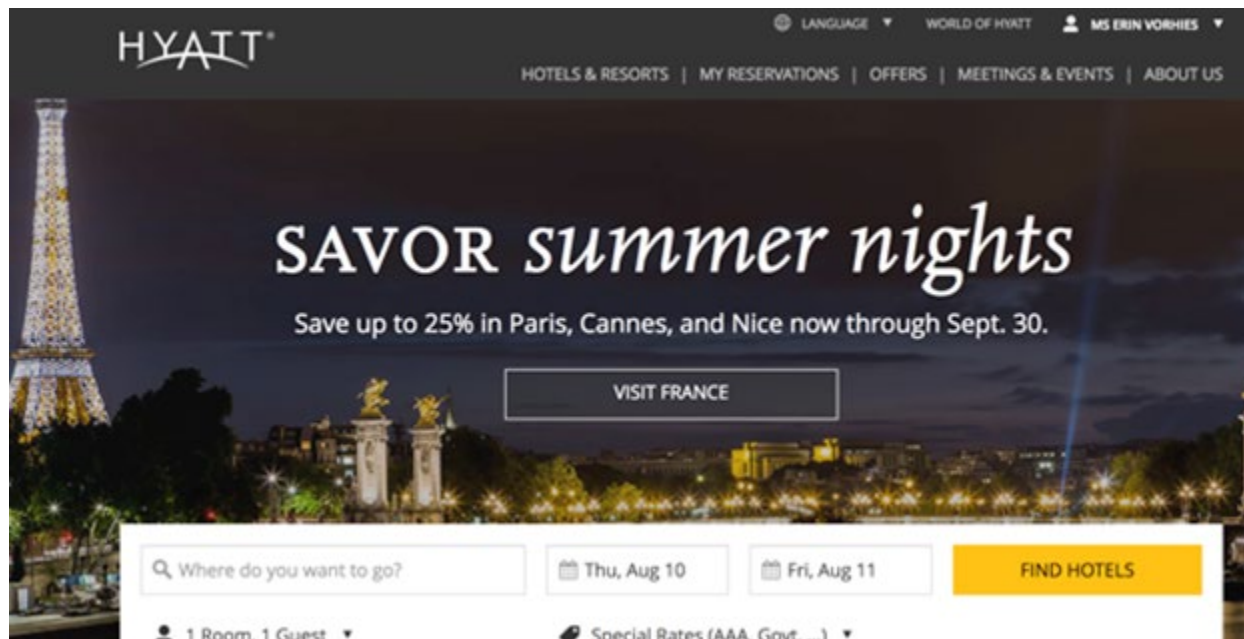
Spotting IP Issues in Marketing

Trademarks – Watch for the use of others' marks



Spotting IP Issues in Marketing

- Trademarks – Watch for the use of others' marks
- Copyrights – Watch for rights to images, songs and videos used and don't assume public domain



This campaign was never published.

Spotting IP Issues in Marketing

Trademarks

Watch for the use of others' marks

Copyrights

Watch for rights to images, songs and videos used and don't assume public domain

Patents

Watch for statements about unique features of your products

- Before public disclosure, make sure that a patent application is filed

Spotting IP Issues in Internal Presentations

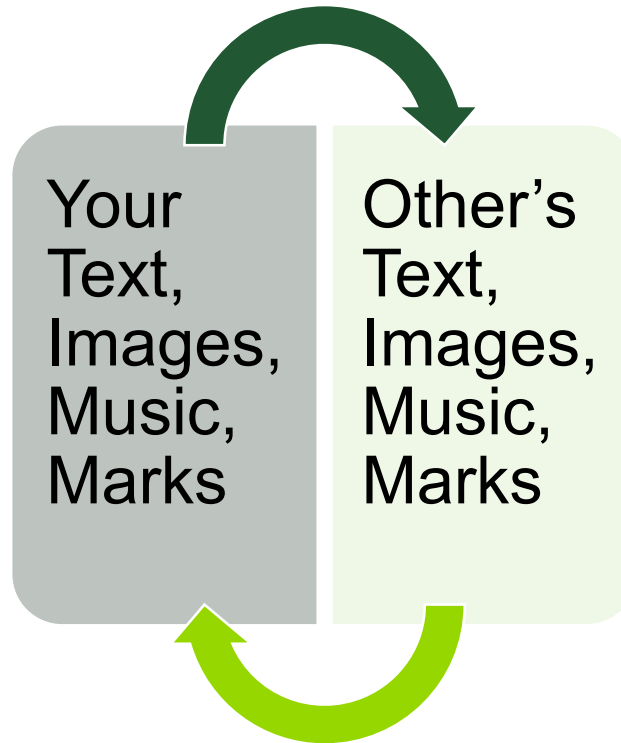
If it is just for internal use, that is okay, right?

Takeaways:

- You may still need permission to use a third party's IP, even in internal presentations
- An internal presentation may be a public disclosure if third parties present
- Internal presentations are frequently shared and/or distributed (think company intranet) and permissions may be needed

Spotting IP Issues in Your Company's Social Media

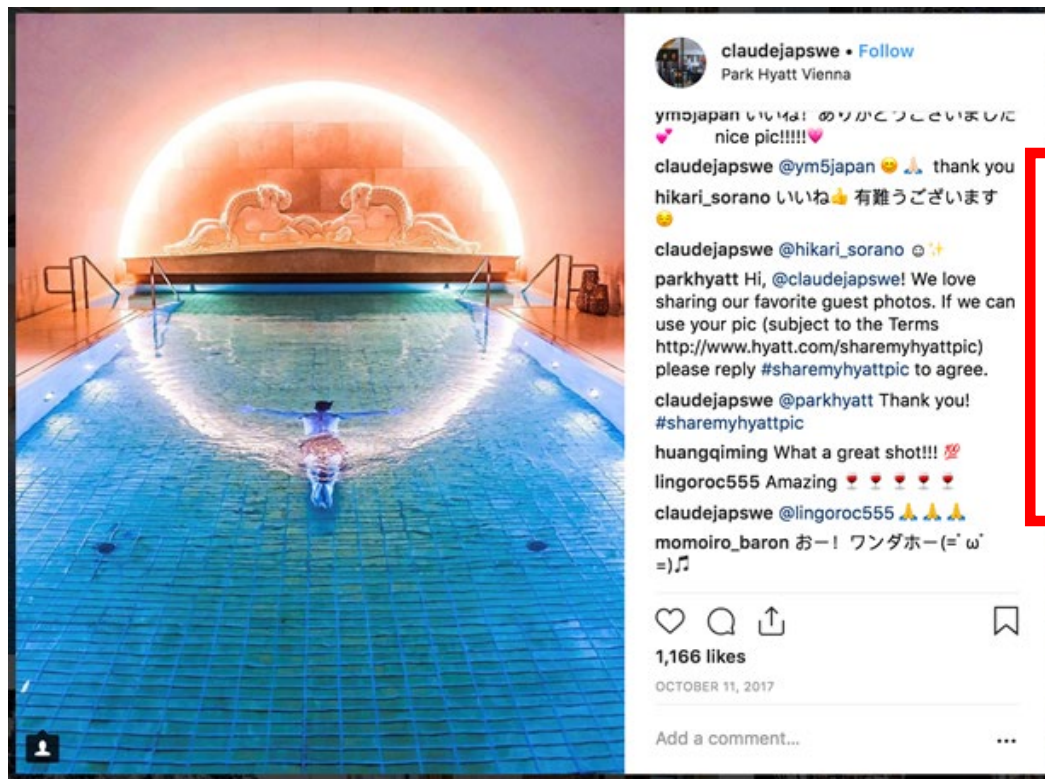
Posts By Your Company



Posts About Your Company

Spotting IP Issues in Your Company's Social Media

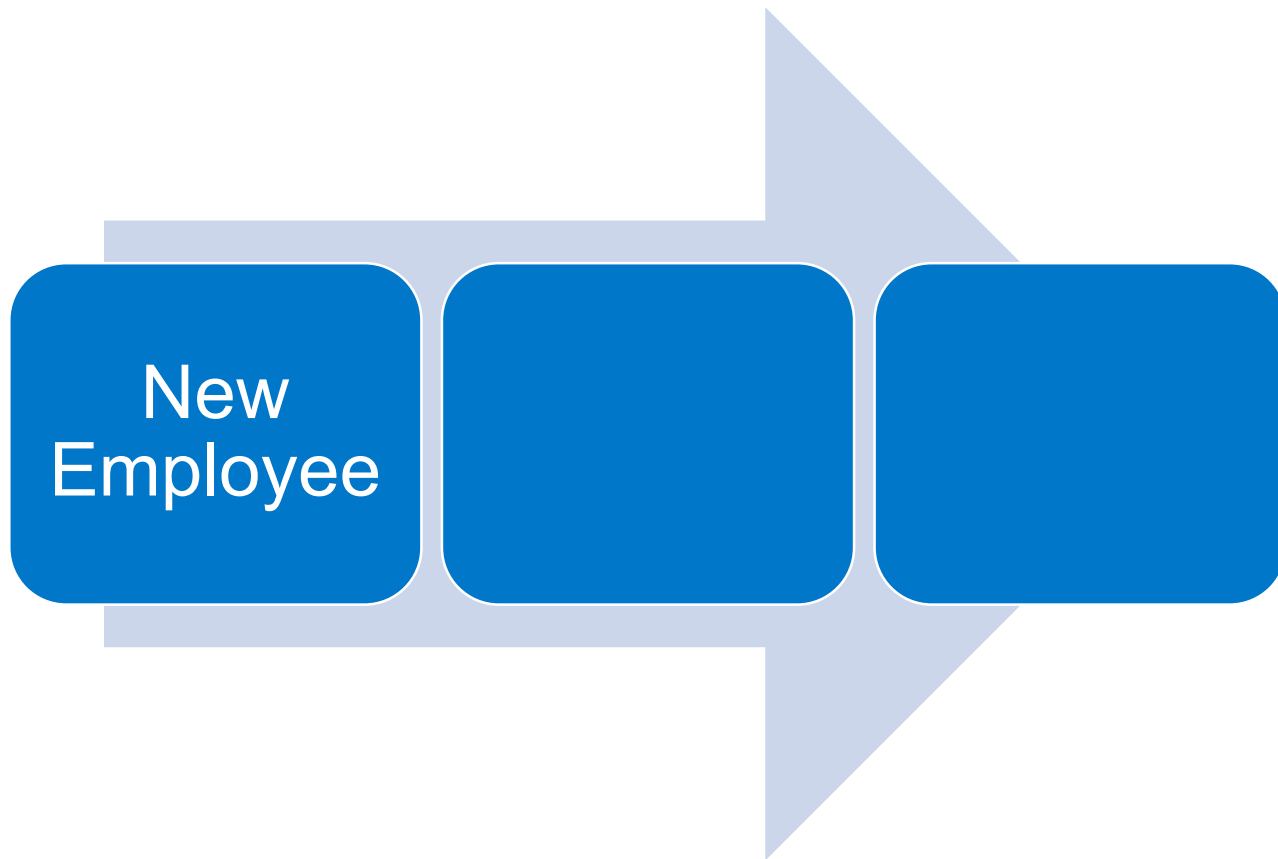
A guest posted this photo to Instagram during their stay at Park Hyatt Vienna and tagged @parkhyatt



parkhyatt Hi, **@claudejapswe**! We love sharing our favorite guest photos. If we can use your pic (subject to the Terms <http://www.hyatt.com/sharemyhyattpic>) please reply **#sharemyhyattpic** to agree.

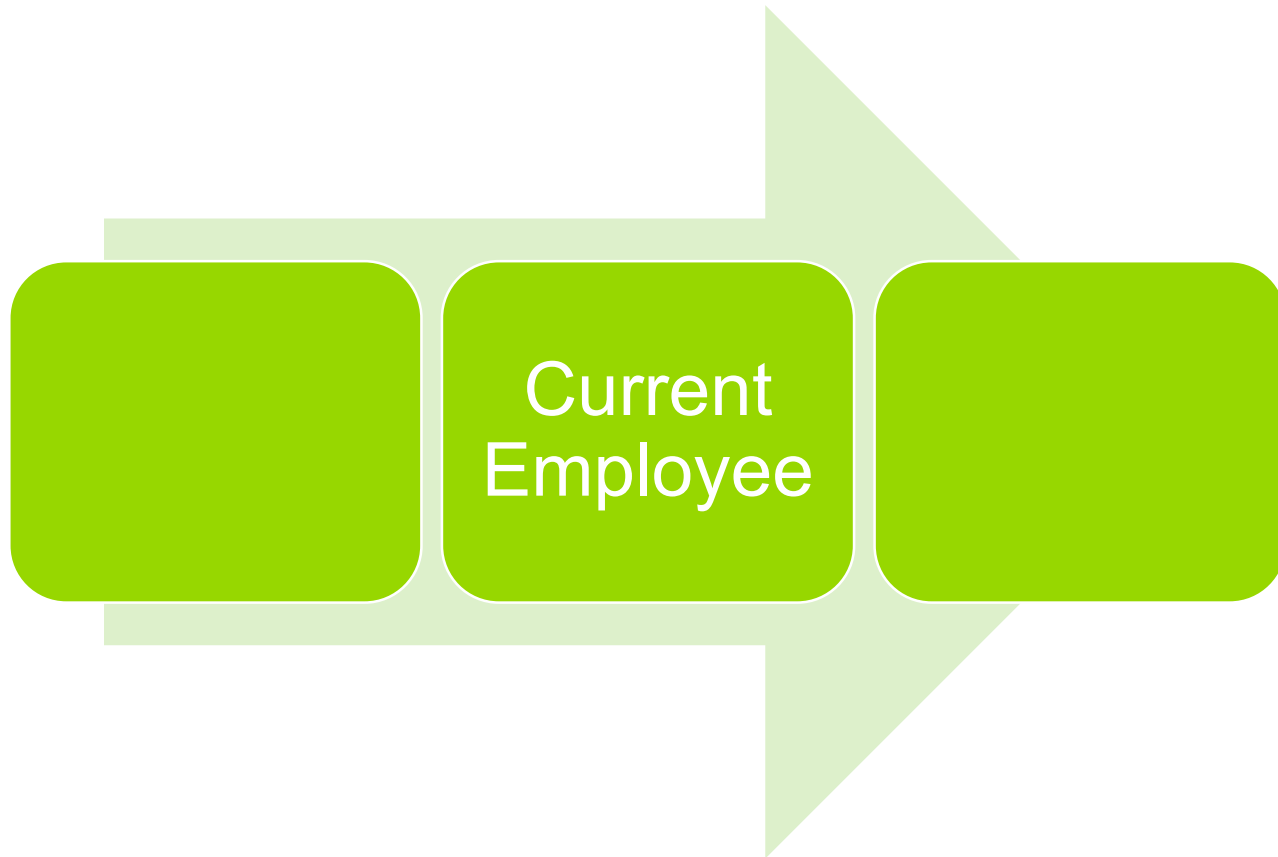
claudejapswe **@parkhyatt** Thank you! **#sharemyhyattpic**

Spotting IP Issues in Human Resources



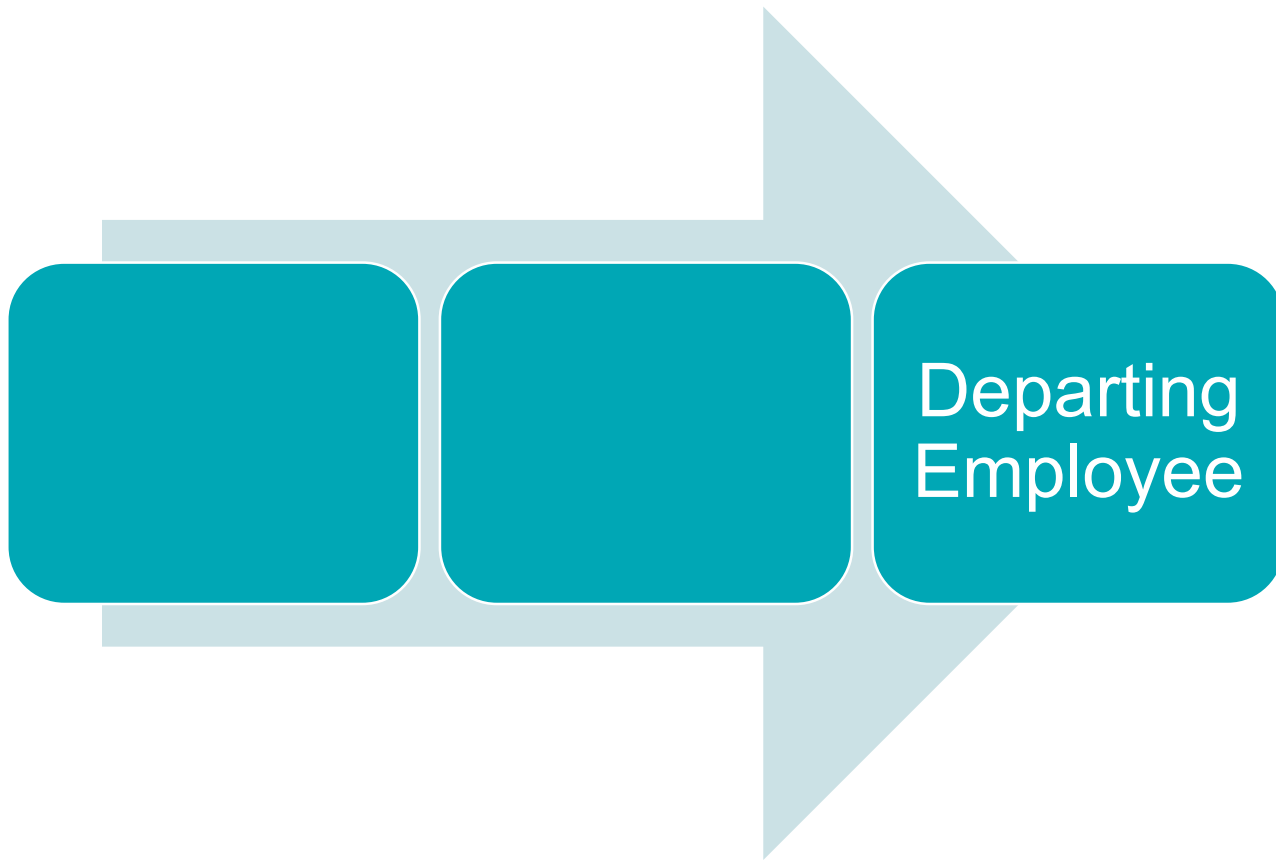
- What rights and information do they have coming into the employment?
- Educate regarding employee agreements or policies assigning IP

Spotting IP Issues in Human Resources



- Employee Presentations – Who is the Audience?
- Reminder regarding employee agreements or policies assigning IP and confidentiality obligations

Spotting IP Issues in Human Resources



- Reminder of confidentiality obligations for trade secrets and know how as well as obligation to assist in ongoing IP protection efforts

Thank You

