

Intellectual Property Protection: Legal Right Protection

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Intellectual property, although intangible, is still ownable and your intellectual property rights should be protected. Modern business, especially since the rise of the internet has seen a rise in the creation of intellectual property. However the internet makes it even easier for someone to steal your ideas and work. An intellectual property lawyer who is trained to help reclaim patent, trademark, copyright and trade secret rights can help protect your intellectual property.

Types of intellectual property include patents, trademarks and trade dress, copyrights, and trade secrets.

Patents

A patent is granted by the government allowing a (usually) 20 year monopoly on an invention previously "not generally known." Patents are intended to encourage investment in research and development. If you create a new useful process for doing something, a machine, manufacture, or even an improvement on something already in existence, you can patent your invention and prohibit others from "making, using, offering for sale, or selling...or importing" the invention in the U.S. Your right to patent your invention is a constitutional right (Article I, section 8). Patents are subdivided into three groups: design, utility, and plant. Design patents protect innovations in the appearance (although not the structure or function) of an item. Utility patents are for wholly new inventions including machines, industrial processes, compositions of matter, and articles of manufacture. Plant patents cover innovations in plant-life, such as new species of plant created from the reproduction of cuttings and grafts of existing plants.

Patent lawyers will research previously granted patents for you to see if a similar product has already been patented or whether you should apply for a patent for your invention. A patent attorney will also tell you if your idea is not patentable because it is a law of nature, a physical phenomena, or abstract. You should find a specialized patent or intellectual property attorney because in order to prosecute a client's patent application, he or she must be registered with the U.S. patent office. A patent lawyer will also have to have passed a science and engineering exam to better understand and serve clients.

Trademarks

Trademarks are granted for words, names, symbols, or devices which separate and distinguish businesses and services. These include arbitrary names such as Kodak, suggestive names such as Caterpillar (tractors), descriptive names which indicated the business' products or services, and generic names which are descriptive. Generic and some descriptive names cannot be protected, so a trademark or intellectual property lawyer should be consulted to see if your name qualifies for trademark rights. You can also file an intent-to-use application to reserve a name that will later be trademarked. (This is especially important with the expansion of business on the internet.)

Trademark lawyers can also be sought to make sure that your new business isn't using a registered mark. The consequences for using a registered mark, even though you may have put money and advertising into promoting your business, include being sued for infringement.

Copyrights

Copyrights protect the individual's expression of an idea, but do not protect the idea itself (see patent). Copyrights are intended to promote scientific progress. You can copyright your writing, performance (music, dance), art, sound, compilations. You cannot copyright ideas or uncompiled facts, words, or phrases (these could be registered as trademarks, though, so consult an intellectual property lawyer). If you come up with an idea or invention while working for a company, it is able to be patented or trademarked by the company you work for, but copyrightable work belongs to you, the employee, not the company employing you. However, there are loopholes, and an intellectual property lawyer will help you both with the process of getting your expression copyrighted but will also save you trouble and time in getting over road blocks.

If you are a company, you need an intellectual property lawyer who specializes in copyrights because especially with internet businesses, you will need to make sure that contractually your web site design can be copyrighted to your company and will not belong to the employee or independent contractor who created it. This also applies to software.

Trade Secrets

It is important to protect your business' trade secrets so they will not be misappropriated. Whereas patents have a limited time of coverage and after 20 years are released, trade secrets are always protected. To qualify as a trade secret, it must have independent economic value to the company. For example, the recipe for Coca-Cola is a trade secret, not a patent, and therefore will never be released because without maintaining the secrecy of the recipe, the business would not be able to compete by offering an individual product. Contact an experienced Intellectual Property Lawyer today.

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