

TRADEMARKS

Trademarks are **words, names, symbols, sounds, or colors** that allow customers to easily identify and authenticate the source of a service or product.

Trademarks are the face of the company and have the potential to be enforced indefinitely.

Use the right symbol for your logo and writings to help protect your business and your product.

TM Used for an unregistered trademark. Registration of a mark is not required, but provides numerous advantages.

SM Used for an unregistered service mark. A service mark is similar to a trademark, but identifies a service rather than a good.

® Used for a registered trademark.

Examples of Trademarks:



COPYRIGHTS

Copyrights protect original **writings, music, and works of art**, even if the works are not made public. Copyrights generally last the life of the author plus seventy years. Copyrights protect only physical creations and not the ideas behind the work.

While a copyright notice is not required, it informs the public that the work is protected. A copyright notice has three elements:

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1. The © symbol, "Copyright" or "Copr."
2. The year of first publication
3. The name of the owner

Examples of Copyrighted Works:

- The movie Avatar.
- The Harry Potter book series.
- Songs by Taylor Swift.
- Possibly even your personal diary.



TRADE SECRETS

A trade secret is **commercially valuable information** kept **confidential** to gain an advantage over the competition. The trade secret can be protected by physical security like a safe, but also with tools like computer passwords and non-disclosure agreements. Trade secret protection guards against unfair competition and theft and lasts as long as the secret is kept.

Example of a Trade Secret: The Coca-Cola® recipe

PATENTS

Patents protect inventions such as new and useful **processes, machines, articles of manufacture or compositions of matter**. The inventor gets short-lived but powerful monopoly rights in return for fully disclosing the invention to the public. Getting a patent requires a long and complicated process.

Example of Patented Inventions:

The design and mechanics of the iPhone® by Apple®.



FIG. 1

SUBJECT MATTER PROTECTED

REQUIREMENT

REGISTRATION

EXCLUSIVE RIGHTS

PROTECTION LENGTH

	SUBJECT MATTER PROTECTED	REQUIREMENT	REGISTRATION	EXCLUSIVE RIGHTS	PROTECTION LENGTH
TRADEMARK	Distinctive words, names, symbols, sounds or colors used in commerce.	Must be distinctive and used in commerce, but not confusingly similar to other marks.	Protection starts with use, but more is available by registering with the state or federal government.	To exclude others from using the mark or one that is confusingly similar.	As long as the mark remains in use and remains distinctive.
COPYRIGHT	Authored works including writings, music, art and computer programs.	Must be an original work by the author. Must be "fixed" in a physical form.	Protection starts when the work is created, but more is available through federal registration.	To copy, perform, display, and distribute the work and to create derivative works.	Generally for the life of the author plus 70 years.
TRADE SECRET	Secret and valuable business information, such as formulas, patterns, compilations, programs, methods, techniques and processes.	Must be valuable, must not be generally known, and must be kept secret.	There is no registration available for trade secrets, which must be guarded by secrecy and confidentiality.	To recover from those that improperly obtain or disclose the trade secret.	As long as secrecy is maintained and information does not become public knowledge.
PATENT	Processes, machines, articles of manufacture, and compositions of matter.	Must be new, useful and not obvious.	Federal application process providing a full description of the invention is required.	To exclude others from making, using, selling, or offering to sell the invention.	Usually twenty years from the filing date.

ABOUT INTELLECTUAL PROPERTY

Intellectual property means “creations of the mind.” There are four different types of protection: **trademarks** for symbols, names and images and designs used in commerce, **copyrights** for literary and artistic works, **trade secrets** for business secrets, and **patents** for inventions. Each category has specialized laws to encourage creativity and fair competition by providing intellectual property owners with rights and protections in return for their innovations. Intellectual property law aims to improve technology and benefit society by providing rewards to individuals for innovation and creativity.

Protecting your intellectual property is incredibly important. In our technology-driven society, intellectual property can even be more valuable to companies than physical property.

WHY IT MATTERS

“America is a net exporter of intellectual property, contributing \$37 billion to our trade balance in 2006.”

Shayerah Ilias and Ian F. Ferguson, "Intellectual Property Rights and International Trade," Congressional Research Service, 12/20/07.

“Intellectual property accounts for more than one-half of all U.S. exports, helping drive 40% of U.S. economic growth.”

U.S. Department Of Commerce, “Bush Administration Officials Update Congress On Intellectual Property Enforcement Efforts,” Press Release, 26 July 2006.

“As of 2008, IP-intensive industries employed 18 million Americans.”

U.S. Department Of Commerce, “Secretary Of Commerce Carlos M. Gutierrez Opinion Editorial,” Press Release, 11 May 2008.



INTELLECTUAL PROPERTY AND TRANSACTIONAL LAW CLINIC

FOR ADDITIONAL INFORMATION

United States Patent and Trademark Office

www.uspto.gov

- Patent Information and Educational Materials
- Patent and Trademark Searching
- Patent Application Information
- Trademark Information and Educational Materials
- Trademark Registration
- Referrals to Patent Practitioners

Library of Congress

www.copyright.gov

- Copyright Information and Educational Materials
- Copyright Registration
- Copyright Searching

World Intellectual Property Organization

www.wipo.int

- Directory of National IP Offices
- International Patent Searching
- International IP Information and Treaties

American Intellectual Property Law Association

www.aipla.org

- Free Educational Materials on Several IP Topics
- Member Directory and Networking Opportunities
- Additional Resources with Paid Membership

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INTELLECTUAL PROPERTY AND TRANSACTIONAL LAW CLINIC

The Basics of Intellectual Property