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Protecting Your Intellectual Property



Many businesses need to protect their intellectual property - a term that covers a variety of rights in inventions, trade secrets and unique works. Some of these rights, such as patents, are protected by federal law. Others, such as trade secrets, are protected by state law. This article discusses some of the differences among common terms associated with protecting one's intellectual property.

Patents

There are two types of patents available. A *utility patent* relates to "any new and useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof". A *design patent* applies to "any new, original and ornamental design for an article of manufacture".

There are several key issues that will help in determining whether or not you can get a patent. These include:

- Only the concrete embodiment of an idea, formula, invention, etc., can be patented.
- The invention must be something different than something already in existence.
- The invention must not be patented or described in writing anywhere in the world.
- The invention must have "some useful purpose".

Copyrights

Copyrights pertain to "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device".

Some examples of items that can be copyrighted are:

- Books
- Articles
- Patterns
- Software
- Movies

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Trademarks

A trademark protects the symbolic value of a word, name, symbol, etc. that its owner uses to identify or distinguish its good and services from those of others. Similarly, a *service mark* is used to identify a unique services offering.

Trademarks can range from a monogram to more distinguishable artwork, such as the Nike swoosh.

One obtains rights to a trademark by actually using it in commerce. It does not necessarily need to be "registered", though federal registration with the United States Patent and Trademark Office does offer some advantages, one of which is the ability to "reserve" the mark for up to four years.

A few ways to protect your trade or service mark are:

- Use ® next to your mark if your mark has been placed on the Federal Trademark Register
- Specifically claim ownership of the mark when you use it (example: XEROX®)
- Use ™ or ℠ with your mark if you have not obtained a federal mark registration
- Use your Mark consistently
- Be prepared to take any necessary legal action for infringement, because if you don't, you can lose your rights.

Trade Secret Rights

A *trade secret right*", governed for the most part by state law, allows the owner of the right to take action against anyone who breaches an agreement or confidential relationship or who steals or uses other improper means to gather secret information". Trade secrets can range from customer lists to computer programs to secret formulas.

Trade secret laws protect the owner from people who acquire their information inappropriately. However, unlike patent law, the owner has no protection from another party independently developing the same information.

A company's owners [and investors] have a stake in ensuring the company protects its intellectual property. It behooves these individuals to not only be familiar with the types of rights available, but also to make sure the appropriate employees are familiar with rights the company retains - and to make sure they don't infringe upon the rights of others.

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Is Your Business Filing the Proper Cash Transaction Forms?

Are you aware that there is a general rule that states you must file Form 8300 with the IRS to report cash payments received in a trade or business if your business receives more than \$10,000 in cash from one buyer as a result of a single transaction or two or more related transactions.

The information reported on Form 8300 provides valuable information to the Internal Revenue Service (IRS) and the Financial Crimes Enforcement Network (FinCEN) in their efforts to combat money laundering. This is an important effort, since money laundering is a tool that assists many individuals who participate in various criminal activities, ranging from tax evasion to terrorist financing to drug dealing, to hide the proceeds from their illegal activities.

Filing Form 8300:

If you are required to file Form 8300 for a transaction, you must do so by the 15th day after the date the cash transaction occurs. Meeting the proper filing requirements is very important, since there are potential civil and criminal penalties for failure to file Form 8300.

To find out more, read IRS publication 1544 or call us today.

Masterful Quotes

“A culture of discipline is not a principle of business; it is a principle of greatness.”

- Jim Collins

“In life and business, there are two cardinal sins ... The first is to act precipitously without thought and the second is to not act at all.”

- Carl Icahn



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