



# Intellectual property types and uses

Intellectual property is critically important for any organization. The value of a company is directly tied to how well it protects and exploits its own assets while avoiding infringement of others. It is critical to any strategy an organization develops, so it is important to understand what it is and how it is used. Intellectual property comes in four basic flavors: Patents protect inventions; copyrights protect works of authorship; trademarks protect brands; and trade secrets are just that — secrets.

## Patents

A patent gives the owner the right to sue infringers, seek monetary damages and request the infringer be ordered out of the market. If the infringement is willful, damages may be multiplied and the patentee may receive its attorney fees.

Patents are bought and sold, used to reduce taxes, repatriate funds, strengthen employee loyalty programs and increase tax credits. They can support prices, resale and use restrictions, give marketing advantages, act as a defense against others and are used for still other purposes.

Patents are granted by governments for

inventions of processes, compositions and devices. Basically, anything people conceive that has a useful function can be patented, if it meets the tests for patentability. It does not have to have been made, although the inventor has to be able to describe it in enough detail to be made by others.

That description and a claim to the invention are submitted to the Patent Office in an application. The office examines the claim and application and decides whether to issue a patent.

## Copyrights

A copyright is used for many of the same purposes as patents, but there are differences. First, copyright exists for works of authorship when the work is fixed. There is no application; copyrights may be bought, sold, mortgaged and licensed, without registration. However, loss of evidence over time diminishes the value of copyrights. Registration can reduce that risk.

Also, when registered, the copyright owner may sue those who copy the work. Injunctions, monetary damages and attorney fees may be awarded, although registration

must occur early if all remedies are to be available. Copyright protects not only art and books but also computer programs and technical drawings. They do not have to be inventive; they only need to be original works of the author.

Registration is inexpensive, and assertion of a copyright claim is relatively easy, so this form of intellectual property should not be overlooked.

## Trademarks

Trademark law is designed to protect customers from confusion about the source of goods and services they buy. The system gives those who adopt a brand the right to stop others whose actions are likely to cause confusion. Logos, word-marks and slogans are critical to a successful organization, and studies show that the multiple a company's value receives in the market or upon sale is mostly tied to the strength of its brands.

Companies use these laws to control quality in their distribution channel, prevent counterfeits and communicate their message to their markets.

Trademark registration is important to pre-

vent others from adopting brands that would likely cause confusion and to gain other rights that registrants receive.

## Trade secrets

Trade secret protection exists for confidential information. Noncompetition agreements, nondisclosure agreements and other relationships are supported by trade secrets and other confidential information (sometimes called "know how"). They exist when an organization keeps information from being publicly disclosed. Many (mistakenly) feel "protected" by execution of these types of agreements, but their comfort can be misplaced.

Recipients of confidential information may, without realizing it, take on obligations or risk that is greater than they intend. Disclosing parties may find the policing of confidentiality agreement to be expensive, too. So even with such an agreement in place, the discloser and recipient have motivations to limit the disclosure of confidential information to only what is needed for the relationship.

**For more information, please contact [garnold@arnold-iplaw.com](mailto:garnold@arnold-iplaw.com), visit [www.usptclaw.com](http://www.usptclaw.com) or call (713) 972-1150. ●**



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