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Marketing Strategy: How Do I Protect My Idea?

[Kristie Prinz](#)

**Q.** I have an idea to introduce a new marketing strategy for an existing product to a company. Should I consult a lawyer about a patent for this idea before submitting it to that company?

-- *Murray***A.**

In response to your question, you would be wise to consult with an intellectual property attorney before approaching this company. However, patenting your idea may or may not be appropriate, depending on the nature of that idea.

To clarify, patents can be granted on any of the following:

1. Utility patents, which may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;
2. Design patents, which may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and
3. Plant patents, which may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

Assuming your idea falls into any one of these three categories, then it may be patentable. If this is the case, then you should discuss this possibility with your attorney. However, if your idea does not fall into any of these categories, then it may still be protectable by other means.

First of all, it is always a good idea to walk into any such meeting with a well-drafted nondisclosure agreement in hand. An intellectual property attorney should be able to advise you on the terms and conditions that need to be in such an agreement to protect the information you intend to disclose to the other company.

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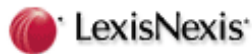
Second of all, since the idea you seek to protect is a marketing strategy, the possibility exists that it may be protectable by copyright law. While ideas themselves are not protectable, certain aspects of your strategy may be protectable by copyright law. An intellectual property attorney in your jurisdiction with expertise in copyright law should be in a position to advise you as to whether or not your strategy is in fact protectable by copyright law and, if so, the steps you should take to protect it.

My advice is to consult with an [intellectual property attorney](#) in your jurisdiction regarding your marketing strategy before you take any action to present it to the other company. Regardless of whether or not the idea can be protected by patent law, you should obtain legal counsel on how best to move forward. Once you receive that advice, you will be in a position to make a decision on how you will proceed.

-- Kristie Prinz

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