



A Brief Guide to Intellectual Property

- What is intellectual property? patents, copyrights, trademarks, and trade secrets
 - Patent: grant to the inventor of the exclusive right to make, use, and sell, and invention for seventeen years. Examples: design patents, method patents.
 - Copyright: protection granted to original works of authorship, which are fixed in a tangible form of expression. Protection under the current law exists throughout the author's life through seventy years after his/her death. Works for hire are protected for ninety-five years following publication or one hundred twenty years after creation, whichever is shorter. Examples: written works, designs, computer programs, websites, photos, videos.
 - Trademark: protection granted to a distinctive mark, name, or slogan, or a combination of all of the above, which is used to identify goods or services. The federal government grants exclusive rights in a trademark for ten years with the possibility of additional renewal periods of ten years.
 - Trade secrets: a proprietary secret that gives one company a competitive advantage over another. Examples: Coca-Cola formula; proprietary computer programs; unpatented inventions.
- How do you gain the right to use a patent, copyright, or trademark, if you are not the owner of that intellectual property? A license agreement must be entered into between the parties. Such license can be exclusive or non-exclusive.
- What happens if you use someone else's intellectual property without a license in place? Your use may constitute intellectual property infringement.
- How do you transfer the rights to a patent or copyright, if the owner wants to give the rights to a third party? Ownership can only be transferred through an assignment agreement, unless the work is create by an employee in the scope of his or her employment. **Note: if you hire someone to create a written work, a design, a computer program, a photo, a video, or a website for you, and that person or company is not an employee, you must have an assignment agreement in place with the creator to own the work (a "work for hire"). Paying the contractor to do the work does not transfer ownership rights!**
- How do you share trade secrets? Limit what you share to extent possible and share it with only those who "need to know"; make certain anyone you share the information with has entered into a good confidentiality agreement with you.
- In many cases, the intellectual property created may be protected by more than one type of protection (i.e. a software program that is protected by a patent and copyright or copyright and trade secret; a design that is protected by patent and copyright law or copyright law and trademark law). So, you need to make certain you consider protecting all rights.

