

# Intellectual Property Rights

Like personal property, intellectual property can be protected in its use and can be sold or conveyed to others.

# Forms of law that protect intellectual property

Basic laws that protect intellectual property rights do so through different forms.

1. Patents
2. Copyrights
3. Trademarks
4. Service marks

# Patents

An exclusive right granted to an inventor by the federal government to profit from the use of the invention.

- Design patents are granted for 14 years while utility and plant patents are granted for 20 years from the date of the filing of the patent application.
- In order to be patentable the subject matter must be new, nonobvious, and useful, and must not infringe on any other existing patent.

# Copyrights

The Federal Copyright Act of 1976 provides protection to authors of literary, choreographic, and artistic works.

- The copyright act is broad in scope and is intended to cover any original work of authorship, regardless of medium. Qualifying works can be registered with the USPTO but registration is **not** necessary to invoke copyright protection.
- Protection lasts throughout the author's life plus 70 years after his/her death for works created after Jan 1, 1978. Copyright owned by publishers last for 95 years from the date of publication or 120 years from the date of creation, whichever comes first.

# Trademarks

Any symbol, picture, design, or words adopted by a manufacturer to distinguish its products from other similar products in the market.

- To qualify to be registered with the USPTO, a trademark must be unique and cannot be a generic name. Company logos and graphic designs can also be trademarked.
- To be registered, a trademark must be used in either interstate commerce or internationally.
- A new registered trademark can be renewed after 5 years and is renewable every 10 years thereafter as long as it is still in use. Trademarks registered before 1990 are renewable every 20 years.

# Service Marks

Service and certification marks are closely related to trademarks and are treated in the same way for purposes of federal registration and renewal.

- A service mark is any distinctive mark used by a service industry for purposes of advertising or sales. (Ex. television network designations ABC, NBC, CBS, FOX).
- Certification marks are specific words or symbols adopted by a group of companies or governmental agencies to denote the quality, origin, or other attribute relating to their goods. (Ex. USDA Choice).

# Trade Secrets

Include business plans, mechanisms, manufacturing techniques, and compiled data that give a business an advantage over its competitors.

- Businesses often choose not to patent trade secrets so that the techniques/data do not become public record and are not useable by other once the patent expires.
- Employees who have access to trade secrets can be sued for damages if they misappropriate or divulge them.
- Because trade secrets are considered the personal property of a company any illegal access to or theft of the information is both a crime and a tort.
- If the information in a trade secret is discovered lawfully, the discoverer is free to use it.