

## Intellectual Property Overview

Intellectual property is perhaps the leading asset class responsible for significant business growth and competition in today's markets. It covers legal rights for creations of the mind, including inventions, brands, creative works and confidential business information. Understanding IP helps organizations safeguard competitive advantages and foster growth.

### Types of IP

- **Patents:** Protect inventions (devices, processes, methods, designs). Grant exclusive rights for a limited time; public gets disclosure and eventual right to use.
- **Trademarks:** Protect names, logos, symbols or other indicators of source for goods/services. Rights arise from use; registration confirms rights.
- **Copyrights:** Protect original works (text, music, software, art). Rights attach when work is fixed in a tangible medium; registration not required for ownership but needed for certain legal remedies.
- **Trade Secrets:** Protect information that has independent value by virtue of being secret (formulas, methods, customer lists). Protection lasts as long as secrecy is maintained.

### Patents

- **Requirements:** Must be new, non-obvious, and useful.
- **Types:** Utility (processes, machines), Design (ornamental features), Plant (new plant varieties).
- **Process:** File application, examination, possible publication, grant and expiration (usually 20 years from earliest filing for utility patents).
- **Why Patent?:** Gain exclusive rights, grow market position, generate revenue, defend against competitors and increase business valuation.
- **Software & AI:** Patentable if technical problem and solution are clearly described; avoid abstract ideas.

### Trademarks

- **Purpose:** Identify and distinguish goods/services.
- **Types:** Word, phrase, logo, color, product packaging, sound, scent, motion.
- **Strength:** Arbitrary/fanciful (strongest), suggestive, descriptive (needs secondary meaning), generic (no protection).
- **Rights:** Exclude others from confusingly similar marks; common law rights from use, federal registration gives national scope and additional benefits.
- **Application & Fees:** In-use or intent-to-use applications; USPTO and professional fees apply.
- **Do/Don't:**
  - **Do:** Search marks, use TM/SM/® as appropriate, choose distinctive marks, monitor unauthorized use.
  - **Don't:** Use marks generically, infringe others' marks, confuse customers, use prohibited marks.

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### Copyrights

- **Scope:** Protects original expression in tangible form (text, images, music, etc.).
- **Protection:** Begins when work is fixed; registration needed for statutory damages.
- **Duration:** Generally 70 years after author's death; corporate works may last up to 120 years.
- **Infringement:** Owner has exclusive rights to copy, adapt, distribute, perform, and display. Strict liability applies; remedies include damages and injunctions.
- **Work Made for Hire:** Employees' works belong to employer; contractors' works require written agreement and must fit statutory categories.
- **Fair Use Exception:** Limited unauthorized use for criticism, comment, teaching, etc.; always fact-specific.

### Trade Secrets

- **Definition:** Information with economic value from not being generally known; must be subject to reasonable secrecy efforts.
- **Situations:** New products, employee transitions, mergers, vendor relationships.
- **Requirements:** Use contracts (NDAs), restrict access, define trade secrets.

### Monetizing IP

- **Licensing & Transfer:** Exclusive/non-exclusive, territorial considerations.
- **Franchising:** Allow others to use your business model for fees/royalties.
- **Production:** Create and sell protectable products/content.
- **Innovation:** Invest in R&D, partnerships, expand portfolio.
- **Enforcement:** Lawsuits, customs actions, cease & desist letters.