

# Intellectual Property for Your Business



## Patents

Protects new, unique, undisclosed, scientific inventions



## Trademarks

Protect company names, logos, slogans, colors, etc.



## Copyright

Protect images, software, music, writings, etc.



## Trade Secrets

Protect business information used for competition

## Quick Facts

- Buying a domain, registering your business with the state, or using a business name does NOT federally protect intellectual property rights
- Infringement is a strict liability offense, which means your intent to infringe does not matter, and damages may be substantial
- Owning a federally registered trademark creates a legal presumption of validity and ownership in court
- A registered trademark is a business asset that can be sold or licensed by the owner separately from the business in which it is used



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## Benefits of Registering Your Trademark

- 1. Increases Business Value.** A registered trademark instantly conveys that your business appreciates and protects intellectual property.
- 2. Infinite, Nationwide Protection.** Trademark protection is enforceable in any U.S. court and lasts indefinitely if properly used and renewed.
- 3. Exclusive & Enforceable Rights.** A registered owner may legally prevent others from using confusingly similar branding and marketing.
- 4. Cost Effective Choice.** Registering a trademark costs very little compared to the potential costs of litigating an infringement dispute.
- 5. Brand Recognition & Goodwill.** A registered trademark preserves your business's name & goodwill and indicates a source of consistent quality.

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## Risks of NOT Registering Your Trademark

- 1. Complete Rebranding.** Without a registered trademark, all investments made towards promoting your business may be lost.
- 2. Seizure of Products or Marketing Material.** If you infringe a registered mark, you may be legally required to give up your products & marketing materials.
- 3. Competitor Imitating or Blocking Business.** Another business can register a similar trademark and prevent you from using yours, even if you used it first.
- 4. Damages for Infringement.** A registered owner may sue you and recover damages, even if you did not know you were infringing.
- 5. Discouraged Investors or Buyers.** Using branding that you do not own exposes you to risks that are unattractive to potential investors.

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## When Should I Hire an Attorney?

### You DON'T need an attorney to:

- Create copyrighted works
- Create your own logos
- Perform a basic trademark
- Protect your trade secrets

### You SHOULD hire an attorney to:

- Perform a clearance search
- Draft contracts/assignments
- Apply for a trademark/patent
- Correspond with the U.S. Patent and Trademark Office
- Enforce and maintain your intellectual property rights

### Benefits of hiring an attorney:

- Mitigates risk of liability for an inadequate clearance search
- Decreases risk of a voidable trademark
- Shields you from fraudulent solicitations
- Assists you in enforcing your rights and maintaining your trademark
- Prevents you from increased risk of rejection or abandonment status

# Intellectual Property

## Helping A Business Identify and Protect Intellectual Property

Types of Intellectual Property	How Best to Protect It
<b>Patents</b> a.) Utility – how an invention is built or works b.) Design – how an invention looks	File a Utility Patent Application File a Design Patent Application <a href="http://www.uspto.gov">www.uspto.gov</a>
<b>Trademarks</b> Logos, slogans, phrases used with services or products	File a Federal Trademark Application <a href="http://www.uspto.gov">www.uspto.gov</a>
<b>Copyrights</b> Original works – writings, computer software, designs, songs, movies	Register with the U.S. Copyright Office <a href="http://www.copyright.gov">www.copyright.gov</a>
<b>Trade Secrets</b> Business information that is valuable because it is unknown – customer and pricing lists, formulas, processes	Keep it secret, limit access to the information, use passwords and physical means to keep it from being freely available, use protective documentation  South Carolina Trade Secrets Act, S.C. Code Ann. § 39-8-10, et seq.

## Business Documentation Directly Involving Intellectual Property

**Employment Agreements** – explains who owns intellectual property

**Employment Policies** – defines intellectual property and how it is protected and used by the employees or third parties, i.e., trade secret policies, use of trademarks policies, how employees should disclose new intellectual property to the company

**Assignments** – transfers ownership of intellectual property to the company

**Non-Disclosure Agreements** – used with third parties to protect information one intends to disclose

**Restrictive Agreements** – covenants not to compete and covenants not to solicit customers

**Confidentiality Agreements** – informs employees of trade secret protections, and how intellectual property should be protected

**Collateral Assignments** – intellectual property can be used as collateral for loans Licenses – allows third parties to use your intellectual property by paying a royalty to you



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