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QUESTION; Briefly discuss the following intellectual property protection methods.

ANSWER:

PATENT;

Patent protection is granted for an invention, a product, or a process, which brings a new technical solution. The invention, which is to be protected by a patent, must be new, useful, functional, and innovative; that is, the solution for which the patent protection is sought should not be an obvious one. Patent protection is usually granted for new innovative products, their composition and technology. The prevailing majority of patent applications are made to patent an improvement of previously existing patented inventions. After the patent was awarded, the patent owner has an exclusive right to prevent others from the commercial use of the patented invention.

Since frequently it is difficult to identify which inventions have commercial potential at the point when they appear, firms may have the tendency to use patenting excessively, which can limit innovation activities of their competitors. Thus, on one hand, patent protection aims to encourage innovation by facilitating that innovative businesses achieve adequate return from their innovations. On the other hand, the overpatenting can also have adverse effects. The cost of patenting is relatively low (especially in case of larger, well-established firms) and potential losses from insufficient protection of innovations are big.

COPYRIGHT;

Copyright refers to the legal right of the owner of intellectual property. In simpler terms, copyright is the right to copy. This means that the original creators of products and anyone they give authorization to are the only ones with the exclusive right to reproduce the work.

Copyright law gives creators of original material the exclusive right to further use and duplicate that material for a given amount of time, at which point the copyrighted item becomes public domain.

When someone creates a product that is viewed as original and that required significant mental activity to create, this product becomes an intellectual property that must be protected from unauthorized duplication. Examples of unique creations include computer software, art, poetry, graphic designs, musical lyrics and compositions, novels, film, original architectural designs, website content, etc. One safeguard that can be used to legally protect an original creation is copyright. Under copyright law, a work is considered original if the author created it from independent thinking void of duplication. This type of work is known as an Original Work of Authorship (OWA). Anyone with an original work of authorship automatically has the copyright to that work, preventing anyone else from using or replicating it. The copyright can be registered voluntarily by the original owner if they would like to get an upper hand in the legal system in the event that the need arises.

TRADEMARK;

Your brand needs to be protected because you do not want to invest time and money only to find out later on that you have to switch to a different trademark because someone else is already using your trademark. In this instance, you would be infringing on that person’s trademark and will have to switch to a different trademark. Trademarks protect brands. The name of the product associated with the product or service is called the trademark. Under trademark law, a trademark is anything by which customers recognize a product or the source of a product. Typically, that would be the words or name associated with the product or service. When the brand or trademark is made up of words, we refer to this as a wordmark. Other things can serve as your trademark. For example, sounds, colors, smells, and anything else that can bring the product and/or its owner to the minds of a consumer can serve as your trademark. The most common types of trademarks are wordmarks, logos, and slogans. If the product configuration (e.g., a Coca-Cola® bottle) or packaging (e.g., Tiffany’s blue packaging) are nonfunctional and recall the product’s maker (i.e., source of the product) for consumers, the configuration can be protected and registered as a trademark.

To properly protect your trademark, you should conduct a search to find out if others are using a similar mark to yours. If not, then file a trademark application to get your trademark registered.

TRADE SECRET;

To identify the trade secrets in your idea, you need to understand the definition of a trade secret. Under trade secret law, a “trade secret” is any valuable information that is not publicly known and of which the owner has taken “reasonable” steps to maintain secrecy. These include information, such as business plans, customer lists, ideas related to your research and development cycle, etc. You don’t submit your trade secret for approval. No government body examines, approves, or registers your trade secret. To establish your information as a trade secret, you need to treat the information as a trade secret.  For example, only those with a need to know should have access to your trade secret information.  Disclosures should be done only under a nondisclosure agreement.  When you take steps to keep information secret, that information becomes your trade secret.

When someone misappropriates your trade secret, you have to prove in a court of law that the information qualifies as your trade secret. You have to show that the misappropriated information was valuable because of its secrecy, and you must show the steps you took to keep it secret.  Put simply, the owner of the trade secret information must prove that the confidential information fits the definition of a trade secret given above. Trade secret protection lasts until the information is no longer valuable, the information is not secret, or the owner no longer takes reasonable steps to maintain its secrecy.