

ENG 384

ENGINEERING LAW ASSIGNMENT

ON

THE DISCUSSION OF SPECIFIC INTELLECTUAL PROPERTY PROTECTION METHODS

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**What are Intellectual Property Rights?**

Intellectual property rights are exclusionary rights given to authors, inventors, and businesses for their literary and artistic works of authorship, useful and ornamental inventions, and valuable information. Intellectual Property Protection is protection for inventions, literary and artistic works, symbols, names, and images created by the mind.

It is important for entrepreneurs and business owners to understand the basics of intellectual property (IP) law to best protect their hard-earned creations and ideas from [unfair competition](https://www.upcounsel.com/unfair-competition). To protect your idea so that someone else cannot steal your idea, you need to secure one or more of the four different types of intellectual property (IP).

The protection of intellectual property rights has come into common use only at the end of the 20th century, though the term appeared a century before. The main aim of IP protection is to guarantee authors their ownership rights and to take legal actions against anyone who copies and uses them without permission.

Another benefit of the IP protection system is that it encourages innovations and creates favorable conditions for creativity to flourish. This is good for separate organizations, every industry, and the whole country’s economy. Intellectual property rights protection fosters technological development and economic growth, attracting investments and creating new opportunities for citizens.

The intellectual Property Protection methods are:

1. Trade Secret
2. Copyright
3. Patent
4. Trademarks

**TRADE SECRET:** This is the first type of intellectual property right. A trade secret is any valuable information that is not publicly known and of which the owner has taken responsible and reasonable steps to maintain secrecy. These include information, such as business plans, customer lists, ideas related to your research and development cycle, etc. Trade secrets can also be referred to items such as recipes that are unique and provide a business with a competitive advantage, but which cannot be safeguarded under current forms of idea protection such as copyright, trademark or patent. All inventions generally start as a trade secret of the inventor. Inventors have an instinctual desire to keep their ideas secret.

Trade secret protects secret information. The trade secret of a business is not examined by the government or any other body before approval except needed then disclosures would be done only under a nondisclosure agreement is signed. In a trade secret the wrongful act must accompany the acquisition of the information. i.e. if trade secrets are stolen, the owner can sue the imposter for misappropriation of trade secrets.

If someone leaks your trade secret to the public, you can sue for theft. Suing, however, cannot stop the person from using the leaked information. So, although you may get money from the suit, you lose the larger potential profits you could have made from the idea. So that’s why it is of great benefit to protect your trade secrets as much as possible. Examples of trade secrets include Soda formulas, Customer lists, Survey results, Computer algorithms

They are **proprietary procedures, systems, devices, formulas, strategies or other information that is confidential and exclusive to the company using them**. They act as competitive advantages for the business.

**COPYRIGHT:**  Copyright protects **the manner in which ideas are expressed (“original works of authorship”)** - written works, art, music, architectural drawings, or even programming code for software (most evident nowadays in video game entertainment). This protects Works of owners from copying. Most products have one or more aspects that can be protected with copyright law. For example, the images and words on the product packaging, the label, the product itself, and the webpage can be protected with copyright. These literary and artistic works are protectable under copyright law.

A copyright will protect the following categories of works:

* literary works
* musical works, including any accompanying words
* dramatic works, including any accompanying music
* pantomimes and choreographic works
* pictorial, graphic and sculptural works
* motion pictures and other audiovisual works
* sound recordings
* architectural works
* computer programs (sometimes the graphical user interface) and websites

Ideas or concepts do not have copyright protection.  It protects the expression of the idea, but not the ideas themselves. In order to qualify under [copyright laws](https://www.upcounsel.com/copyright-law), the work must be fixed in a tangible medium of expression, such as words on a piece of paper or music notes written on a sheet. A copyright exists from the moment the work gets created, so registration is voluntary.

**PATENT:** A [patent grants property rights](https://www.upcounsel.com/patent-registration-services) on an invention, allowing the patent holder to exclude others from making, selling, or using the invention. Inventions allow many businesses to be successful because they develop new or better processes or products that offer competitive advantage on the marketplace. Patents are what most often come to mind when thinking of IP protection. Patents are also used to protect newly engineered plant species or strains, as well. This protects functional aspects and ornamental features. Patents protect processes, methods and inventions that are "novel," "non-obvious" and "useful." Patent protection requires full public disclosure of the work in detail and therefore precludes maintaining any trade secret protection in the same work.

A patent can be of two types

* **Utility**
* **Design**

**Utility patent:** A [utility patent](https://www.upcounsel.com/utility-patent) is the most common type, covering any process, machine, article of manufacture, or composition of matter, or any new and useful improvements thereof. Utility patents are the most expensive type of patent to file for.

To qualify for a utility patent, the invention must be novel, nonobvious, and have some usefulness. Novel means new and not known by anyone else, while nonobvious means that it can't be immediately obvious to someone having ordinary skills in the industry

If you start to market your product without applying for the patent, then eventually (i.e., after one year), your idea will be dedicated to the public. The term for a utility patent is generally 20 years from the filing of your nonprovisional patent application and starts immediately when the patent office issues your patent.

**Design Patent:**  A [design patent](https://www.upcounsel.com/design-patent) covers any new, original, and [ornamental design](https://www.upcounsel.com/ornamental-design) for an article of manufacture, while a [plant patent](https://www.upcounsel.com/plant-patent) covers any new variety of asexually produced plant. A design patent lasts for 14 years, and a utility or plant patent lasts for 20 years. If you start to market your product without applying for the registration, then eventually (i.e., after one year), your idea will be dedicated to the public.

Design patent protect aesthetic appearances only and do not cover product function, and plant patents, which protect the creation or discovery of a new species of flora. The term for a design patent is 15 years from the grant date of your design patent. Design patents are useful only in a few cases. Why? If the infringer changes the look of the product so that it does not look like what is shown in the design patent, then there is no design patent infringement. The following is a non-exhaustive list of situations where a design patent might be useful.

**TRADEMARKS:** A trademark is a word, phrase, symbol, or design that distinguishes the source of products (trademarks) or services (service marks) of one business from its competitors. In order to qualify for patent protection, the mark must be distinctive. It is like a brand name. It is any word(s) or symbol(s) that represent a product to identify and distinguish it from other products in the marketplace.

For example, the Nike "swoosh" design identifies athletic footware made by Nike. 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. This protect brands. A 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.  The name of the product associated with the product or service is called the trademark.

Trademark rights last indefinitely if the company continues to use the mark to identify its goods or services. When the mark is no longer being used, the registration is terminated. The initial term of federal trademark registration is 10 years, with 10-year renewal terms. The cardinal rule is that a mark must be distinctive. The more distinctive it is, the easier your trademark will be to enforce. This is why so many trademarked products have unique spellings. The most common types of trademarks are wordmarks, logos, and slogans. To apply for a trademark, you must have a clear representation of the mark, as well as an identification of the class of goods or services to which the mark will apply.