**EGBOCHUKWU EBENEZER UZOCHIWARA**

**17/ENG01/008**

**CHEMICAL ENGINEERING**

**ENGINEERING LAW ASSIGNMENT**

**Question**

Briefly discuss the following intellectual property protection methods.

1 Patent

2 Copyright

3 Trademark

4 Trade secret

**Answers**

1. PATENT

 A **patent** is a form of [intellectual property](https://en.wikipedia.org/wiki/Intellectual_property) that gives its owner the legal right to exclude others from making, using, selling and importing an [invention](https://en.wikipedia.org/wiki/Invention) for a limited period of years, in exchange for publishing an [enabling public disclosure](https://en.wikipedia.org/wiki/Sufficiency_of_disclosure) of the invention. Patent is a government authority or licence conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention. In most countries patent rights fall under [civil law](https://en.wikipedia.org/wiki/Private_law) and the patent holder needs to sue someone [infringing the patent](https://en.wikipedia.org/wiki/Patent_infringement) in order to enforce his or her rights. In some [industries](https://en.wikipedia.org/wiki/Outline_of_industry#Major_industries) patents are an essential form of [competitive advantage](https://en.wikipedia.org/wiki/Competitive_advantage); in others they are irrelevant. There are three types of **patents**: utility **patents**, plant **patents**, and design **patents**.

The procedure for granting patents, requirements placed on the patentee, and the extent of the exclusive rights vary widely between countries according to national laws and international agreements. Typically, however, a patent application must include one or more [claims](https://en.wikipedia.org/wiki/Patent_claim) that define the invention. A patent may include many claims, each of which defines a specific property right. These claims must meet relevant [patentability](https://en.wikipedia.org/wiki/Patentability) requirements, such as [novelty](https://en.wikipedia.org/wiki/Novelty_%28patent%29), [usefulness](https://en.wikipedia.org/wiki/Utility_%28patent%29), and [non-obviousness](https://en.wikipedia.org/wiki/Inventive_step_and_non-obviousness).

Under the [World Trade Organization](https://en.wikipedia.org/wiki/World_Trade_Organization)'s (WTO) [TRIPS Agreement](https://en.wikipedia.org/wiki/TRIPS_Agreement), patents should be available in WTO member states for any invention, in all fields of technology, provided they are new, involve an inventive step, and are capable of industrial application. Nevertheless, there are variations on what is [patentable subject matter](https://en.wikipedia.org/wiki/Patentable_subject_matter) from country to country, also among WTO member states. TRIPS also provide that the [term of protection](https://en.wikipedia.org/wiki/Term_of_patent) available should be a minimum of twenty years.

1. 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 is the exclusive right given to the creator of a creative work to reproduce the work, usually for a limited time. The creative work may be in a literary, artistic, educational, or musical form. Copyright is intended to protect the original expression of an idea in the form of a creative work, but not the idea itself. A copyright is subject to [limitations](https://en.wikipedia.org/wiki/Limitations_and_exceptions_to_copyright) based on public interest considerations, such as the [fair use](https://en.wikipedia.org/wiki/Fair_use) doctrine in the United States. Some jurisdictions require "fixing" copyrighted works in a tangible form. It is often shared among multiple authors, each of whom holds a set of rights to use or license the work, and who are commonly referred to as rights holders. These rights frequently include reproduction, control over [derivative works](https://en.wikipedia.org/wiki/Derivative_work), distribution, [public performance](https://en.wikipedia.org/wiki/Performing_rights), and [moral rights](https://en.wikipedia.org/wiki/Moral_rights) such as attribution.

Copyrights can be granted by public law and are in that case considered "territorial rights". This means that copyrights granted by the law of a certain state, do not extend beyond the territory of that specific jurisdiction. Copyrights of this type vary by country; many countries, and sometimes a large group of countries, have made agreements with other countries on procedures applicable when works "cross" national borders or national rights are inconsistent.

 In many jurisdictions, copyright law makes exceptions to these restrictions when the work is copied for the purpose of commentary or other related uses. United States copyright law does not cover names, titles, short phrases or listings (such as ingredients, recipes, labels, or formulas). However, there are protections available for those areas copyright does not cover, such as [trademarks](https://en.wikipedia.org/wiki/Trademark) and [patents](https://en.wikipedia.org/wiki/Patent). Some **examples** of works eligible for **copyright** protection are: Literary, musical, graphic, and sculptural works; Motion pictures and other audio-visual works; Derivatives of protected works, such as a sequel (i.e. the Star Wars movies).

 A good example of copyright includes; poems, novels, presentations, computer programs, newspapers, databases, films, choreography, drawings, paintings, sculptures, photos, architecture, musical compositions, dramatic scripts, maps, etc. All these works are copyrightable provided they are original and the author's self-creation.

1. TRADEMARK

 Trade marks indicates a symbol, word, or words legally registered or established by use as representing a company or product. A trademark is a type of intellectual property consisting of a recognizable sign, design, or expression which identifies products or services of a particular source from those of others, although trademarks used to identify services are usually called service marks. The trademark owner can be an individual, [business organization](https://en.wikipedia.org/wiki/Business_organizations), or any [legal entity](https://en.wikipedia.org/wiki/Juristic_person). **Slogans, symbols, or inventive catchphrases are common examples of trademarks.** A trademark may be located on a [package](https://en.wikipedia.org/wiki/Packaging_and_labeling), a [label](https://en.wikipedia.org/wiki/Label), a [voucher](https://en.wikipedia.org/wiki/Voucher), or on the product itself. For the sake of [corporate identity](https://en.wikipedia.org/wiki/Corporate_identity), trademarks are often displayed on company buildings. It is legally recognized as a type of [intellectual property](https://en.wikipedia.org/wiki/Intellectual_property). A trademark identifies the [brand](https://en.wikipedia.org/wiki/Brand) owner of a particular product or service. Trademarks can be used by others under licensing agreements. In most systems, a trademark can be registered if it is able to [distinguish the goods or services](https://en.wikipedia.org/wiki/Trademark_distinctiveness) of a party, will not confuse consumers about the relationship between one party and another, and will not otherwise deceive consumers with respect to the qualities. Licensing means the trademark owner (the licensor) grants a permit to a third party (the licensee) in order to commercially use the trademark legally. It is a contract between the two, containing the scope of content and policy. The essential provisions to a trademark license identify the trademark owner and the licensee, in addition to the policy and the goods or services agreed to be licensed. Although there are systems which facilitate the filing, registration or enforcement of trademark rights in more than one jurisdiction on a regional or global basis, it is currently not possible to file and obtain a single trademark registration which will automatically apply around the world. Like any national law, trademark laws apply only in their applicable country or jurisdiction, a quality which is sometimes known as "territoriality". The Trademark Law Treaty establishes a system pursuant to which member jurisdictions agree to standardize procedural aspects of the trademark registration process. It is not necessarily respective of rules within individual countries.

A trademark may be designated by the following symbols:

* [**™**](https://en.wikipedia.org/wiki/Trademark_symbol)  (the "[trademark symbol](https://en.wikipedia.org/wiki/Trademark_symbol)", which is the letters "TM" in superscript, for an [unregistered trademark](https://en.wikipedia.org/wiki/Unregistered_trademark), a mark used to promote or brand goods)
* [**℠**](https://en.wikipedia.org/wiki/Service_mark_symbol) (which is the letters "SM" in superscript, for an unregistered [service mark](https://en.wikipedia.org/wiki/Service_mark), a mark used to promote or brand services)
* [**®**](https://en.wikipedia.org/wiki/%C2%AE) (the letter "R" surrounded by a circle, for a registered trademark)
1. TRADE SECRET

 Trade secret is a secret technique used by a company in manufacturing its products. A **trade secret** is information that is not generally known to the public; confers economic benefit on its holder because the information is not publicly known; and. where the holder makes reasonable efforts to maintain its secrecy.  A **trade secret** is any practice or process of a company that is generally not known outside of the company. Information considered a **trade secret** gives the company an economic advantage over its competitors and is often a product of internal research and development. **Trade secrets** are a type of [intellectual property](https://en.wikipedia.org/wiki/Intellectual_property) that comprise [formulas](https://en.wikipedia.org/wiki/Formula), [practices](https://en.wikipedia.org/wiki/Best_practice), [processes](https://en.wikipedia.org/wiki/Business_process), [designs](https://en.wikipedia.org/wiki/Design), [instruments](https://en.wikipedia.org/wiki/Legal_instrument), [patterns](https://en.wikipedia.org/wiki/Pattern), or compilations of information that have inherent economic value because they are not generally known or readily ascertainable by others, and which the owner takes reasonable measures to keep secret. In some [jurisdictions](https://en.wikipedia.org/wiki/Jurisdiction), such secrets are referred to as [*confidential information*](https://en.wikipedia.org/wiki/Confidential_information).

A trade secret is information that:

* is not generally known to the public;
* confers economic benefit on its holder *because* the information is not publicly known; and
* where the holder makes reasonable efforts to maintain its secrecy.

**Examples of Trade Secrets:** Information that can be kept as a trade secret includes formulas, patterns, compilations, programs, devices, methods, techniques, or processes. Some examples of trade secrets include customer lists and manufacturing processes. The economic value of the information can be actual or potential.

 In contrast to registered intellectual property, trade secrets are, by definition, not disclosed to the world at large. Instead, owners of trade secrets seek to protect trade secret information from competitors by instituting special procedures for handling it, as well as technological and legal security measures. Legal protections include [non-disclosure agreement](https://en.wikipedia.org/wiki/Non-disclosure_agreement)s (NDAs), and [work-for-hire](https://en.wikipedia.org/wiki/Work-for-hire) and [non-compete clauses](https://en.wikipedia.org/wiki/Non-compete_clause). In other words, in exchange for an opportunity to be employed by the holder of secrets, an employee may sign agreements to not reveal their prospective employer's proprietary information, to surrender or assign to their employer ownership rights to intellectual work and work-products produced during the course (or as a condition) of employment, and to not work for a competitor for a given period of time (sometimes within a given geographic region). Violation of the agreement generally carries the possibility of heavy financial penalties which operate as a disincentive to reveal trade secrets. However, proving a breach of an NDA by a former stakeholder who is legally working for a competitor or prevailing in a lawsuit for breaching a non-compete clause can be very difficult. A holder of a trade secret may also require similar agreements from other parties he or she deals with, such as vendors, licensees, and board members.

 Companies often try to discover one another's trade secrets through lawful methods of [reverse engineering](https://en.wikipedia.org/wiki/Reverse_engineering) or employee poaching on one hand, and potentially unlawful methods including [industrial espionage](https://en.wikipedia.org/wiki/Industrial_espionage) on the other. Acts of industrial espionage are generally illegal in their own right under the relevant governing laws, and penalties can be harsh. The importance of that illegality to trade secret law is: if a trade secret is acquired by improper means (a somewhat wider concept than "illegal means" but inclusive of such means), then the secret is generally deemed to have been *misappropriated*. Thus, if a trade secret has been acquired via industrial espionage, its acquirer will probably be subject to legal liability for having acquired it improperly— this notwithstanding, the holder of the trade secret is nevertheless obliged to protect against such espionage to some degree in order to safeguard the secret, as under most trade secret regimes, a trade secret is not deemed to exist unless its purported holder takes reasonable steps to maintain its secrecy

 The federal law defines trade secrets as "all forms and types of" the following information:

* Financial
* Business
* Scientific
* Technical
* Economic
* Engineering

**CITATION/ REFERENCES**

1. Lin, Thomas C.W. (8 October 2013). ["Executive Trade Secrets"](https://scholarship.law.nd.edu/ndlr/vol87/iss3/1/). Notre Dame Law Review. **87** (3): 911. [SSRN](https://en.wikipedia.org/wiki/Social_Science_Research_Network) [2047462](https://ssrn.com/abstract%3D2047462). Retrieved 20 February 2020.
2. Bessen, James; Meurer, Michael James (2008). Patent failure: how judges, bureaucrats, and lawyers put innovators at risk. p. 132. [ISBN](https://en.wikipedia.org/wiki/International_Standard_Book_Number) [978-0-691-13491-8](https://en.wikipedia.org/wiki/Special%3ABookSources/978-0-691-13491-8).. Based on an [American Intellectual Property Law Association](https://en.wikipedia.org/wiki/American_Intellectual_Property_Law_Association) (AIPLA) survey of patent lawyers (2005), and court documents for a sample of 89 court cases where one side was ordered to pay the other side's legal fees.The containing chapter ('The Costs of Disputes') also tries to quantify associated business costs.
3. Krotoski, Mark L. (November 2009). ["Common Issues and Challenges in Prosecuting Trade Secret and Economic Espionage Act Cases"](https://www.justice.gov/usao/eousa/foia_reading_room/usab5705.pdf) (PDF). United States Attorneys' Bulletin. Washington, DC: [United States Department of Justice](https://en.wikipedia.org/wiki/United_States_Department_of_Justice). **57** (5): 2–23, at p. 7.
4. Robert P. Merges, Peter S. Menell, Mark A. Lemley (@006) Intellectual Property in the Technological Age, 3rd ed.; Aspen
5. Australia, I. P. (10 March 2016). ["Trade mark basics"](https://www.ipaustralia.gov.au/trade-marks/understanding-trade-marks/trade-mark-basics). www.ipaustralia.gov.au. Retrieved 14 January 2020.
6. Lech, Mikołaj (20 January 2018). ["The oldest registered trademarks in the world"](https://znakitowarowe-blog.pl/the-oldest-registered-trademarks-in-the-world/). Trademark Blog.
7. ["Understanding Copyright and Related Rights"](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_909_2016.pdf) (PDF). www.wipo.int. p. 4. Retrieved 6 December 2018.
8. Stim, Rich (27 March 2013). ["Copyright Basics FAQ"](https://fairuse.stanford.edu/overview/faqs/copyright-basics/). The Center for Internet and Society Fair Use Project. Stanford University. Retrieved 21 July 2019.
9. Oanna Kostylo, "From Gunpowder to Print: The Common Origins of Copyright and Patent", in Ronan Deazley et al., Privilege and Property: Essays on the History of Copyright (Cambridge: Open Book, 2010), 21-50; online at books.openedition.org/obp/1062).