Guarding Your Company's Intellectual Property Rights: Patents, Trademarks, and Copyright Protection

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GUARDING YOUR COMPANY’S INTELLECTUAL PROPERTY:

Patents, Trademarks and Copyright Protection

As a water treatment business owner, you probably do a pretty good job of protecting the obvious valuables your company has. You put the cash box into the safe, stow away the keys, lock the door and turn on the burglar alarm when you leave the office at night. But there are other valuable assets that your company owns which you may not be protecting to their fullest.

I’m talking about your company’s intellectual property—the ideas that could be stolen by a competitor and used against you. Your ideas are important! They form the basis for your products, your service and your daily techniques. Your ideas create the business image that’s as tangible as any sign you hang in front of the office. If you are not taking a few simple precautions to protect these ideas, you could be in danger of having your business eaten away by your competition.

Patent Protection

Almost every family has a story told by some old uncle who claims he invented a valuable device, only to have his idea stolen because he never got a patent. (In my family, one of my great uncles claimed to have invented the rear turn signal for automobiles but never got credit for his work.) These old stories are sometimes a bit far-fetched, but other times they’re actually true.

If you or your company invents (or even if you just have plans for) a new and useful tool, machine, mechanical process or improvement on an existing machine or process, you need to investigate patent protection through the Patent and Trademark Office (PTO) of the U.S. Dept. of Commerce.

A patent will allow you to protect your invention from copying by other people who would use it for profit without giving you proper credit. A patent will allow you not only to protect your work from copying by other people, but it will give you the right to license your invention for duplication and distribution, to make sure you earn the royalties from it.

I’m not a patent attorney, so I can’t tell you all the ins and outs of the law. But I do know that if you have plans for a type of invention as described above, one that is utilitarian, novel and non-obvious (it’s not something anybody would commonly think up) you need to consult with an attorney to begin the process to secure protection.

It often takes more than a year to secure a U.S. patent and the process costs several hundred dollars. Along the way, you will need to have very precise documentation of when you first thought of the idea, when you started physical work on it, what work was done, who helped you (if anyone) and what results you obtained. While it is relatively easy to secure patent protection here in the U.S., every country has its own rules and patents. It’s a very complicated and expensive process to obtain worldwide protection for something you wish to market overseas. That’s why it’s so critical that you obtain legal representation for yourself when you’re even thinking about putting plans down on paper for a new invention or process.

It’s important to be very careful with whom you share information with

By Doug Swanson

About The Author

Doug Swanson has 12 years experience in broadcasting journalism and public relations. He is on the faculty at Cameron University in Lawton, OK where he teaches mass media and communications courses.

Vice-President of the Swanson Group, a research, marketing and public relations firm, Swanson got an early start in water conditioning while working in his father’s North Hollywood, CA franchise. He was later general manager of a Rayne dealership.
about your discovery. Remember, it often takes more than a year to get a U.S. patent approved. There are many steps along the way at which paperwork needs to be filed with the patent office in Washington, D.C. If you have shared your information with someone else or are negligent about keeping up with the paperwork, you could be in danger of having your idea used by someone else.

If you get a good attorney and follow all the steps laid out by the government, you should be able to adequately protect yourself, your ideas and your profits from theft by potential competitors for your lifetime or longer.

**Trademark Protection**

While patents protect physical items or processes, trademark protection legally secures your rights to the two-dimensional word, phrase or design which may distinguish that item from the competition.

A trademark can be applied to a single word, a series of words or a design which identifies and distinguishes a particular product or service from other similar products or services offered by other companies.

In our company, for example, we do not “invent” physical items or processes. But we do get involved in extensive research work and then transfer the findings of that research into documents and services which we sell to clients. In order to distinguish our company and our work from other research-related firms, we have secured trademark protection for both our name and our corporate slogan:

The Swanson Group® Research, public relations and marketing for business, education and industry™.

When we applied to the state of Oklahoma to get our in-state trademark protection, the state initially balked at offering us protection, since there was a “Swanson Company” also operating in Oklahoma. In the end, we were able to secure rights to what we wanted. But it was an indication that states are very concerned about granting trademark protection properly and accurately so that no one is confused between two companies with almost the same name.

You can secure trademark protection for a name or phrase when you have actually put that name or phrase into use -- or you intend to do so upon trademark approval. You cannot trademark names or phrases and “store them up” for future use.

Do not underestimate the importance of this protection! The companies which developed “aspirin,” “kerosene,” “linoleum,” “malted milk” and “nylon” all did. These terms for products all started out as protected trademarks for particular items. They lost that legal protection when their corporate developers failed to uphold the association between the name and the specific product it represented.

That’s why today, Kleenex works hard to identify its products as “Kleenex brand tissues” and Xerox Corp. works hard to remind us that we can “photocopy” documents but not “Xerox” them. These firms and thousands of others don’t want to lose their valuable trademark protection by allowing their terminology to become common language.

You certainly will want to legally protect your company at the state level (here in Oklahoma, in-state protection through the Secretary of State costs only $25). You may also want to protect yourself with a Federal Trademark Registration. Federal
Copyright Protection

A copyright is the easiest form of protection for you to obtain for your valuable business information (and it’s often the most neglected). Any document which comes out of your office and could be used by other people to create a competitive disadvantage to your firm should be copyright protected.

A copyright gives your company the sole right to reproduce, distribute, perform or display written work which you created. You need to copyright the following items:

- Sales brochures (all of them)
- Product specification sheets or narratives
- Posters and display banners
- Overhead transparencies and photographs
- Advertising copy, scripts or original music themes

Material which is copyrighted is legally protected for the life of the author plus an additional 50 years. During that time, if your original copyrighted material is taken by a competitor and reproduced in any way without your permission, you likely will have grounds to sue for damages.

Although you can register your copyright with the Federal government by paying a fee and filling out a form through the Federal Copyright Office, this registration is not required. All you need to do to protect each document is put your name (or your company name) and the year written in a prominent place on the document, like this:

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This little line puts all readers of the material on notice that you will protect your rights to be the sole reproducer and distributor of that document. It gives a silent warning that you will be serious about copyright infringement. Most importantly, if your work is stolen and used without your permission, the publication of this notice gives you legal documentation to take to court to seek redress.

Which brings up another point: if you are infringing upon someone else’s copyright by using their material in your brochures or presentations without paying for it, you could be in for trouble! These days, authors (and their legal representatives) are getting more and more earnest about tracking down people and organizations which infringe on copyright protection. Even if you simply make photocopies of an innoxious little newspaper article to give to prospects, you could find yourself obligated to make royalty payments for use of that article. (Many authors will gladly give you permission to reproduce articles if you just call and ask. On the other hand, they will also gladly sue the pants off you if you used their work and didn’t ask permission first!)

Summary

Remember, your company assets extend beyond equipment, vehicles and real estate. Some of the most valuable items you own are your ideas for products, services and techniques. You need to investigate the full protection that the law will allow through the use of patents, trademarks and copyrights on these ideas. Contact a good attorney and have him/her make an analysis of your current situation and determine what needs protecting and how you should go about protecting future ideas so they remain your property and not your competitors.

Additional Sources

Copyright Office, Library of Congress
101 Independence Ave. SE
Washington, DC 20559 • (202) 707-6850

Commissioner of Patents and Trademarks
U.S. Department of Commerce
Washington, DC 20231 • (703) 557-5652

U.S. Trademark Association (non-profit)
6 East 45th St.
New York, NY 10017 • (212) 986-5880

