**Intellectual Property Overview**

|  | **Trade Secrets** | **Trademarks** | **Copyright** | **Patent** |
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| **What is protected** | Confidential business know-how (e.g., formulas, recipes, methods, processes) | Basically, your brand: a word/phrase, slogan, logo or visual symbol (trade dress) that supports a brand | Writing, computer software code, music, art, architecture, graphic design | An invention in any of 3 categories:   1. Utility (machine, process, manufactured good, method) 2. Plant 3. Design |
| **Examples** | Coca-Cola secret recipe | Google  Just Do It | To Kill A Mockingbird  Images in a video game | Harness for attaching a camera to your body (GoPro)  Network folder synchronization (Dropbox) |
| **Criteria for protection** | * Information that is (a) confidential & (b) valuable to your business * Efforts to keep the information confidential | * Distinctive – not generic or descriptive * Identifies the source of the product or service * Used in business | * Original (new) * Creative (not merely a recitation of facts) * “Fixed in a tangible medium of expression” (e.g., writing, music, art) – copyright protects the mode of expression, not the underlying ideas | * New * Non-obvious * Useful (for a utility patent) |
| **Period of protection** | Until information is no longer secret | Until trademark is no longer used in business or enforced | Generally, life of creator + 70 years | 20 years from application filing date (14 years for design patents) |
| **How to protect** | By actively keeping the information confidential – it is a trade secret until it is no longer secret | * By actively using your brand or company name/logo in commerce * Registration is not required for protection, but registration with the U.S. Patent and Trademark Office (PTO) does make it easier to enforce your rights and easier for potential competitors to find your trademark | * Copyright attaches automatically to copyrightable works * However, registering your copyright with the U.S. Copyright Office does give you the right to sue for infringement (the perceived downside being that registration requires publicizing your work) | * By filing a patent application no later than 1 year after you disclose your invention, and waiting for the government to decide whether or not to grant the requested patent * A provisional patent application is less cumbersome & expensive, and it essentially serves as a placeholder while you prepare the full application |
| **Practical advice** | Use NDAs and non-competes to provide evidence of efforts to maintain confidentiality | * Engage legal counsel to do a thorough trademark search (beyond the PTO trademark database) before investing in a trademark * Enforce your trademark: regularly check for infringement by others | * Be wary of using materials (e.g., images) found online – check license restrictions * Require independent contractors to assign all copyright produced in the scope of their work to the business (copyright produced by employees is deemed to be produced for the business) | * Avoid public disclosure – if you do disclose your invention, file your patent application within 1 year of the disclosure – if more than 1 year has passed, the invention is deemed to be no longer new and therefore is not patentable * Use provisional applications strategically – file early to establish an earlier filing date (to get in line first), which will last for 12 months * Application requires full disclosure – this is the “price” for obtaining a patent * Require employees & independent contractors to assign all copyright produced in the scope of their work to the business |
| **Costs** | None, except costs of maintaining secrecy | * Initial registration filing fee ($225-$400 per class of goods & services being registered) * Possibly, legal fees associated with performing trademark searches and other related services * Small registration maintenance fees (5-6 years after initial filing, 9-10 years after initial filing, and then every 10 years thereafter) | Registration filing fee (<$100) | * Initial registration filing fee * Except for provisional applications, search fee, examination fee and possible miscellaneous other fees (see <https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule>) * Registration maintenance fees for utility patents (due after 3.5 years, 7.5 years & 11.5 years) * Legal fees associated with preparation and review of patent application |