

# Tips for Protecting your Intellectual Property

By Paula Constantino

**What are some of your most valuable assets?** Your concrete ideas, your original concepts, your unique process for accomplishing something... these may represent some of your most valuable assets and essentially comprise your intellectual property. You have invested your time, effort, creativity and money to develop these assets, but what are you doing to protect them.



**What are you doing to protect these assets?** What tools or means are most effective in protecting your intellectual property?

The primary means for protecting your intellectual property include the following:

- **Confidentiality or Nondisclosure Agreement** protects your trade secrets and other confidential information that is unique to your company. This is a dated legal agreement that must have legal consideration for both parties; have the Confidential Information clearly defined; includes a specific agreement not to use or disclose such Confidential Information; includes certain standard exclusions, such as no warranties – “as is;” provides that the agreement is effective for up to 2 years after termination of relationship; monetary damages are not sufficient; this represents the entire agreement with no modification unless signed by both parties; includes standard legal boilerplate for agreements; and is signed by both parties with their street addresses.
- **Copyright** protects content that you have written, designed or created when it appears in print, electronic or other such format, including your website content. This material may be protected with a copyright notice that appears as follows: © 2005 [your name or company name]. All rights reserved. (The © is typed by (c). Word converts this to the symbol automatically.) Articles, books, audio and video recordings and such are materials that may be protected under copyright law. This is one protection that you should be able to use without outside legal advice, but if you have any questions, do consult an attorney.
- **Trademark** is used to protect your unique company or product name, marketing phrase, brand or other unique designation or design. To insure your own exclusive use, you need to verify eligibility and to file an application with US Patent and Trademark Organization (USPTO). To be eligible for registration, your proposed trademark needs to be unique, not merely descriptive and not be applied or registered for in your business area, referred to as “goods and services” classifications. After you research your mark to insure that it has not already been applied for in your area, you can file the trademark application online yourself at [www.uspto.gov/teas/index.html](http://www.uspto.gov/teas/index.html). You may need to consult an attorney if you have any doubts about your mark’s eligibility.

- **Patent** protects a *unique, original* invention or unique way of accomplishing a specific task that is *new, useful and not obvious*. Most think patents as being used for inventions like the infamous “better mousetrap,” but more recently the business method patent has been recognized with the “one click” purchasing online being one of the seminal cases. Patent protection, however, requires extensive research; and if the invention or process is deemed qualified, filing by a qualified patent attorney with the US Patent and Trademark Organization (USPTO) is required.

**Now is the time for you to take a hard look at your business in terms of your intellectual property.**

- Does your company possess trade secrets or other confidential information, for example, an exclusive customer list? If so, protect that information with a confidentiality or nondisclosure agreement.
- Have you developed some advertising or marketing copy that you have created that is of value to your business? If so, protect it with your copyright notice.
- Have you written articles, created other written materials, developed a website, created a CD or DVD or any other such material that you value and would not want someone else to copy? If so, protect them with your copyright notice.
- Does your company or product have a unique name or brand that you would not want someone else to use? If so, look into trademark protection.
- Have you created a unique product or developed a unique way of doing something that you would not want someone else to copy? If so, investigate the possibility of applying for a patent with a qualified attorney.

This **brief overview** is designed to get you thinking about what you have developed and to assess its value to you and your business. Its purpose is to provide you with the **impetus to take steps to protect your intellectual property – some of your most valuable assets.**\*

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**\*Note:** This article does not constitute legal advice or establish any attorney/client relationship; it is presented solely for informational purposes.