

INTELLECTUAL PROPERTY PRIMER

- AN INTRODUCTION TO PROTECTING INTELLECTUAL PROPERTY RIGHTS -

I. OVERVIEW

"Intellectual property" is a general term that refers to a variety of legal mechanisms to protect intangible personal property rights. Some forms of intellectual property or "IP" are identified by a certificate issued by either the federal or state government, while others have been developed by the courts over time in recognition of what is fair and important to business and the public, referred to as the "common law." Other types of intellectual property take both forms.

Each form of intellectual property has its own rules and requirements for achieving protection and is designed to protect a particular aspect of a product, service, art form, or other intangible asset. For a given situation, one form of intellectual property may be of significantly greater benefit than others or may be the only protection possible. Sorting out what forms of protection are available to you or your company is, therefore, the first step in establishing an effective intellectual property protection program.

How much protection a business or a particular project needs for its intellectual property is a highly individualized determination that can be based upon the type of business you are engaged in, who your competitors are, the way in which you compete, the manner in which you market your products and business, and the way in which your business recoups its investments. A program that is right for one company may be wrong for another. As always, costs and return on expenses play a major role.

The most common forms of intellectual property fall into the following categories:

- **PATENTS** - inventions, developments, and improvements, such as devices, machines, methods of manufacture, business methods, pharmaceutical products, ornamental designs for useful objects, and new varieties of plants.
- **TRADEMARKS** - product and company names, logos, and other identifiers.
- **COPYRIGHTS** - marketing materials, catalogs, manuals, and software.
- **TRADE SECRETS** - confidential business, financial, and technical information.

Although this list is of distinct forms of intellectual property, in many cases, several types of intellectual property protection may apply to the same product or design. For example, the exterior design of a piece of equipment, in some instances, can be protected under both the patent and the trademark laws, and an artistic drawing can be protected under both the trademark and the copyright laws.

There are other forms of intellectual property-related law, such as rights of publicity and rights of privacy, that have been developing over time, as well as specific state statutes, such as state consumer protection laws. All of these areas can play a role in developing a program for protecting the intangible assets of your business.

This information is intended to provide a general overview of some forms of intellectual property in order to make your meetings with intellectual property counsel more efficient and productive. This primer does not constitute legal advice or take the place of competent legal advice from intellectual property counsel.

An Intellectual Primer

**Royal Geographical Society (Great
Britain). Library, Godfrey Matthew
Evans**

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