

Protect intellectual property for business advantage

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Most business owners know they need to protect their intellectual property through copyrights, trademarks and patents. But according to attorneys Derek Newman and John DuWors from Newman & Newman, Seattle, many people are unsure about what can be protected, and how. Following are some of the points the two attorneys shared at a Richland seminar recently.

Copyrights

A copyright protects original works that are expressed in a tangible medium, such as a computer code, Website, photo, or article. The copyright is established when the work is created. A copyright lasts for the life of the creator plus another 70 years, or 95 years from when a company or anonymous source publishes it.

The creator owns the copyright whether it's registered or not, but registering it with the U.S. Copyright Office can help in a dispute later. Winning a copyright lawsuit can mean financial gain. According to Newman, "your award typically covers the cost of the lawsuit, plus damages ranging from \$750 to \$150,000 for each time a copyright is infringed upon."

Trademarks

A trademark protects a name, word, symbol or device that identifies the source of the product or service. Well-known trademarks are the Nike "swoosh" and the NBC peacock.

The first person or company to use the trademark owns it. But as with copyrights, registering the trademark may help in a lawsuit. Courts differ in their interpretations of trademarks. But one area of clear-cut infringement is "when you slap someone else's trademark on your product and claim it as your own," Newman said.

Patents

Patents protect inventions that are deemed novel, useful and non-obvious by the U.S. Patent and Trademark Office. You can patent everything from a device to a business method to a genetically modified plant.

In the United States, once an invention is published or commercialized, you're allowed one year to file the patent application. In Europe, patents are granted to whomever files first. Patents issued in the United States and European countries last 20 years from when the application is filed.

Trade Secrets

Trade secrets contain information that would be valuable to competitors if disclosed. There's no expiration duration on trade secrets. DuWors and Newman recommend asking employees and contractors to sign nondisclosure agreements promising not to reveal proprietary information.

Some people will attempt to discover a trade secret through reverse-engineering, like using chemistry to figure out the ingredients in a famous food product. "This is lawful," Newman said, "and some companies will avoid that risk by patenting the information as an invention instead." The downside is that patents are publicly available. "So your secret is revealed, but there's less risk of it being stolen," he added.

A separate category is rights of publicity, giving the right to use a name, image, signature, or voice for promotional purposes.

"Having intellectual property but not recognizing it can be an untapped goldmine for a business," DuWors said. "Use an expert to help you identify it, then protect it appropriately." Newman and DuWors' presentation is available at http://www.pnl.gov/edo/documents/ip_ownership.ppt.