

FAQ-19

How Do I Protect Intellectual Property?

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Patents, trademarks, and copyrights are used to protect intellectual property. When you have one of these, you can keep other people from using your property without your permission. There are four types of intellectual property protection.

Patent:	Protects an original device or process or composition of matter
Registered Trademark:	Guards a product name, logo, symbol, or figure
Service Mark:	Guards a brand or service name, logo, symbol, or figure
Copyright:	Protects creative expressions and printed materials, e.g., consulting manuals, books, maps, or computer software

Patents

There are three types of patents. A **utility patent** is for a process, machine, article of manufacture, composition of matter, or any new and useful improvement thereof. A **design patent** is for the ornamental design for an article of manufacture. A **plant patent** is for inventing or discovering and asexually reproducing any distinct and new variety of plant.

An individual wanting to obtain a patent must make an application to the United States Patent and Trademark Office (USPTO). An examiner will review the patent application to see if the invention is eligible. An application is a complex legal document, so it is advisable to use someone trained in the field to create it.

Patents are typically valid for 20 years. The application process for a utility patent costs at least a few thousand dollars and sometimes \$10,000 or more, including the fees of a patent attorney or agent. The application process takes from 1 to 3 years, but may take longer. If the claims of the application are rejected (usually because the examiner found prior patents), then the applicant may respond using an appeal process.

Trademarks and Servicemarks

Trademarks can be words, names, symbols, or devices that are used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. A **service mark** is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. Trade or service marks cannot be for names, titles, or certain categories of similar phrases and cannot be generic terms.

There are two ways to obtain these marks. First, a mark can be acquired by using it in commerce. Second, it can be registered with the federal government (USPTO) and/or individual states. Acquiring a trademark through use alone limits the mark owner to protection of the mark in the geographic area in which it is used.

A typical registration fee is \$335 per class of good and/or service sold in conjunction with the mark. Protection lasts for 10 years before it needs to be renewed, but certain filings attesting to use of the mark must be made at 8 and 15 years after the mark is registered.

Copyrights

Obtaining copyright does not require an official registration. A created work is considered protected by copyright as soon as it exists. If the work has been put into a fixed form, such as written down or recorded, then it is considered copyrighted. While registration is not necessary, filing with the U.S. Copyright Office of the Library of Congress adds protection in the event of a dispute.

The registration fee is \$30. Generally copyright protection lasts for the author's life plus 70 years.

Resources for Protecting Intellectual Property

Resources	Sources
<i>Intellectual Property: Obtaining Patents, Trademarks and Copyrights</i> (EC-723). Purdue Extension. Describes the four general types of intellectual property rights and explains how to obtain protection.	http://www.ces.purdue.edu/extmedia/EC/EC-723.pdf
US Patent and Trademark Office Web site. Offers information for patent, trademark, and service mark queries, including an online searchable database.	http://www.uspto.gov/ Phone: (800) 786-9199
US Copyright Office, Library of Congress Web site. Offers searchable database, publications, and other online resources.	http://www.copyright.gov/ Phone: (202) 707-3000
Indiana Secretary of State. Offers information on trademarks in Indiana and how to obtain them.	http://www.in.gov/sos/ Phone: (317) 232-6540

For one-on-one help to explore a business idea, contact the New Ventures team (Jerry Nelson: 812-886-9582, jnelson@purdue.edu), or begin writing a business plan at the Purdue Agricultural Innovation and Commercialization Center's Web site <<http://www.agecon.purdue.edu/planner>>.

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