



# Branding your Business or Non-Profit

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# Considerations for Starting a Business

- Formation, Contracts, Employees, and Intellectual Property Protection
- **Key Concerns in Business Structure:** Control, Financing, Liability and Tax Obligations

Corporations

Limited Liability Company ("LLC")

Partnerships

Sole Proprietorship

# What is Intellectual Property?

Inventor of a machine, author of a book, the writer of a song, or the creator of a business

Years in the development of industries and encouraging new talent to produce and create more original ideas

## **Trademarks**

Trade Dress

## **Copyrights**

Publicity

## **Patents**

Trade Secrets

# Use of Name or Logo

- A company's brand is one of its most valuable assets
- It symbolizes source-identity
- Helps consumers recognize the origin and source of goods
- Establishes reputation about a quality or nature of goods

# Trademarks and Trade Dress

Trademarks protect words, names, symbols and logos ®

- **Standards:** Distinctiveness and use in commerce
- **Rights:** Exclude competitors from using the mark or similar mark
- **Acquisition:** Use, USPTO application (may, but not required)

Trade Dress protects the physical appearance, including size, shape, color, design and texture

# Copyrights

Copyrights protect writings, music, and works of fine arts, as well as technology-based products

- **Standards:** Original works of authorship, fixed in a tangible medium of expression
- **Rights:** Copy, perform, display, distribute, and create derivative works
- **Acquisition:** Upon fixation, Copyright Office Registration (may, but not required)
- **Limitations:** *Duration, Fair Use, and Public Domain*

# Patents and Trade Secrets

Patents protect useful inventions

- **Standards:** Must be new, useful, and non-obvious
- **Rights:** Excludes others from making, using, selling or offering invention for sale for a period of 20 years
- **Acquisition:** USPTO application

Trade secrets protect valuable commercial information that provides a business with an advantage over any competitor that does not have that information

- **Standards:** Must be valuable and kept secret
- **Rights:** Exclusive right to use the secret for commercial advantage over competitors
- **Acquisition:** No registration, it applies so long it is treated as a secret

# Registration and Use of IP

Developing and maintaining strong protected brands is the proper acquisition, exploitation, and enforcement of a company's trademark and other intellectual property

- **Benefits of registration:** Nationwide protection, and competitive advantage in the marketplace
- **Duty to use:** Durations in certain uses are not limited in time, rather in use



# When to Contact an IP Attorney?

- Early as possible in the selection and clearance process
- To avoid risk of losing significant business commitment
- When selecting, clearing, and registering IP
- For maintaining strong and protectable trademarks by employees and third parties
- Implementing policies for social media protection
- The internet and social media presents enormous opportunities for brands as well as challenges for protecting brands from misuse and reputational damage

# Thank you! Questions?

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