

# Protect Your Ideas With Copyrights and Patents

By Tim Knox

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Small Business Q&A  
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Q: Can you tell me the difference between a copyright and a patent? Also is that something I should let a lawyer handle for me?

A: A wise man once said, "The biggest difference between a copyright and a patent is the number of lawyers it takes to do the paperwork." There is a point to be made there, mainly that if this wise man had paid his attorney to copyright that tidbit of wisdom I probably would have had to pay him five bucks to use the quote.

Copyrights, trademarks and patents are similar in that they are designed by law to protect your rights of ownership, but that's where the similarity ends. A copyright protects a creative work; a trademark protects a brand or company identity; and a patent protects an invention or process.

A copyright protects the rights of anyone who creates an "original work of authorship." A copyright owner has the exclusive right to reproduce the work; prepare spin-off works based on the copyrighted work; and to sell, perform and/or

display the copyrighted work in public.

Copyright protection is afforded to eight categories of creative works: literary works (the written word); musical works (lyrics, music, melodies); dramatic works (plays, scripts, screenplays); artistic works (pictorial and sculptural), sound recordings (LPs, CDs, audio tapes); choreographic works (dance, pantomime); audiovisual works; and architectural works (blueprints, designs, renderings).

An original work is automatically copyrighted the moment it is put into a fixed format such as a paper copy or recording. In other words, once you put your original story in writing or make a recording of an original song, your copyright is automatically secured. From that moment on your work has copyright protection for your lifetime, plus 50 years after your death.

Registering a work with the U.S. Copyright Office is not required, but since it is relatively simple and inexpensive to do so, I advise that you register a copyright for each work you wish to protect. Also, your copyright must be registered in order to take legal action against someone who might infringe on the copyright in the future.

You can register a copyright without the assistance of an attorney. Simply visit the U.S. Copyright office website at <http://lcweb.loc.gov/copyright/> and download the appropriate form. Complete the form and send it in with a \$30 nonrefundable filing fee. This must be done for each individual work you wish to protect.

A patent is a form of protection granted to an inventor that protects his invention in the United States for up to 20 years from the date of application. Patent law states that, "whoever invents or discovers any new and useful process, machine, manufacture, composition of matter, or any new and useful improvements thereof may obtain a patent." Owning a patent gives you the legal right to stop someone else from making, using or selling your invention (or one that's very close to it) without your permission. However, proving that someone is infringing on your patent is often difficult and usually requires a trial to settle the dispute.

Since the first U.S. patent was awarded in 1790, more than five million patents have been awarded. The patent office receives more than 230,000 patent applications every year and I can tell you from personal experience that a turtle on Prozac moves faster than the patent process. Patents can take several years, truckloads of paperwork, and considerable legal fees to obtain. The cost of obtaining a patent can run from \$500 for a simple design patent to \$50,000 and more for a complex utility patent. However, if your company has a truly patentable idea, you would

be wise to invest the time and money required to secure your rights. A good patent can be a valuable business asset.

While you can file a patent yourself, I strongly advise that you use an attorney since a naively written patent application often isn't worth the paper it's printed on. Just recently my attorney did a patent search for me only to discover that a patent for a similar product was already in place. However, due to the ineffectual language of the patent application, the patent was practically impossible for the owner to enforce.

Good news for me. Not so good news for the wise man who wrote his own patent.

Here's to your success!

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Small Business Q&A is written by veteran entrepreneur and syndicated columnist, Tim Knox. Tim serves as the president and CEO of three successful technology companies: B2Secure Inc., a Web-based hiring management software company; Digital Graphiti Inc., a software development company; and Sidebar Systems, a company that creates-cutting edge convergence software for broadcast media outlets. Tim is also the founder of OnlineProfits4U.com, an ebusiness dedicated to the success of online entrepreneurs.

Tim is also the Ebusiness Startup and Design Expert for Entrepreneur.com, the website of the national publication Entrepreneur Magazine.

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