

principles of Entrepreneurship

>>15. Intellectual Property: A Valuable Business Asset

Intellectual property is a valuable asset for an entrepreneur. It consists of certain intellectual creations by entrepreneurs or their staffs that have commercial value and are given legal property rights. Examples of such creations are a new product and its name, a new method, a new process, a new promotional scheme, and a new design.

A fence or a lock cannot protect these intangible assets. Instead, patents, copyrights, and trademarks are used to prevent competitors from benefiting from an individual's or firm's ideas.

Protecting intellectual property is a practical business decision. The time and money invested in perfecting an idea might be wasted if others could copy it. Competitors could charge a lower price because they did not incur the startup costs. The purpose of intellectual property law is to encourage innovation by giving creators time to profit from their new ideas and to recover development costs.

Intellectual property rights can be bought, sold, licensed, or given away freely. Some businesses have made millions of dollars by licensing or selling their patents or trademarks.

Every entrepreneur should be aware of intellectual property rights in order to protect these assets in a world of global markets. An intellectual property lawyer can provide information and advice.

The main forms of intellectual property rights are:

- **Patents:** A patent grants an inventor the right to exclude others from making, using, offering for sale, or selling an invention for a fixed period of time - in most countries, for up to 20 years. When the time period ends, the patent goes into the public domain and anyone may use it.
- **Copyright:** Copyrights protect original creative works of authors, composers, and others. In general, a copyright does not protect the idea itself, but only the form in which it appears - from sound recordings to books, computer programs, or architecture. The owner of copy-

righted material has the exclusive right to reproduce the work, prepare derivative works, distribute copies of the work, or perform or display the work publicly.

- **Trade Secrets:** Trade secrets consist of knowledge that is kept secret in order to gain an advantage in business. "Customer lists, sources of supply of scarce materials, or sources of supply with faster delivery or lower prices may be trade secrets," explains Joseph S. Iandiorio, the founding partner of Iandiorio and Teska, an intellectual property law firm. "Certainly, secret processes, formulas, techniques, manufacturing know-how, advertising schemes, marketing programs, and business plans are all protectable."

Trade secrets are usually protected by contracts and non-disclosure agreements. No other legal form of protection exists. The most famous trade secret is the formula for Coca-Cola, which is more than 100 years old.

Trade secrets are valid only if the information has not been revealed. There is no protection against discovery by fair means such as accidental disclosure, reverse engineering, or independent invention.

Trademarks: A trademark protects a symbol, word, or design, used individually or in combination, to indicate the source of goods and to distinguish them from goods produced by others. For example, Apple Computer uses a picture of an apple with a bite out of it and the symbol (®) which means registered trademark. A service mark similarly identifies the source of a service. Trademarks and service marks give a business the right to prevent others from using a confusingly similar mark.

In most countries, trademarks must be registered to be enforceable and renewed to remain in force. However, they can be renewed endlessly. Consumers use marks to find a specific firm's goods that they see as particularly desirable — for example, Barbie dolls or Toyota automobiles. Unlike copyrights or patents, which expire, many business's trademarks become more valuable over time.