

# Ideas are everything

**klemchuk**

For many businesses, their most valuable asset isn't a factory, building or piece of machinery. It's the ideas, processes, brand and intellectual property they created. Unfortunately, these types of assets are tremendously easy to borrow, steal or infringe upon — unless they are aggressively protected.

Klemchuk LLP helps you to protect the intellectual property that defines who you are, sets you apart from the competition, and holds the key to your future success.

Ideas are golden. Klemchuk LLP helps you navigate the complexities of IP Law, so you can give your ideas the protection they deserve.





## WHAT IS INTELLECTUAL PROPERTY?

Intellectual property (IP) is intangible property resulting from creativity and problem solving. IP describes a wide variety of property created by innovators, inventors, musicians, authors, and artists. IP may be protected through the use of patent, trademark, copyright, and trade secret laws.

### QUICK TIPS:

- Each type of property has its own set of minimum standards that must be met before the property is protected.
- Different countries have their own rules and regulations governing different types of property.
- IP, when properly managed, may aid businesses in maintaining and increasing their value, market share, and profits.



## WHAT IS A PATENT?

A patent gives the patent holder exclusive rights in the claimed invention for a limited period of time, so that the patent holder profits from the invention before the claimed invention is dedicated to the general public. Patents can be granted for plants and other life forms, designs, machines, methods/processes, and compositions of matter.

### QUICK TIPS:

- A patent prevents others from making, using, selling, offering for sale, or importing the claimed invention.
- The claimed invention must be new, useful, and non-obvious to be granted patent protection.
- The U.S. patent system is now a first-to-file system.
- Provisional applications may be filed to preserve the filing date, but will not be examined. A non-provisional application must be filed for a patent to eventually be granted.
- The term of a utility patent is up to 20 years from the earliest filing date. The term of a design patent is up to 14 years after issuance.
- Patent holders must pay periodic maintenance fees for a utility patent to remain in force.



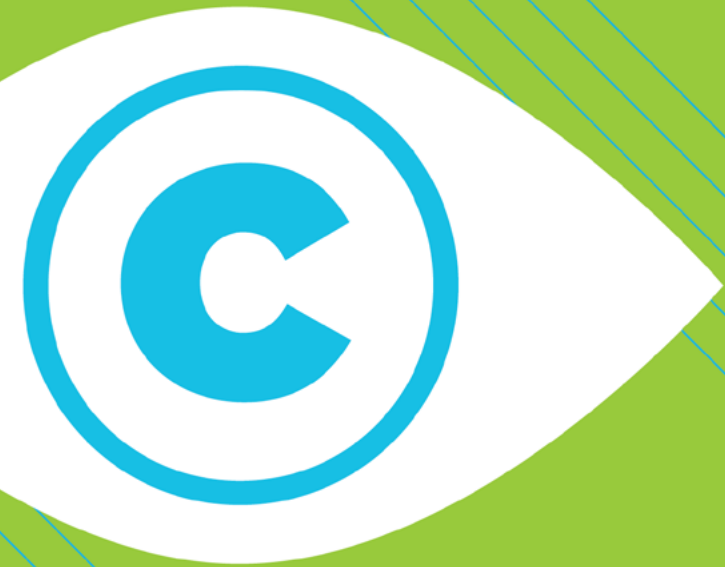
## WHAT IS A TRADEMARK?

A trademark or service mark is a word, name, symbol, device, or a combination that is used to identify and distinguish the goods/services of one seller from those offered by others, and to indicate the source of the goods/services.

### QUICK TIPS:

- Registration of the mark with the U.S. Patent and Trademark Office is not mandatory, but registration can provide advantages, including notice to the public of an ownership claim to the mark, legal presumption of nationwide ownership, and an exclusive right to use the mark on or in connection with the goods/services identified in the registration.
- Use of the symbols “TM” or “SM” (for common law trademarks and service marks, respectively) may be governed by local, state, or foreign laws.
- Use of the symbol ® may be used once the mark is registered with the U.S. Patent and Trademark Office.
- Registration with the U.S. Patent and Trademark Office provides national protection for the mark.
- Protection of a trademark or service mark may generally be maintained for as long as the mark is used in commerce to indicate the source of the goods/services identified in the registration and is periodically renewed.





## WHAT IS A COPYRIGHT?

A copyright prevents others from copying, making derivative works of, performing, distributing, or selling copies or counterfeits of original works of authorship, such as music, lyrics, books, plays, poems, paintings, sculptures, photographs, architectural designs, and software. The creator of the work is generally considered to be the author of the work and is the owner of the copyright.

### QUICK TIPS:

- A work need not be registered with the U.S. Copyright Office to be protectable.
- Registration, however, is a prerequisite to obtaining certain types of damages in a copyright infringement lawsuit.
- The symbol © is an identifier placed on copies of the work to inform the public of a claim of copyright ownership; registration is not required to use this symbol.
- The copyright notice should include the symbol ©, the name of the copyright owner, and the year of first publication (e.g., ©2021 John Doe).
- If a work is prepared by an employee within the scope of his/her employment or if the work has been specially ordered or commissioned, the work may be considered a “work made for hire.” The employer or the person/entity who ordered or commissioned the work would hold the copyright in a work made for hire.



## WHAT IS A TRADE SECRET?

A trade secret is a formula, process, device, or compilation that one uses in its business and which gives the user an opportunity to obtain a competitive advantage over competitors who do not know or use it. A trade secret remains enforceable as long as reasonable efforts have been taken to keep it “secret.” A trade secret may be misappropriated if it is used or disclosed after having been acquired through a relationship of trust (such as employment) or through fraud or other improper means, such as theft, bribery, or hacking.

### QUICK TIPS:

- There is no formal registration process for trade secrets.
- Trade secrets may include items such as customer lists, pricing information, technical specifications, marketing plans, manufacturing, or business methods, formulae, and know-how if they meet the requirements for trade secret protection.
- Independent development by another of something protected as a trade secret is likely not actionable.
- Non-disclosure and/or non-compete agreements may be helpful to limit the potential for leaving employees to attempt to use trade secrets or other confidential information in a new job.

# It's Your Property. Make Sure It's Protected.

What's the best way to protect the Intellectual Property that is vital to your success? Klemchuk LLP can help you explore the legal strategy that helps you defend what is rightfully yours — and protect your competitive advantage.

For more information or to arrange a complementary consultation, contact us today at [info@klemchuk.com](mailto:info@klemchuk.com), call [214.367.6000](tel:214.367.6000) or visit us at [klemchuk.com](http://klemchuk.com).

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