

Exhibit 8–1

Forms of Intellectual Property

	Patents	Copyrights	Trademarks	Trade Secrets
Definition	A grant from the government that gives an inventor exclusive rights to an invention.	The right of an author or originator of a literary or artistic work, or other production that falls within a specified category, to have the exclusive use of that work for a given period of time.	Any distinctive word, name, symbol, or device (image or appearance), or combination thereof, that an entity uses to distinguish its goods or services from those of others. The owner has the exclusive right to use that mark or trade dress.	Any information that a business possesses and that gives the business an advantage over competitors (including formulas, lists, patterns, plans, processes, and programs).
How Acquired	By filing a patent application with the U.S. Patent and Trademark Office and receiving its approval.	Automatic (once the work or creation is put in tangible form). Only the expression of an idea (and not the idea itself) can be protected by copyright.	<ol style="list-style-type: none"> 1. At common law, ownership created by use of the mark. 2. Registration with the appropriate federal or state office gives notice and is permitted if the mark is currently in use or will be within the next six months. 	Through the originality and development of the information and processes that constitute the business secret and are unknown to others.
Duration	Twenty years from the date of the application; for design patents, fourteen years.	For authors: the life of the author, plus 70 years. For publishers: 95 years after the date of publication or 120 years after creation (whichever comes first).	Unlimited, as long as it is in use. To continue notice by registration, the owner must renew by filing between the fifth and sixth years, and thereafter, every ten years.	Unlimited, so long as not revealed to others. Once revealed to others, it is no longer a trade secret.
Remedy for Infringement	Monetary damages, including royalties and lost profits, plus attorneys' fees. Damages may be tripled for intentional infringements.	Actual damages plus profits received by the party who infringed or statutory damages under the Copyright Act, plus costs and attorneys' fees in either situation.	<ol style="list-style-type: none"> 1. Injunction prohibiting the future use of the mark. 2. Actual damages plus profits received by the party who infringed (can be increased under the Lanham Act). 3. Destruction of articles that infringed. 4. Plus costs and attorneys' fees. 	Monetary damages for misappropriation (the Uniform Trade Secrets Act also permits punitive damages if willful), plus costs and attorneys' fees.

Intellectual Property- Product of individual Mind

Trademark – distinctive mark, motto, that is stamped or printed on goods to identify maker.

Trademark Dilution –

- 1) Plaintiff owns a famous mark
- 2) Defendant using mark in commerce
- 3) Similarities cause association of the marks
- 4) Impairs distinctiveness of famous mark.
 - Can be on non-competing goods
 - Mark does not have to be identical

Trademark Infringement

Owner **must show** defendant's use of the mark created likelihood of confusion.

Remedy

- 1) Injunction
- 2) Recover actual damages
- 3) DESTRUCTION OF ANY GOODS BEARING UNAUTHORIZED MARK

Distinctiveness of the mark

Strong Marks - automatic protection

Fanciful – made up ex. Google

Arbitrary – common word used in uncommon way – Ex. Apple for computers

Other marks – not automatic protection

Suggestive – indicates something about the product – like Dairy Queen

Secondary Meaning – no mark until the name or term acquires a secondary meaning –
ex. Calvin Klein – designers name that has been associated with designer clothing line

No trademark for Generic Terms – words that became used in everyday language – ex. Escalator, aspirin, computer

Patent- gives inventor exclusive rights to sell their invention. 20 years

American Invents Act – first person to file gets the patent

Must be novel, useful, and not obvious

Patent infringement-

Remedies:

- 1) Injunction
- 2) Attorney fees
- 3) Treble Damages

Copyright – on intangible goods

Must be fixed in a durable medium

Ex. Of copyrightable material

- 1) Literary works, books, magazines. Etc.
- 2) Musical works, music and the lyrics
- 3) Sound recording
- 4) Comics
- 5) Architectural work

Copyright infringement

Does not have exactly but substantial part of original

Punishment:

Under Copyright act – criminal proceeding, fine and imprisonment

Civil suit – damages

Permanent injunction

Trade Secret – information has commercial value to a business.

Ex. Customer list, secret recipes, research and development.

Violations is if you obtain the information

- 1) through improper means
- 2) disclosure breach of duty to other part

Punishment

Uniform Trade Secrets Act

Civil Suit under Common Law