



TRELLIS

Trellis Legal, LLC

5149 Butler St., Suite 300, Pittsburgh, PA 15201

www.trellispgh.com

## The Intellectual Property Toolbox

**DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.**

It's clearly theft if a person steals your stuff. But what about when they take the things that we've created? Intellectual property (IP) protects these intangibles. It's an area of property law because there are ownership rights associated with all of them. Someone taking them – especially when they do it to make money – is a kind of theft. Whether you make art, build things, or run a consulting business, chances are you have some level of IP worth protecting. This resource outlines various tools you can employ to protect – and potentially enforce – your own intellectual property.

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### Trademarks, Copyright, Trade Secrets & Patents.

First, know these big four [areas of IP law](#), each with varying purposes and levels of protection available:

- Copyrights apply to creative works, such as literature, photographs, music (in written *and* recorded form –different kinds of copyright!), and motion pictures.
- Trademarks have to do with names, pictures, designs and other marks that make goods and services easily recognizable in the marketplace. Think, Apple® or Just Do It®.
- Trade secrets are the IP rights of confidential information, such as an algorithm, recipe, or process. Trade secrets must be commercially valuable, only known to a limited group of people, and reasonable steps must be taken to protect them.
- Patents give inventors the right to exclude others from using, making, or selling something they've created. In the US, patents are granted to inventors of processes, machines, articles of manufacture, or compositions of matter that are new, useful, and non-obvious.

**Tools for Protecting IP.** Here are a few of the various ways you can protect the intellectual property you create, depending on how much protection you want and what kind of IP it is:

#### 1. Contracts

You can use contracts to protect your intellectual property by using clear language to establish who owns what and what each person's rights are with respect to that ownership. A few examples:

- A non-disclosure agreement outlines ownership of specific IP and the other person's consent not to tell anyone else about it. This is of particular use in the case of trade secrets that may be shared between employer-employee or business partners. (See our [NDA template for purchase in the Trellis Template Library](#) that can be used when you have either hired a service provider, or are seeking advice on your business, and you may need to share confidential information about your company but don't want it disclosed.)
- A creative services contract should clearly address who officially owns what part of the creative produced and what rights each party has related to it. For example, in a [commercial](#)

[photography contract](#), the photographer may want to still retain ownership of all the photos taken. However, they could grant the client the *right* to use them (explained below).

- In a [licensing agreement](#), you can grant someone the right to *use* your intellectual property without outright owning it. This is called a [license](#) and levels of a license can vary based on how long the license lasts, the geographic location to which it extends, who else can use it, and more.

## 2. [Clauses and Disclaimers](#)

Clauses and disclaimers on your company documents and materials can help protect your intellectual property from unauthorized sharing or re-sale. For example, say you're a fitness trainer and you provide a workbook you created for clients along with their paid programming. Including a disclaimer that the workbook is for client use only and cannot be shared, resold, or distributed to others can protect you from the client selling it to others. In the event that you do find someone doing this, this disclaimer can go to the argument that they were on notice it wasn't theirs to sell.

## 3. [Digital protection](#)

Putting your business on the internet will inevitably open it up to a few more eyeballs who might try to run away with the IP you've worked hard to develop. Make sure you put a copyright symbol, the year, and your business name in the footer of your website (©2022 YOUR BUSINESS NAME). If you are providing a download or video content, include the copyright symbol on those as well as any specific limitations on those products. From there, depending on the specific property and the level of protection you want, it is probably worth spending the money on a lawyer to help guide you through your specific needs. The Trellis Template Library™ also has some [basic language options to protect intellectual property](#).

## 4. [Registrations](#)

If it makes sense to do so – and keep in mind that it doesn't always – there are statutory protections that grant an IP-owner enforcement rights they wouldn't have if they didn't register. For example, if you want to register a logo or an invention with the US Patent and Trademark Office, or a music composition you want to register with the US Copyright Office, when relevant, these grant the owners the ability to file a lawsuit in federal court and receive a specific amount of money for them. For example, if you're a clothing designer, and you want to put an identifiable icon on all of your pieces, and you're transacting business using this logo all over the US, that means you're doing business in interstate commerce, and you can file for a US registered Trademark to ensure no one can copy your logo and use it as their own. If they do, you can file a lawsuit for trademark infringement and receive compensation. This is not always the solution for many business owners, and this is one area where it's especially important to work with an attorney to understand whether registering any of your intellectual property is a good idea, and how to go about it.

## 5. [Respect](#)

Practice the golden rule when it comes to IP matters as well. That is, respect others' IP as you would have them do to you. Understanding intellectual property and others' rights to their own content is a useful tool because, not only will you get caught up in expensive penalties for violations, it's also hard to argue that someone infringed on your own work if you're reposting, selling, or advertising the work of others. Stay informed on IP rules, and make sure to get the necessary permissions before using someone else's IP.