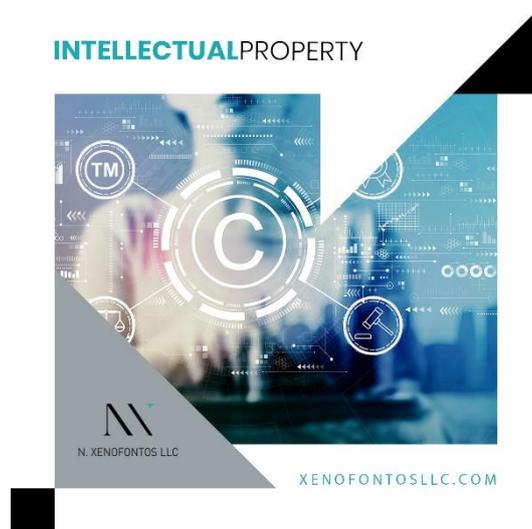




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The Difference between Copyrights, Patents & Trademarks in Cyprus



Introduction

Whether you are an inventor, a businessman, a writer, or an artist, you need to know what these each mean — and which you need to protect your work.

Intellectual Property theft has always been a problem, but it has never affected as many people as it does today. If you have taken a photo, recorded a song or written a letter, you have likely created a copyright. If you operate a small business, you probably qualify for trademark protection, and if you invent something, you may be able to patent it. But the same tools that make it easy to distribute your work online make it easier than ever to steal.

Intellectual property (IP), is everywhere, but almost nobody who is not a lawyer understands how to protect their art, business, or inventions. This article is by no means a substitute for solid legal advice, but it should give you an idea of what questions you need to ask next. We will not go into the legal jargon but give you a

basic idea of these rights. IP law extends to a vast area, so this will focus on basic terms you have probably heard copyrights, trademarks and patents.

What is a copyright?

Copyrights protect original artistic works. That includes things like photos, books, movies, songs, paintings, software code, architecture and even the article you are reading right now. Copyrights give their owner the exclusive right to reproduce and profit off the underlying work.

The underlying principle is simple; If you create something original, you get to choose what to do with it. Copyrights are automatic at the time of creation.

"Creators are not required to register their original creative work before copyright exists because rights exist automatically when the work is fixed in some tangible form".

The right to copyright can be extremely valuable. A hit song, movie or book can plausibly produce royalties well into the life of the creator's great-grandchildren. And it can do so around the world.

What is a trademark?

When most people think of trademarks, they think of brand names like Coca-Cola, Apple or McDonald's. These are good examples, but the category is even broader.

"A trademark protects a word, phrase, symbol or device — the mark — used in commerce to identify and distinguish one product from another," by way of example, the slogan "I'm lovin' it" is a trademark of McDonald's, Coca-Cola was granted a trademark on the design of its curved glass bottles and Adidas the 3 stipe logo.

Trademarks help businesses and the public by making the differences between products clear. Anyone can start a soda company, but only one soda can be called Coca-Cola. There are many hotel chains, but only one is called the Four Seasons. There are many cafe companies, but only one Starbucks. There are many airlines, but only one Emirates.

But just because a company has a trademark for one type of product doesn't mean other companies can't use the same name for a different type of product.

It all boils down to "*whether the defendant's use is likely to confuse a consumer*". For example, someone could have a McDonald's auto parts because consumers are not likely to be confused as to the source of the goods or expect Big Macs to be served. When the product or good is easily distinguished from those of other business and are different enough that consumers aren't likely to be confused, they can co-exist. This is not an uncommon occurrence, but if each business is producing different products or services, there is usually no problem. If the businesses are selling similar products and services in different geographical areas, there may not be a problem. The trademarks are still able to maintain their main function: to distinguish a company's goods or services from its competitors

There are only 45 categories for goods and services which means similar items are usually combined into a class. But it's not always obvious which class your product or service belongs in. For example, Class 29 includes "preserved, frozen, dried and cooked fruits and vegetables," but doesn't include baby food, which is in Class 5. Class 13 includes fireworks, but not matches.

Like copyrights, trademarks can have some common-law protection even if they are not formally registered. But unlike copyrights, trademarks can be renewed forever — as long as the mark is still being used in commerce.

What is a patent?

Patents protect novel inventions or discoveries like pharmaceutical drugs, complex machinery or advanced software. By prohibiting others from using or importing the invention, a patent essentially grants its owner a monopoly on the innovation, but only for a limited time — generally 20 years. After that, anyone can use it free.

The patent system tries to balance the need for inventors to make money and allowing the public to benefit from advances. The classic example is a new pharmaceutical drug. The promise of a temporary monopoly spurs companies to invest in research and development, which leads to valuable drugs that, eventually, become generic. Both

the company that developed the drug (which presumably made money off it) and the public (which has a new treatment) are supposed to benefit.

Patents protect inventions, not ideas, so you can't patent teleportation or time travel unless you actually invent it. The invention must also be "useful" and "non-obvious."

Unlike copyrights and trademarks, patents operate under a "first inventor to file" system. That means failing to register your invention can have disastrous consequences if someone else registers before you — even if you invented it first.

Because patents preclude rivals from using new inventions, and what is "useful" or "non-obvious" can be subjective, they can be the subject of heated litigation.

Final comments

No matter what type of intellectual property you have, if you believe the work has value, there is no substitute for actual registration.

Once you know the differences between copyrights, trademarks, and patents, it is easier to protect your work, mark, invention.

To put all this into perspective with one example, and what better way than to use a Nike shoe, perhaps the most recognised brand in the world.

Nike's shoe technology (Nike AIR) is a patent. The Nike Air bubble is functional and has a scientific purpose. The colour of the shoe and design could be a copyright as it is artful in nature. Contrast those with the "Nike" name and logo, and the swoosh on the shoe, as all are trademarks of Nike. You see the swoosh and you know it's Nike.

Should you wish to find out more on our IP services, connect with us.

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