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Recognizing and Protecting Your Assets
N. Stephan Kinsella¹

Like every acting man, the entrepreneur is always a speculator. He deals with the uncertain conditions of the future. His success or failure depends on the correctness of his anticipation of uncertain events. If he fails in his understanding of things to come, he is doomed. The only source from which an entrepreneur's profits stem is his ability to anticipate better than other people the future demand of the consumers.

Production is not something physical, material, and external; it is a spiritual and intellectual phenomenon. Its essential requisites are not human labor and external natural forces and things, but the decision of the mind to use these factors as means for the attainment of ends. What produces the product are not toil and trouble in themselves, but the fact that the toiling is guided by reason.

—Ludwig von Mises, *Human Action*²

TYPES OF INTELLECTUAL PROPERTY

	Copyright	Chip Act	Patent	Trade Secret	Trademark	Database Act (proposed)
Relevant Law	Federal	Federal	Federal	Federal & State	Federal & State	Federal
Duration	work for hire: MIN(95 years from pub or 120 from creation)/life of author + 70 (new--Sonny Bono Copyright Term Extension Act 1998)	10 years	20 years from date of filing	while secret lasts—could be forever	forever, unless mark becomes generic like "aspirin"	15 years

¹Mr. Kinsella is General Counsel and VP-Intellectual Property with Applied Optoelectronics, Inc. www.ao-inc.com, in Sugar Land, Texas. Until October 2000, he was a partner in the Intellectual Property Department of Duane Morris LLP www.duanemorris.com. Email: kinsella@swbell.net or nskinsella@ao-inc.com.

²*Human Action*, <http://www.mises.org/humanaction/chap15sec8.asp> and <http://www.mises.org/humanaction/chap7sec3.asp>.

	Copyright	Chip Act	Patent	Trade Secret	Trademark	Database Act (proposed)
Scope of Protection	Protects expression not idea	Protects against direct copying of maskworks	Protects idea embodied in invention	Protects idea and expression, as long as secret	Protects identity of source of goods/services	Protects extraction or use of "substantial part" of collections of information
Example	Books; movies; songs; manuals; all types of software (microcode, source code, operating system software, code embodied in ROM)	Complex computer chip masks such as micro-processors	New devices; business methods; process control; operating system software; software with novel methods or techniques	Secret information that gives competitive advantage; e.g., object code for expensive, limited market software; almost all source code	Company name, product lines	Compiled data, databases, maps, telephone book listings, 3-D seismic data

ESTABLISH INTELLECTUAL PROPERTY PROGRAM

- Intellectual Property Committee
- Ownership and Employment Agreements
- Familiarize Employees with Importance of Ip
- Protect Trade Secrets with Policies and Procedures
- Invention Disclosure Program
- Outside Attorney Guidelines
- Patents, Trade Secrets, and Licenses
- Monitor for Infringement by Others
- Avoid Infringement of Others' Patents

FURTHER INFORMATION ON INTELLECTUAL PROPERTY

General

<http://www.uspto.gov>

<http://www.uspto.gov/patft/index.html>

<http://www.patents.ibm.com/>

http://www.nyipla.org/public/10_faq.html

<http://lcweb.loc.gov/copyright>

<http://www.bustpatents.com/>

http://www.buildfreedom.com/ft/intellectual_property.htm

<http://www.aipla.com/overview.html>

<http://www.kmlaw.com/pract.htm#Intellectual>

<http://www.ipo.org/>

<http://www.ipmall.fplc.edu/>
<http://www.kuesterlaw.com/>
<http://www.patents.com/>
<http://www.pl-x.com/>
<http://www.patentauction.com/>
<http://www.ptos.org/>

Ownership of Employee Inventions

<http://www.lawsch.uga.edu/~jipl/vol3/hershovi.html>
<http://www.law.washington.edu/casrip/newsletter/newsv3i3owner.html>
<http://cyber.law.harvard.edu/metaschool/fisher/joint/links/articles/patel.html>
<http://www.patent-ideas.com/Xpatents.htm>

Domain Names

Uniform Domain Name Dispute Resolution Policy (UDRP), www.icann.org/udrp/udrp.htm

Trade Secrets

Restatement (Third) Unfair Competition, §§ 39-45 (ALI 1995),
<http://execpc.com/~mhalign/unfair.html>
Uniform Trade Secrets Act (UTSA), <http://nsi.org/Library/Espionage/usta.htm>;
<http://www.rmarkhalligan.com/index2.html>.

Miscellaneous

N. Stephan Kinsella, "In Defense of Napster and Against the Second Homesteading Rule,"
LewRockwell.com, September 4, 2000, <http://www.lewrockwell.com/orig/kinsella2.html>