

Rossler: 6 intellectual property mistakes

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Intellectual property – in the form of trade secrets, patents, copyrights, and trademarks – is growing in importance and value. Yet, many companies fail to secure or adequately protect their intellectual property because of confusion over what intellectual property is and how it is protected. Here are some common mistakes:

- Not taking reasonable measures to protect trade secret information. A trade secret is any information that has some economic value but is not generally known outside the organization.
- Relying upon a non-disclosure agreement as the agreement that covers the actual business relationship. An NDA can protect information both during the confidential discussion period of a potential business relationship and once an actual business relationship begins, but it is not a development or manufacturing or supply agreement.
- Selling or telling first, filing for patent protection second. A patent protects any new and not-obvious invention by excluding others from using, making, or selling the patented invention. For an invention to be considered new, the invention cannot have been offered for sale or otherwise publicly disclosed more than one year before filing for patent protection.
- Product branding using a trademark that describes the product. A trademark is any word or logo that identifies the source of a product or service and not the product or service. Trademark rights protect against others using confusingly similar words or logos about the source of products or services, but not the product or service itself.
- Failing to register a copyright. Whereas trade secrets protect information, patents protect inventions, and trademarks protect brands, a copyright protects creative expression. As the name suggests, a copyright is the right to copy and authorize others to copy (or prevent others from copying).
- Failure to maintain patent or trademark rights. Patent rights can be lost if maintenance fees are not paid at the designated times. Similarly, trademark rights can be lost if the owner does not file the required documents every 10 years or if the owner stops using the mark in connection with the listed goods and services or makes significant changes to the mark.

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