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Q&A with Paul Rossler: Companies make common intellectual property mistakes



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Paul Rossler is an attorney with GableGotwals, practicing intellectual property law.

Companies make common intellectual property mistakes

Q: What types of companies have intellectual property?

A: Companies range from oil to education to software and everything in between. A 2016 study by the United States Patent and Trademark Office found that IP-intensive industries accounted for almost 30 percent of all employment and about 40 percent of total gross domestic product. Yet, many companies fail to secure or adequately protect their intellectual property because of confusion over what intellectual property is and how it's protected.

Q: What is intellectual property?

A: Intellectual property can be in the form of trade secrets, patents, copyrights and trademarks. Whereas trade secrets protect information, patents protect inventions, and trademarks protect brands, a copyright protects creative expression.

Q: What are some common mistakes companies make?

A: 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. Also:

- Relying upon a nondisclosure agreement as the agreement that covers the actual business relationship. A nondisclosure agreement can protect information both during the confidential discussion period of a potential business relationship and once an actual business relationship begins, but it's 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 can't 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.
- Failure to maintain patent or trademark rights. Patent rights can be lost if maintenance fees aren't paid at the designated times. Similarly, trademark rights can be lost if the owner doesn't 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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