

TRADITIONAL LEGALLY PROTECTABLE FORMS OF INTELLECTUAL PROPERTY

1. **Patent** – protects physical manifestations (“embodiments”) of an idea if sufficiently different from that which is already known so as to qualify as an *invention*. A patent grant gives the owner the negative right to *exclude others* from making, using, selling, offering for sale, or importing the patented invention – but not any positive right to practice the invention itself (e.g., a blocking patent owned by another may exist).
2. **Trademark** – a word or symbol (often referred to as a “**brand**”) that identifies *goods* as coming from a certain source and distinguishes these *goods* from those of others (e.g., **GMC**[®]; **Ford**[®]; **Chrysler**[®]; **Toyota**[®]; **Compaq**[®]). Trademark rights (especially if federally registered: ®) prevent another from using a confusingly similar trademark.
3. **Service Mark** – a word or symbol (often referred to as a “**brand**”) that identifies *services* as coming from a certain source and distinguishes these *services* from those of others (e.g., **GMAC**[®]; **AT&T**[®]; **Red Carpet Lease**[®]; **MARRIOTT**[®]; **BLOCKBUSTER**[®]). Service mark rights (especially if federally registered: ®) prevent another from using a confusingly similar service mark.
4. **Trade Name** – the name of a business entity, such as a division, company, corporation or partnership (e.g., **Ford Global Technologies, Inc.**; **DaimlerChrysler Intellectual Capital Corporation**; **General Motors Corporation**; **Freudenberg-NOK General Partnership**). In many cases, all or part of a trade name is also used as a trademark or service mark (e.g., **NOK Corporation** and **NOK**[®]).
5. **Trade Dress** – the *nonfunctional* features, shapes, configurations, designs, etc. of products (or their packaging) or services where those nonfunctional features, shapes configurations, designs have become distinctly associated with the owner's business, products or services, i.e., have acquired “secondary meaning” (e.g., the distinctive “hour-glass-with-vertical fluting” shape of the classic **COCA COLA**[®] soft drink bottle).
6. **Copyright** – the exclusive right to copy, publish, perform, etc., a work, such as an artistic work, literary work, musical work, dramatic work, visual work, sculptural work. Copyright protects the author's form of expression – *not* the ideas that are being expressed.
7. **Trade Secret** – valuable business or trade information that is not generally known to others, that gives its owner a business advantage over others who do not know it, and that is kept confidential. Trade secret rights protect against another taking or using trade secret information without the owner's permission – but *not* against someone independently developing or discovering that information (e.g., the formula for **COCA COLA**[®] soft drink; or a company's supplier pricing information).
8. **Unfair Competition Law** – protects against unfair business practices, such as passing off products as being those of another; making untrue or unfairly disparaging statements about the products, services or business reputation of another; or copying *nonfunctional trade dress* of another where that *trade dress* has become associated with the other's business, services or products (i.e., has acquired secondary meaning).

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