

00:00:05 This is your introduction to intellectual property. And if you think that you don't have any think again, because of course you do intellectual property is such a big piece of your business. And when you're starting a business, you may wonder when should I file for a trademark? How should I file for a trademark? Should I invest money to file for a trademark?

00:00:30 Well, trademarks, aren't the only kind of intellectual property that you have to protect, and they're not the only way to protect your intellectual property. In fact, there are four main types of intellectual property protection protection, via agreement, copyright protection, trademark protection, and patents, copyright protects original works of authorship. While a patent protects inventions or discoveries, ideas and discoveries are not protected by copyright law.

00:01:04 Although the way in which they are expressed, maybe a trademark protects your words, phrases, symbols, or designs that identify the source of goods or services and distinguish them from those of others. So there's no confusion when you're going to buy a product from one company versus another. Now, as we discussed in our lesson on boiler plate terms, in an agreement you always want to protect what is created in your business or by you in agreements that you enter into with anyone that you're working for,

00:01:37 or that you're hiring this protection is provided in your agreement. Usually using what's called a work for hire clause, sometimes a trade secrets protection clause, a nondisclosure clause, a non-competition clause, and you should always include intellectual property protection in all of your agreements. This is going to protect whatever you're creating in your business by your independent contractors or your team members,

00:02:05 because you don't want what you're creating to be used by anyone who goes on to work outside of your business. After they've worked in your business to create what you paid for. I just can't say enough how important it is that you have an agreement with everyone you work with and that every agreement you have protects your intellectual property from being used in the future,

00:02:29 there is nothing that sucks more in business than seeing someone who has worked for you, who has hired you later using your work as their own, because your agreement didn't properly protect your highly valuable assets. I know the pain, this one personally, as you might be able to tell, because remember the Hurley in the days of my business, I didn't think I needed a grievance.

00:02:54 So my customers often ran off with my creations without paying me a licensing fee. And my business partners took what they considered theirs because we were business partners, even though they were clearly my creations and my web developer claimed to own my source code. Even after I'd paid \$25,000 to have my website developed that website was kids protection, plan.com, a site that I still use to this day,

00:03:24 but it was first developed by one of my friends and we didn't have an agreement. So when I tried to hire a new web development company, that would be more professional. Well, my friend hired a lawyer and I had to pay another \$25,000 to get what should have been mine to begin with. So agreements with intellectual property protection baked in would have saved my highly valuable intellectual property assets and each and every one of these situations.

00:03:53 So if you're doing business right now and creating anything at all and do not have your agreements in place or your agreements don't have intellectual property protection baked in now is the time to get on it. In fact, pause this recording right now. CO's schedule a time block in your calendar this minute to review your agreements, bring them to the membership, order your family business,

00:04:17 lawyer for review, and let's make sure that your intellectual property is protected by your agreements. Okay? So once that's done, let's talk about copyright protection. Copyright protection is the protection of words written by you. Pictures taken by you and other original works of authorship, including literary dramatic musical and artistic works could be poetry, novels, movies, songs, computer software,

00:04:47 and even architecture works without enough originality or creativity to merit, copyright protection, such as titles names, short phrases and slogans, familiar symbols, or designs, fonts, ingredients, or content facts, blank forms. Well, those can't be copyrighted. Now, if you do have copyrightable material, what you can do is file with the United States patent and trade office to protect your copyrighted material by filing an application and paying a small fee.

00:05:20 The United States has copyright relations with most countries throughout the world. And as a result of these agreements, you are copyrights in the U S will likely be copyrighted in other countries as well. So you can file for that copyright protection. What you can also do is at the bottom of any of your original works, you can use the C in a circle at the bottom of your copyrighted material.

00:05:47 You've probably seen it very frequently. You probably don't even notice it's there. What that does is it lets others know the limits on their use of your original works. So you want to use that, see indicate who owns the copyright and what the limits are on that use. Now, once you have used that copyright symbol or formally registered your copyright with the U S patent and trade office,

00:06:13 if you see someone using your copyrighted material, you can tell them to stop. You can even bring a lawsuit for damages if they don't. But here's the thing. If you've registered your copyright with the U S government, which is inexpensive though, time consuming to do, if you're creating a lot of copyrighted material, you don't just get basic damages. You can get statutory damages and even attorney's fees.

00:06:37 So if you are creating original works that other people might want to use, take the time to register your copyrighted material or hire a lawyer to do it for you and to proactively file regularly for copyrights on everything new that you create. Okay. So what about trademarks? Trademarks are designed to protect words, phrases, symbols, or designs that identify the source of goods or services so that there's no confusion.

00:07:08 If somebody is buying a product or service from you or another company, trademark exists to encourage investment and a brand without risk that someone else could then leverage that investment and create the risk of confusion by consumers. You can protect your brand without registration of your trademark, by using the little TM symbol next to your protectable words, phrases and symbols. In the event that you decide to protect your brand this way without formal registration.

00:07:40 What I recommend is that you take a picture on the date of your first use with the TM symbol and keep this image dated in your business records, then set up a Google alert and also a trademark search alert. So you can find out if anyone else is using your term, or if someone even files to register the term that you're using. In which case you can ask them to stop in order to protect your trademark and register it at that time.

00:08:11 See your trademark does not need to be formally registered to have it protected, but you will have enhanced protection by filing for trademark. And then you can use the little R symbol next to your word or your design or your brand name. Now, if you do decide that you want to file to register your trademark, you can either hire a lawyer or do it yourself.

00:08:35 The benefit of having a lawyer do it for you is that you don't have to deal with it. The benefit of doing it yourself is that you save a bit of money, but remember you can always make more money. You can't make more time. And if you are at the point in your business where you're investing in creating a brand, and you're really going to protect that brand against infringement,

00:08:58 which you need to do. If you're going to register a trademark, then you should probably be at a point in your revenue model in which you have enough money or a solid enough revenue model that you believe in that you can pay a lawyer to handle this for you. If you don't have enough money yet for a lawyer or a solid enough revenue model to trust that you'll make the money to pay a lawyer,

00:09:21 it may not be time to file to register your trademark. Now, registering a trademark is a waste of your money. If you don't have the resources to protect infringements on your brand, protecting against infringement means monitoring to determine if anyone else is using your brand. And then if they are sending a letter notifying the infringer that they're infringing with a clear request to stop using your protected brand by a certain time,

00:09:49 this is called a cease and desist letter. Now let me say one thing about this letter

in case you do need to send one, it doesn't have to be aggressive, and if it's not aggressive, it could even get you a client. If you're ready to license, access to your copyrighted material or to your trademarked brand. This was the case for me.

00:10:12 When I had coached a lawyer back in the early days of my business, and then saw that she was using my trademarked and copyrighted material, instead of sending her an aggressive cease and desist letter, I sent her a letter that was kind and inviting and assumed a misunderstanding rather than assuming bad intent. And I let her know that what she was using was protected material.

00:10:34 And I invited her to work with me on an ongoing basis. This lawyer has now been a paying client of mine, licensing my material for over 10 years. Had I sent an aggressive letter in the form of a traditional cease and desist that probably wouldn't have happened. So if you see someone copying you and if you're creating great content, eventually you will consider that there may be an opportunity for collaboration rather than competition and reach out,

00:11:04 make connection. Now, in some cases, when I've seen people copy me and they didn't want to collaborate, and I wasn't able to protect what I had created sufficiently because they weren't maybe in a technical violation, maybe they changed enough words, not be in violation of a copyright. I realized each and every time that while it hurts, it also means it's time to innovate.

00:11:30 It's time to create new things. And if you look at people copying you from that perspective, first trying to collaborate, protecting your interests. And then if you can't time to innovate your business and your creative pursuits are going to grow. Now, finally, if you're an inventor, you may want to protect your works by filing for a patent. In this case,

00:11:53 you are almost certainly going to want to work with a lawyer and you'll want to talk with your personal lawyer to help you find a lawyer who specializes in the kind of patents you want filed in your behalf. Finally consider who or what entity should own your trademark or copyrighted or patented material. In most cases, your business should be the owner and your business remember,

00:12:20 should be owned by your trust. As we discussed in the lesson on who should own your business. In some cases, you may want a special purpose entity created just for the purpose of holding your intellectual property, separate from your operating activities. If you think this might apply to you, ask for support in making this decision, come to the membership or talk to your business lawyer.

00:12:45 So here's the bottom line. Register your intellectual property for trademark or copyright or patent protection. When you're ready to invest in creating something truly meaningful, that you are able and willing and will take action to protect until then use the free registration rights. You already have take pictures of your first uses of your brand names, using

the TM symbol, monitor the use of your terms.

00:13:13 Don't use other people's terms and focus on building something that people want to steal because it's so damn good. And then when people do steal your content, because if it's so good, they will consider how you can offer collaboration or licensing as a first option, rather than coming out, fighting right away.