



# The Write Stuff

A quarterly compendium of writing tips and other useful information

## PROTECT YOUR INTELLECTUAL PROPERTY

By Sandy Shepard

**N**ow that you have a list of unique characteristics and have crafted them as benefits (as instructed in the last two issues of *The Write Stuff*), it's time to think about protecting your "intellectual property."

In general, IP protection comes in five flavors — copyrights, trademarks, trade secrets, trade dress, and patents.

By signing your clients' contracts, you may sign over your rights to your IP — and be forbidden from ever using it again! You can also get into trouble by having others help you on a project, without having a contract assigning their rights to you.

It's important to have your own template contract spelling out exactly how you do business — and to have an attorney briefly review any contracts you consider signing.

But back to IP. **Copyright** protects the "expression" — the words, dance, or song — used to express an idea. If you put a copyright mark on your documents, use this format:  
© [date written] [owner]. All rights reserved. See the end of this article for an example.

**Copyright** protects the "right" to "copy" the expression, and the "fair use" safe haven (a defense to an infringement lawsuit) is quite restricted, stopping the second any profit is even indirectly made from the copying. So if you're copying, get permission.

While copyrights protect an idea's expression, a **patent** protects the idea itself. To be patentable, your product or process must be repeatable, novel, and it must not be an "obvious" extension of a current product or process.

Having a "patent pending" can add value to your



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business in your clients' eyes, or help you obtain funding.

By filing a patent, you explain in detail how to make your product or process. In exchange, you obtain a monopoly for a number of years. The opposite of a patent is a **trade secret**, where you keep the process secret. The recipe for Coke is an example. There is no expiration of the protection term as there is with a patent, but if a competitor can reverse engineer your product or process, you lose it.

**Trade dress** protects the "look" of your product or establishment, while **trademarks** and **servicemarks** are awarded for words (e.g., tag phrases or names) or pictures (logos) used on a product or service. Only unique marks can exist within a given channel of commerce, to avoid consumer confusion. General terms cannot be registered.

Even if you do not trademark your own terms (you should; if they are good, someone else will), it's always wise to check to be sure a tag line or potential new company name is not already trademarked. And with trade dress, don't try to entice your competitors' clientele to you by being "just like them." Receiving a cease and desist letter can ruin your day.

Taking time to understand and protect these rights can help secure a valuable asset as your company grows and succeeds.

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