

OJDLO
PROTECT THE CREATIVE PRODUCT OF YOUR MIND™

Patents and Trademarks and Copyrights, Oh My!

Nancy Baum Delain, Esq.
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Up the Biz™ Luncheon
Thai Thai Bistro, Schenectady, NY

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Difference Between Patent, Trademark and Copyright

- Patent Protects Invention
 - Utility Patent
 - Design Patent
 - Plant Patent

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Difference Between Patent, Trademark and Copyright

- Trademark Protects Business Goodwill
 - Trademark
 - Service Mark

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Difference Between Patent, Trademark and Copyright

- Copyright Protects Works of Authorship
 - Writing
 - Visual Arts
 - Choreography
 - Sound Recordings
 - Audiovisual Works

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Protected Rights

- Patent
 - Prevent others from
 - Making
 - Using
 - Selling
 - Offering for sale, or
 - Importing

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Protected Rights

- Trademark
 - Trademark holder safeguards the public from confusion
 - Has the right to exclusive use of the mark in the class(es) in which the mark is used

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Protected Rights

- Copyright
 - Reproduction of copyrighted work
 - Preparation of derivative works
 - Distribution of copies
 - Performance
 - Display publicly
 - Play a recording of the work publicly

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Why Register?

- Patent
 - Protect exclusive rights
 - Limited monopoly
 - Public benefit
 - Enhanced remedies for infringement

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Why Register?

- Trademark
 - Enhanced recognition
 - Exclusive use of ®
 - Constructive notice
 - Enhanced remedies for infringement

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Why Register?

- Copyright
 - Enhanced recognition
 - Constructive notice
 - Enhanced remedies for infringement

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How To Obtain?

- Patent
 - Complex application
 - Must fully and completely disclose the best mode of making and using the invention
 - Must claim the invention
 - Examination of application by US Patent & Trademark Office

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How To Obtain?

- Trademark
 - Have a trademark search done!!!!
 - Assuming the search comes back clean, start using the mark in commerce
 - If you plan to register the mark federally, use the mark across state lines
 - Use ™ designation
 - File registration with the US Patent & Trademark Office
 - Examination of the mark by the US Patent & Trademark Office
 - Publication of the mark

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How To Obtain?

- Copyright
 - File registration with the US Copyright Office (a division of the Library of Congress)
 - Examination by the Copyright Office

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Cost To Obtain?


- Patent
 - \$Thousands
- Trademark
 - \$Hundreds, potentially \$thousands
- Copyright
 - \$Hundreds 99% of the time

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Questions?

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