

18.7: Summary and Exercises

Summary

The products of the human mind are at the root of all business, but they are legally protectable only to a certain degree. Inventions that are truly novel may qualify for a twenty-year patent; the inventor may then prohibit anyone from using the art (machine, process, manufacture, and the like) or license it on his own terms. A business may sue a person who improperly gives away its legitimate trade secrets, but it may not prevent others from using the unpatented trade secret once publicly disclosed. Writers or painters, sculptors, composers, and other creative artists may generally protect the expression of their ideas for the duration of their lives plus seventy years, as long as the ideas are fixed in some tangible medium. That means that they may prevent others from copying their words (or painting, etc.), but they may not prevent anyone from talking about or using their ideas. Finally, one who markets a product or service may protect its trademark or service or other mark that is distinctive or has taken on a secondary meaning, but may lose it if the mark becomes the generic term for the goods or services.

Exercises

1. Samuel Morse filed claims in the US Patent Office for his invention of the telegraph and also for the “use of the motive power of the electric or galvanic current...however developed, for marking or printing intelligible characters, signs or letters at any distances.” For which claim, if any, was he entitled to a patent? Why?
2. In 1957, an inventor dreamed up and constructed a certain new kind of computer. He kept his invention a secret. Two years later, another inventor who conceived the same machine filed a patent application. The first inventor, learning of the patent application, filed for his own patent in 1963. Who is entitled to the patent, assuming that the invention was truly novel and not obvious? Why?
3. A large company discovered that a small company was infringing one of its patents. It wrote the small company and asked it to stop. The small company denied that it was infringing. Because of personnel changes in the large company, the correspondence file was lost and only rediscovered eight years later. The large company sued. What would be the result? Why?
4. Clifford Witter was a dance instructor at the Arthur Murray Dance Studios in Cleveland. As a condition of employment, he signed a contract not to work for a competitor. Subsequently, he was hired by the Fred Astaire Dancing Studios, where he taught the method that he had learned at Arthur Murray. Arthur Murray sued to enforce the noncompete contract. What would be result? What additional information, if any, would you need to know to decide the case?
5. Greenberg worked for Buckingham Wax as its chief chemist, developing chemical formulas for products by testing other companies’ formulas and modifying them. Brite Products bought Buckingham’s goods and resold them under its own name. Greenberg went to work for Brite, where he helped Brite make chemicals substantially similar to the ones it had been buying from Buckingham. Greenberg had never made any written or oral commitment to Buckingham restricting his use of the chemical formulas he developed. May Buckingham stop Greenberg from working for Brite? May it stop him from working on formulas learned while working at Buckingham? Why?

SELF CHECK QUESTIONS

1. Which of the following cannot be protected under patent, copyright, or trademark law?
 1. a synthesized molecule
 2. a one-line book title
 3. a one-line advertising jingle
 4. a one-word company name
2. Which of the following does not expire by law?
 1. a closely guarded trade secret not released to the public
 2. a patent granted by the US Patent and Trademark Office
 3. a copyright registered in the US Copyright Office
 4. a federal trademark registered under the Lanham Act
3. A sculptor casts a marble statue of a three-winged bird. To protect against copying, the sculptor can obtain which of the following?
 1. a patent
 2. a trademark
 3. a copyright

4. none of the above
4. A stock analyst discovers a new system for increasing the value of a stock portfolio. He may protect against use of his system by other people by securing
 1. a patent
 2. a copyright
 3. a trademark
 4. none of the above
5. A company prints up its customer list for use by its sales staff. The cover page carries a notice that says “confidential.” A rival salesman gets a copy of the list. The company can sue to recover the list because the list is
 1. patented
 2. copyrighted
 3. a trade secret
 4. none of the above

Answers

1. b
2. a
3. c
4. d
5. c

This page titled [18.7: Summary and Exercises](#) is shared under a [CC BY-NC-SA](#) license and was authored, remixed, and/or curated by [Anonymous](#).

- [30.7: Summary and Exercises](#) by Anonymous is licensed [CC BY-NC-SA 3.0](#). Original source: <https://courses.lumenlearning.com/waymakerintromarketingxmasterfall2016>.