

Trademark Primer

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Introduction

This trademark primer is intended both to be of a general education nature for technology transfer practitioners and also an introductory tool for those who might license trademarks in conjunction with technologies. As trademarks are a very distinct form of intellectual property for those in the technology licensing field, having a working knowledge of trademarks is useful.

While trademarks, patents, and copyrights are referred to as *intellectual property*, they are all different. Patents protect inventions, trademarks protect unique product or service identifiers, and copyrights protect original artistic or literary works. While we may know what an invention is, the distinction between a trademark and a copyright is often confused.

As an example, the contents (e.g., format, photos, text) of a periodical are protected under copyright law, but the title of the publication (such as *Newsweek*) is protected under trademark law. For copyright information, go to <http://www.copyright.gov> and for patent information, go to <http://www.uspto.gov/main/patents.htm>. The U.S. Patent and Trademark Office (USPTO) has a very informative Web site at <http://www.uspto.gov/web/menu/tm.html>.

Unlike patents and copyrights, a trademark (often called a *brand* or *mark*) is governed under federal *and* state law. A mark is registerable in each state, as well as under the federal trademark law, which is known as the Lanham Act (Title 15 of the United States Code). However, a state registration is only enforceable within that state, while a federal

registration provides protection throughout the United States. Registration is not required to establish rights in a mark; actual use in commerce is all that is necessary.