There are several ways of protecting an idea, or, more accurately, protecting the expression or embodiment of an idea.

This page is a general summary of the various forms of protection, with links to more detailed pages for each one.

The forms of Intellectual Property Protection:

Often the hardest part of figuring out how to protect your idea is to determine what kind of protection is most appropriate.

Sometimes a single product may be eligible for more than one form of protection. For example, the IBM Selectric® typewriter had a design patent on its shape and a utility patent on its mechanism. Furthermore, the name *Selectric*® is a registered trademark of IBM, and if the typewriter were microprocessor controlled, the programming could be protected by copyright, or considered a trade secret.

This entire collection of web pages is presented as a general background to the intricate field of Intellectual Property. It is not intended as specific legal advice, and you should consult with a qualified attorney (preferably Brown, Pinnisi and Michaels) to determine just what kind of intellectual property protection fits your individual situation.

- **PATENTS** are appropriate for "useful things" or methods of doing something. There are three main kinds of patents:
  - **Utility Patents** cover "inventions" -- a machine, an article of manufacture, a method of doing something, a chemical or DNA sequence or the method of its use, products of genetic engineering, or improvements to any of these things.
  - **Plant Patents** may be granted to anyone who invents or discovers, and asexually reproduces, a new variety of plant.
  - **Design Patents** cover the *ornamental appearance* of a useful device but *not* its function. For example, the "Swoosh" on the side of a Nike sneaker was the subject of a design patent.

- **TRADEMARKS** cover the *name* or some other symbol (*logo*) which represent the source of a product or service. Sometimes the *appearance* of a product or its packaging can be considered a trademark (often called "trade dress"). For example,
the name "Coca-Cola®", or the shape of a Coke® bottle are registered trademarks. In rare instances, sounds (the NBC chimes) or colors (pink Fiberglas® insulation), may be registered as copyrights.

- **COPYRIGHTS** protect *works of authorship, composition, or artistry*, such as books, sculptures, paintings or photographs, computer programs, architectural works, movies and records, musical compositions, etc. In the case of musical recordings, the copyright may extend to the music itself (tune and lyrics) and the recording of the performance.

- **TRADE SECRET** protection is available, as the name suggests, for secrets which are used by a company to make or perform something. The inner workings of computer programs are often protected as trade secrets. The formula for Coca-Cola® is a famous example of a trade secret.

- **Special notes on computer software**: This is an area of the law which has evolved over the last few years. Older references may state baldly that "software is not patentable." This is only partly correct.

  - Programs, in the abstract, may or may not be patentable (patent applications on pure software are often rejected as being "mathematical algorithms" or "purely mental steps"). *Inventions* which are *software based* are clearly patentable, if they meet the other requirements for patentability. The distinction is not a clear one, but basically can be summed up as "if the program *does something* in the real world, you can patent *how it does what it does.*" The landmark case concerned a rubber curing system using a computer program (really a series of mathematical steps), which, as its last step, controlled a rubber mold in response to the program output. This is not exactly the same as patenting the program code, at least in the sense that one registers the copyright to the code, but is more related to utility patents on methods.

  - Copyright is still the right way to protect program code, as such, since it protects against copying, without reference to the novelty or non-obviousness of the code.

  - Often the key parts of the program code are maintained as trade secrets. You will want to have agreements with users and (especially) with anyone who has access to source code protecting your trade secret status. Also, there are ways of avoiding having to provide source code for these when you register your copyright.

  - Computer software protection is complicated - please consult an experienced attorney about your specific software situation!