

# Bennett

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## LAW OFFICE

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*The Bennett Law Office  
counsels clients in the  
areas of entertainment,  
copyright and trademark  
law matters.*

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## PROTECTING A GREAT IDEA

Do great minds really think alike or is it simply that more than one person can conceive the same idea? A philosopher I am not, so let's turn to how the law protects ideas.

The first place to start is by looking at what areas of law do not protect ideas. Copyright law does not protect ideas, but rather the expression of the idea. If you conceive a great new book story line, but do not write the story line out, it is not protected by copyright law. Trademark law does not protect ideas. You can have an idea for the name of a new clothing line, but until you either (a) file an intent to use federal trademark application, or (b) use the trademark in conjunction with the clothing line, you do not gain any trademark rights.

Three areas of the law that can protect ideas are patent law, trade secret law and contract law.

The patent laws specify the general fields of subject matter that can be patented and the conditions under which a patent may be obtained. Patent protection is under federal law, not state law. In the language of the statute, any person who "invents or discovers any new and useful process, machine, manufacture, or composition

of matter, or any new and useful improvement thereof, may obtain a patent," subject to the conditions and requirements of the law.

But, you as the "inventor" have to flesh out your idea into an acceptable technical drawing of your invention as well as outline the purposes for your invention. A patent cannot be obtained upon a mere idea or suggestion. The patent is granted upon the new machine, manufacture, etc., as has been said, and not upon the idea or suggestion of the new machine. A complete description of the actual machine or other subject matter for which a patent is sought is required.

If you keep a process or perhaps a recipe or formula secret, and that secret gives you a competitive edge in your business, it is a trade secret. The key to protecting a trade secret is simple: keep it secret. A famous trade secret is the Coca Cola formula. Trade secrets can also include customer identities and preferences, vendors, product pricing, marketing strategies, company finances, manufacturing processes and other competitively valuable information.

(cont.)



## In The News and At The Courthouse

### You Might Be a Redneck If...

The town of Pikesville, Kentucky has passed a resolution demanding a public apology from the A & E network after the town was less-than-favorably featured in an episode of "City Confidential." The town was portrayed as a hillbilly haven, when the episode began by "showing a rebel flag, an overweight man without a shirt smoking a cigarette and an old pickup with a few women in the back." The network stated producers of the show were advised to correct any factual errors before re-airing the episode.

### Pre 1972 Sound Recordings Protected

The highest court in New York has ruled that state common law protects sound recordings made prior to 1972. Federal law protects sound recordings made after February 15, 1972. When two record companies re-mastered and reissued classical sound recordings from the 1930s, a suit was filed to determine if the state's common law copyright provided protection to

the original copyright holder. The court held state law entitled the work to protection.

### What's New, Pusycat?

Tom Jones has joined Formula 1 driver Michael Schumacher and German football star Oliver Kahn in registering his image for a picture trademark with the EU Community Trademark Office.

### Internet Killed the Radio Star

Universal Music Group made a calculated move in February when it pulled its videos from online service providers such as Yahoo! Launch, in a successful attempt to renegotiate payment terms. With the advent of MTV, most major labels provided music videos as free promotional tools. Since internet providers can supply a video at the request of a user, record companies felt that an advertising percentage is not an unreasonable request and payment terms were renegotiated.

**REMEMBER, IF YOU  
CREATE  
PROTECT**<sup>TM</sup>

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## PROTECTING A GREAT IDEA (cont.)

Contracts, if properly drafted and utilized can provide protection for an idea. Non-disclosure / confidentiality / non-use agreements can be effective tools for protecting your disclosure of confidential “ideas” to third parties who may be interested in developing or purchasing your “idea.” Please be aware that if a third party signs an agreement, but still discloses or uses your idea, you have the burden of enforcing the agreement, which can often be difficult.

Before you tell your next-door-neighbor, or the manufacturing plant downtown your latest, greatest idea, make sure you have investigated what it takes to protect your interests. In some situations, one or more of the methods discussed can be used. Also, not all ideas are protectable. Don’t be surprised if you do not tell anyone your next invention and suddenly you see it on a home shopping network.

Remember, it is possible for great minds to think alike!

## E-News from The Bennett Law Office

We are excited to announce a change in the format of the Bennett Law Office newsletter. Starting with our next issue (September 2005) the newsletter will no longer be delivered by the US Postal Service. Instead, it will be delivered directly to your inbox. To stay up-to-date on the latest legal news, please visit <http://tbennettlaw.com/newsletters.html> and sign up to receive our e-newsletter.

Privacy is important to us; therefore, we will not sell, rent, or give your name or address to anyone. You can select the link at the bottom of each email to unsubscribe.



*Be aware of the tendency of asking the way when you know it perfectly well. Take the initiative, stop hesitating, and take the first step. Make the thing inevitable. ~Oswald Chambers*