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https://www.100test.com/kao_ti2020/251/2021_2022_Intellectu_c92_251873.htm Generally, intellectual property is intangible and is created by intellectual effort as opposed to physical effort. In the United States, patents, copyrights and trademarks are governed by federal law. Trade secrets are governed by state laws. A patent is a governmental grant of an exclusive monopoly as an incentive and a reward for a new invention. To be patentable, an idea must be novel, useful and non-obvious. In the U. S. A., the owner of a patent controls the right to make, sell and use a product for a period of seventeen years and a design for fourteen years. If one manufactures, sells, or uses a patented invention without authorization of the patent owner, he has probably committed patent infringement. The infringement exists even if the infringer did not know about the patent. Infringers can be liable for damages and may be enjoined from future infringement. However , the party challenged with patent infringement can escape liability in a variety of ways. One way is by proving that the challenged product or process is outside the scope of the patent. Another way is by proving that the patent is invalid because it fails to meet the criteria for patentability. A third way is to establish that the patent holder has misused the patent. Misuse of a patent occurs when a patent holder uses the patent to achieve something illegally. The most common type of misuse occurs when the patent holder uses the patent to violate the antitrust laws. A copyright protects the physical expression of

intellectual or artistic effort , not the idea. A copyright is effective for the life of the creator plus fifty years. Anyone who creates an original work is protected by an automatic common law copyright. Published materials without statutory copyright TM protection are said to be in the public domain and may be used by anyone , without the consent of the creator. To obtain statutory copyright protection , materials must be published with the copyright notice , which takes the form of the word "copyright" or the abbreviation "copr. " , or the symbol "c" followed by the name of the copyright owner. Copyrights may be registered with the Register of Copyright and copies of the copyrighted material are provided by the Library of Congress. If one violates the copyright created by the copyright notice, he may only be enjoined from future violations. If he violates a copyright created by registration, he may be liable for damages, fines or imprisonment. Owners of copyrights may assign their ownership to others. A trademark is a mark on goods that distinguishes the marked goods from competing goods. The mark may be a word, picture or design. In order to qualify as a trademark, the mark must not be overly descriptive or generic. Trademarks are protected through registration. Unauthorized use of the registered trademarks of others is illegal. Public perception plays a significant role in trademark law. If the public comes to perceive that a trademark is generic, it will lose its legal status as a trademark. Public perception can also create a legal right for an attribute of a product. If a products shape or style or features are arbitrary and nonfunctional, and the general public comes to view these features as associated with

a particular product, they are said to have acquired a secondary meaning is, which may be registered and protected. A trade secret may consist of any formula , device or compilation of information which is used in ones business , and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. Trade secrets must be kept secret. To qualify for protection , the secret must give the firm a competitive advantage. Unlike patents and copyrights , there is no time limit on the life of a trade secret. It is effective as long as the secrecy is maintained. The law protects trade secrets from wrongful appropriation. This does not mean that a competitor cannot use the same manufacturing process. It only means that the competitor must arrive at the idea independently. 译文 一般来说，知识产权是无形的，并且是由相对于体力劳动的智力劳动创造的。在美国，专利权、版权和商标权是由联邦法管辖的，而商业秘密是由州法律管辖的。专利权是政府对一项新发明授予的独占的权利，以给予该发明以鼓励和奖励。一项具有专利性的想法必须具备新颖性、实用性和非显著性。在美国，专利权人对产品的制作、销售及使用有17年的控制权，而设计是14年。如果某人未经专利权人授权而制造、销售及使用该专利发明，那么这就可能是专利侵权行为。即使侵权人不了解该专利，侵权行为依然存在。侵权人要承担赔偿责任，并且禁止其日后侵权。然而，被质疑专利侵权的一方可以用许多方式逃避责任。一种方式是证明被质疑的产品或过程是在专利的领域之外。另一种方式是证明由于专利未能满足专利性的标准而无效。第三种方式是证实专利权人滥用专利。当一个专利权人利用专利从

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