Intellectual property law is still an evolving concept, due especially to the wide variety of forms of expression that are prevalent today. A civil engineering firm is not immune from the many intellectual property laws that currently exist, and there are times when knowing the law will be crucial to your business.

There are several scenarios that highlight the need to be familiar with the law, and it is just as important to know how to avoid infringing on others’ rights as it is to protect your own. In addition, as my own research has illustrated, there are many gaps in the legal protection of documents, such as construction drawings, that should be addressed by writing clear contracts that stipulate who owns or has the right to reproduce the engineer’s products. In all cases, a firm should consult with a legal professional to identify or protect intellectual property.

There are several types of intellectual property (IP) with which most people are familiar. They include patents, trademarks, copyrights, and trade secrets. Each is designed for particular categories of property and each has particular protections and requirements for registration. There also are various laws at the federal and state levels that provide the basis for bringing suits against infringers. In most circumstances, for works to be protected effectively in the United States, they must be registered with the Patent and Trademark Office (PTO) or U.S. Copyright Office. A trade secret can be any form of IP that a business chooses not to release to the public. The risk is that if it does become public (even through illegal means), there is no subsequent protection under the law.

Generally, patents cover discrete, tangible inventions or processes. There are several conditions that must be met to obtain a patent, and the timeline for doing so is quite lengthy. The tradeoff is that the exact makeup of the invention is published for the collective good, while the rights to profit from it are restricted to the patent holder. This allows competitors to have a full knowledge of the invention, but they cannot produce it for sale to the public. Whenever contemplating a seemingly original or novel solution to a particular problem, the patent office can be one source to help ensure that there is no current patent that must be observed. If nothing else, it can be a good resource to see how others may have approached similar challenges.

Trademarks, like patents, represent a particular class of IP. Trademarks (or service marks) cover such items as logos, slogans, or distinctive shapes or patterns that distinguish a particular provider of goods or services from another. They are similar to patents in that they must be registered with the PTO to be protected formally. Most engineering firms likely have distinctive logos that may or may not be trademarked. Usually, the main concern with trademarks is that they are distinctive enough that potential customers will not confuse one firm with another.
Finally, copyrights are protections placed on particular expressions of ideas, whether written, graphical, or recorded (audio or visual). A copyright is a unique form of IP in that it is conferred to the author of a work upon its creation, with no formal registration necessary. Again, however, registration is required to sue an infringer for damages in a court of law. Copyright is a somewhat neglected aspect of engineering works, since the products often become public record as construction drawings, legal plats, and various planning and permitting documents. Nevertheless, the intent of copyright protection is clear; no one is permitted to use without permission the work of another for anything but certain, specific uses as described by the copyright laws.

In civil engineering, each of these categories is important for various reasons. While formal registration may seem like more trouble than it is worth, it is important to at least understand the laws to avoid infringing on others’ intellectual property. Additional information can be found at the Patent and Trademark Office and the Copyright Office. They are always the source of the most current laws.

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