

**A COMPARISON OF TYPES OF INTELLECTUAL PROPERTY (IP)- -
TRADEMARKS, COPYRIGHTS, PATENTS AND TRADE SECRETS**

<u>Type of Intellectual Property</u>	<u>Protected Information</u>	<u>Requirements for Protection</u>	<u>Procedure to Claim Rights</u>	<u>Length of Rights</u>	<u>Test for Infringement</u>
Trademark or Service Mark	Word, name, number, symbol, design, logo, character, trade dress, nonfunctional product configuration	Distinctiveness and identifying goods and services originating from a single source	Adoption and use (for descriptive marks, secondary meaning). This is true under the common law as well as under the Lanham Act. Federal registration enhances rights	Common law – as long as proper trademark usage continues. Federal registration 10 years, renewable forever if the mark is still used	Likelihood of confusion
Copyright	Work fixed in a tangible medium of expression – e.g., books, music, pictorial works, motion pictures, sound recordings, computer programs; expression of an idea, not ideas themselves	Originality and minimal creativity	By creation of work in fixed tangible medium of expression	After January 1, 1978 – life of the author plus 70 years (with exceptions); from 1923-1978 varies based upon statute; prior to 1923, none	Access plus substantial similarity; mere similarity is not sufficient

Utility Patent	Process, machine, manufactures (object made by hand or machine), compositions of matter, new uses of any of the above	Useful, novel and unobvious	A grant by U.S. Patent and Trademark Office	Filed after June 8, 1995, 20 years from date that patent application is filed; maintenance fees required over life of patent	Making, using or selling in the U.S. embodiments of the claimed invention; liability may also include contributory infringement and inducement to infringe
Design Patent	Ornamental aesthetic, nonfunctional appearance of a useful article (not ordinary craftsmanship)	Ornamental and novel	A grant by U.S. Patent and Trademark Office	15 years from date patent is issued	Design is an infringement to the eye of the ordinary observer, i.e., the closeness of design of the two works
Trade Secret	Information that (i) derives economic value from not being generally known or readily ascertainable by others who would get economic value from knowing it and (ii) is the subject of reasonable efforts to maintain secrecy	Secrecy or confidentiality of the information to be protected; minimal novelty required	Developing, securing and maintaining secrecy or confidentiality of the information and limiting access under secret or confidential restrictions	Contract term; for as long as the process or information remains secret; once secrecy is lost, protection expires	Exceeding scope of contractual rights; unauthorized use or disclosure to other

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