

## Relationship Between Patents, Trademarks and Copyrights

Proprietary Right	Utility Patent	Design Patent	Trademark or Service Mark	Copyright
What is Protected	Functional features of a process, machine, article of manufacture, or composition of matter.	Aesthetic features of a manufactured article	Words, names, or symbols	Writing, computer, software, music, works of art.
Requirements	Novel and unobvious	Novel and unobvious	Used to distinguish one person's goods or services from those of others.	Originality
How rights are acquired	Only granted by federal government	Only granted by federal government	<p><b>Common Law:</b> adoption and use.</p> <p><b>State Registration:</b> adoption, use and application</p> <p><b>Federal Registration:</b> adoption, use or intention to use, and application.</p>	Automatically acquired when created; early registration is recommended to preserve statutory damage rights
Term of Protection	20 years from filing	14 years from issuance	<p><b>Common Law:</b> as long as used as a mark.</p> <p><b>Federal Registration:</b> 10 years with right to renew for 10 year terms in perpetuity, so long as properly used.</p>	If owned by a natural person: the life of the author + 50 years. If the work is an anonymous, pseudonymous work, or a work made for hire: 75 years from the first publication, or 100 years from creation, whichever expires first.
Infringement	Making, using or selling in the U.S. a device coming within the scope of any patent claim	Making, using or selling in the U.S. a product that looks substantially similar (to the eye of an ordinary observer).	Using a mark that causes likelihood of confusion as to source or sponsorship	Copying, resulting in substantial similarity.