

Comparison between U.S. Patents, Trademarks and Copyrights[1]

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Type of Protection	Utility Patent	Design Patent	Trademark	Copyright
Protection	Functional features of process, machine, manufactured item or composition of matter	Ornamental designs for article of manufacture (not pure art)	Words, names, symbols, devices, sounds, smells, trade dress, or product shape (non-functional)	Works fixed in tangible medium of expression: e.g. literary, musical, pictorial, motion picture (not ideas)
Geography	U.S.	U.S.	U.S.	Almost worldwide
Duration	20 years from the date of application (if periodic maintenance fees paid after the Grant)	14 years from the date of Federal Grant	Federal Reg.: forever if make appropriate filing every 5 years + proper use Common Law: forever as long as use properly	Life of author +70 years or anonymous, pseudonymous, & works for hire: 95 years from date of first publication or 120 years from date of publication, whichever expires first
Criteria	New and "non-obvious"	New and "non-obvious"	First to use to identify and distinguish goods or services	Originality and creativity (very little)
Obtain Rights	Federal rights after issuance by USPTO -Maximize rights: marking	Federal rights after issuance by USPTO -Maximize rights: marking	Federal or State Registration: application and compliance with statutes Common Law: adoption & use (Sometimes secondary meaning required)	Federal rights automatic upon creation -Maximize rights: publication with notice and registration of claim with Register of Copyrights
Infringement	Making, using or selling in U.S. devices embodying the claimed invention	Designs look alike to eye of ordinary observer	Likelihood of market confusion, mistake or deception	Substantial portion copied and similarity to eye of ordinary observer

This only represents a brief summary of the key characteristic and in any case not complete.