

# Comparison of Common Types of Intellectual Property Rights

Type of IP Protection	Patent	Copyright	Trademark	Trade Secret
<b>Protected Interest</b>	Functional expression of an idea. E.g. a machine, method/process, compositions of matter.	Original works of authorship fixed in any tangible medium of expression. E.g. paintings, photographs, sculptures, writings, songs, software coding	Words, names, symbols, devices, sounds, smells, color, or non-functional trade dress that indicates the source or origin of goods or services	Know-how: technical information, practical knowledge, techniques, and skills necessary to manufacture a product or to operationalize a process
<b>Requirements for Protection</b>	Allowable subject matter, novelty, non-obviousness, utility, and disclosure and enablement	Allowable subject matter, originality, fixation, and proper authorship	Allowable subject matter, distinctiveness, active use or bona fide intention to use in commerce	Allowable subject matter, actual or potential value, and maintenance of secrecy
<b>Rights Granted</b>	The right to exclude others from making, using, offering for sale, or selling the invention	The right to (or to authorize others to) reproduce, distribute, perform, display the copyrighted work, or to prepare derivative works	The exclusive right to use the trademark and to prevent others from using the mark or from using of a similar mark to cause consumer confusion	The right to prevent others from acquiring or disclosing the trade secret by improper means.
<b>How to Obtain Rights</b>	Fill application with USPTO, which either grants or denies a patent	Rights exist upon creation in tangible medium, however, registration is required for commencing infringement suits	Common law by use, or register with USPTO and/or state agencies (in GA, file with Office of the Secretary of State)	Qualify as trade secret and reasonable efforts to maintain secrecy
<b>Protection Starts</b>	Upon issuance of a patent	When creation is fixed in tangible medium	First use, filing of intent to use application followed by registration	Creation of a trade secret
<b>Maintenance of Rights</b>	Must pay maintenance fees	None	Proper use, registration maintenance, guard against others' use of the mark	Maintain secrecy
<b>Term</b>	14 or 20 years depends on patent type	Life of author plus 70 years	Duration of proper usage; 10 years (federal registration)	Duration of secrecy
<b>Cost</b>	High	Low	Low to moderate	Cost of maintaining secrecy
<b>Remedies Available</b>	Injunctions, damages (including retroactive damages), attorney fees and enhanced damages if exceptional	Injunctions, damages (actual damages, profits, and statutory damages), costs and attorney fees prevailing parties, seizure or impoundment	Injunctions, damages, profits, attorney fees, punitive damages if also unfair competition, seizure, corrective advertising	Injunction, damages, punitive damages and attorney fees for willful misappropriation
<b>Governing Laws</b>	Federal only: Title 35 of the U.S. Code	Federal only: Title 17 of the U.S. Code	Federal: Lanham Act of 1946 State: O.C.G.A. Title 10 Chapter 1 Article 16 (2015)	Federal: The Economic Espionage Act of 1996 State: Uniform Trade Secrets Act (UTSA), adopted by 47 states including Georgia - O.C.G.A. Title 10 Chapter 1 Article 27 (2015)