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Patents and Intellectual Property Matters

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Intellectual Property Protection Schemes

	Patent	Copyright	Trademark *	Trade Secret *
Purpose	To protect an invention	To protect a mode of expression	To identify and distinguish the source of goods and/or services	To keep information secret
Requirements	Invention must be useful, new, and not obvious	Expression of work fixed in tangible form	Federal registration: used in commerce or intent to use	Information not known in trade and gives competitive advantage
Government Review	PTO examines application	Copyright Office examines application, but not content/material	PTO or state examines for registration; No Examination if common law mark	None
Legal Effect	Excludes others from making, using, selling, offering to sell, or importing into the US during term of patent	Excludes others from copying or using form of expression	Excludes use by others if the use is likely to confuse the public	Excludes use of secret gained through improper means by others under state laws
Term	Utility patents: 20 years from date of filing; Design patents: 14 years from issue	Life of author plus 70 years; work for hire is shorter of 95 years from publication or 120 years from creation	Federal registration: 10 years with unlimited renewals; Tenn: 5 years with renewals	As long as secret is maintained
Statutes	Title 35 USC §1 <i>et seq</i>	Title 17 USC §101 <i>et seq</i>	Federal: Trademark Act of 1946 (Lanham Act): Title 15 USC §1051, <i>et seq</i> ; Tenn Trade Mark Act of 2000: TCA 47-25-501, <i>et seq</i>	Tenn: The Uniform Trade Secrets Act: TCA 47-25-1701, <i>et seq</i>

* Unlike Patents and Copyrights, which are exclusively regulated by federal law, Trademarks and Trade Secrets may be subject to state laws, which vary depending upon the state. The above is a summary of the law. An attorney should be consulted before relying and/or acting on any information contained in this table.