

# Intellectual Property – Exclusive Rights To “Promote Progress”

Type of Intellectual Property	Aspect of Protection	Legal Requirement(s)	Research/Startup Examples?	Length of Protection	Scope of Protection	Limits on Intellectual Property
Utility Patent	“Anything under the sun that is made by man”	Novel, Nonobvious and Useful	Yes: Compound, Device, Method of Making, Method of Using	Approximately 20 years from filing	Right to exclude others from making, using, selling, importing and offering for sale the claimed invention	-Legal requirements -Limited term -Rights based on “claims”
Design Patent	Ornamental design of an “article of manufacture”	Novel, Nonobvious and Ornamental	Yes but unlikely, unless invention has an ornamental aspect	14 years from issue	Right to exclude others from making, using & selling, importing and offering for sale the claimed design	-Legal requirements -Limited term -Rights based on “claims”
Plant Patent	Asexually reproduced plant	New and Distinct Variety of Plant	Rare: Possibly in Agriculture setting	Approximately 20 years from filing	Right to exclude others from making, using, selling, importing and offering for sale the claimed invention	-Legal requirements -Limited term -Rights based on “claims”
Federal Trademark Registration	Distinctive words, symbols or other indicators that identify a “source of goods”	Not confusingly similar to another mark for similar goods (or services), and use in commerce or “intent to use”	Yes: distinctive name for product or service that will be used “in commerce” in the near future	Perpetual as long as in commercial use, quality maintained, and not allowed to become a generic term	Exclusive use of mark	-Legal requirements -Limited term -Restricted to defined goods/services
Copyright Registration	Original works of “authorship”	Originality Fixed in a tangible medium	Yes: Software, manuals, teaching materials	Individual: life + 70 years Works for hire: 95 years from publication or 120 years from creation, whichever is shorter.	Exclusive right to copy, display, perform, distribute & create derivative works	-Legal requirements -Limited term -Exceptions: such as “fair use”
Trade secret	Secret information	Use reasonable precautions to keep secret	Possibly: secret methods or processes that are treated as trade secrets	Perpetual as long as it is kept a secret	Right to stop others from using trade secret only if improperly taken	Legal requirements