

Overview of the Types of Intellectual Property
from CharlesMillsConsulting.com

	Patent	Trademark & Servicemark	Copyright	Trade Secret
What is protected	Invention that is useful, novel, non-obvious and not trivial	Word, name, phrase, image, etc. used to identify a product or service	The original <i>expression</i> of an idea	Any business information that is valuable and not common knowledge
Examples	LZW compression (used in .GIF files), some encryption	IBM®, Windows®, Biztalk™, The Document Company	Source and executable code, manuals, sales literature, screens and web pages	Customer list, internal documentation, unpublished price list
Examples of what cannot be protected	Principles, inventions of others, trivialities	Terms that are generic ("Accounting Software"), disparaging, scandalous or confusingly similar to existing trademarks	Ideas, methods, names, short phrases, inventions	Anything published or widely known
Basis of protection	Federal law (35 USC) and foreign laws	Overlapping Federal and state laws. Federal law governs interstate commerce and is typically more appropriate for software	Federal law (17 USC) and international treaties	Various state laws; contractual non-disclosure agreements
How protection obtained	Elaborate application process	Automatic upon usage, but Federal registration highly recommended	Automatic upon expression in tangible form, but registration recommended	By continuing to take steps to prevent disclosure
Protection without an attorney?	Difficult, not recommended	Self-registration possible, but not recommended	Very easy (for typical situations)	Often no attorney needed
Typical cost of protection	Tens or hundreds of thousands of dollars	Federal filing fee \$370; search a few hundred dollars, attorney a few hundred to a few thousand dollars	\$30 filing fee plus postage for registration	Varies, often little or no cost
Length of protection	20 years	10 years, unlimited renewals, must re-certify use every 5 years	At least 70 years	Indefinite
Traps for the unwary	Large corporations have strategies for forcing license at no charge. Infringement of "stealth" patents.	Determination of "confusingly similar" is more involved than it might seem	Protects only the expression, not the underlying idea or function. If only one way of expressing idea or function, then not protected.	May be difficult to prevent disclosure, determine source of "leak," and enforce agreements

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Two useful links:

Patent and Trademark Office (lots of information, on-line forms and a free searchable database of all US trademarks and patents, both text and images) <http://www.uspto.gov/>

Copyright Office of the Library of Congress (registration information, FAQs and downloadable forms) <http://www.loc.gov/copyright/>