

ENTREPRENEURSHIP LEGAL CLINIC
January 2007

COMPARISON OF INTELLECTUAL PROPERTY PROTECTION

Distinguishing Feature	Trademark	Copyright	Trade Secret	Patent (Utility)
Protected Interest	Consumer Recognition & Related Goodwill	Expression Embodied in Fixed Medium	Business Information	Functional Inventions
Requirement for Protection	Use in Commerce _____	Originality _____	Not Known; Valuable; Maintained As Secret _____	New, Useful Nonobvious, Proper Subject Matter
Disclosure Required	Yes	Yes	No	Yes
Term of Protection	Potentially Indefinite if Mark is Used Properly	Author Life Plus 70 Years*	Potentially Indefinite if Information Remains Secret	20 Years from Application Date
Conduct Prohibited by Protection	Creating a Likelihood of Confusion	Copying or Substantially Similar Works	Misappropriation	Making, Using, Selling or Offering to Sell Invention
Reverse Engineering	Inapplicable	Inapplicable	Not Prohibited	Prohibited
Damages for Infringement	Compensatory and Treble Damages; Attorney Fees	Compensatory and Statutory Damages; Attorney Fees	Compensatory and Treble Damages; Attorney Fees	Compensatory and Treble Damages; Attorney Fees

*The term of copyright protection for corporations is 95 years after publication

Excerpt from Section 8.01 of Chapter 8: *Preliminary Considerations Technology and Intellectual Property Rights* in EMERGING COMPANIES GUIDE: A RESOURCE FOR PROFESSIONALS AND ENTREPRENEURS (Robert L. Brown et al. eds.), ABA Publishing (2005)