

	COPYRIGHTS	TRADEMARKS	UTILITY PATENTS¹
SOURCE	Federal law	Federal and state law	Federal law
STATUTORY SUBJECT MATTER	Literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; or architectural works	Words, names, symbols, slogans, or devices	Any process, machine, manufacture, or composition of matter, as well as any improvements on the same
SUBJECT MATTER EXCEPTIONS²	(Statutory): Ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries; U.S. government works	(Common law/Statutory): Functional features of a good	(Common law): Laws of nature, natural phenomena, abstract ideas, unapplied mathematical algorithms, or products of nature
REQUIREMENTS	Original, creative, <u>and</u> fixed in a tangible medium of expression	Distinctive <u>and</u> used in commerce	Novel, nonobvious, <u>and</u> useful
WHEN THE RIGHT COMES INTO EXISTENCE	Fixation of the expression (but registration usually required to bring suit; registration carries other benefits re: remedies)	Use in commerce (w/ registration being necessary for certain types of claims but not others; registration carries other benefits re: remedies)	When granted by the USPTO
DURATION	Life of the author plus 70 years (w/ a different duration for works authored by corporations)	So long as properly used as a trademark	20 years from the date the application was filed (w/ some exceptions)
OWNER'S RIGHTS	To prevent others from reproducing, adapting, distributing, performing, or displaying the work (w/ some exceptions and qualifications for certain types of works)	To prevent others from using the mark, as a mark, in commerce in a way that is likely to cause consumer confusion or, in the case of famous marks only, dilution of the mark	To prevent others from making, using, selling, offering to sell, or importing a device that “copies” the claims of the invention either literally or equivalently

¹ There are other patent types, including design patents and patents for plant varieties, for which some of these rules differ.

² This list is not intended to be exhaustive, but it covers the most important exceptions.