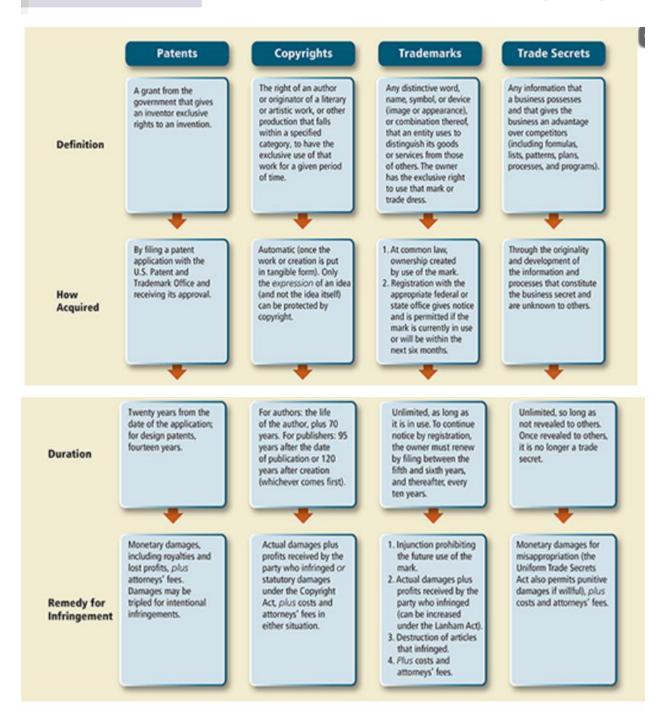
# Exhibit 8-1 Forms of Intellectual Property



Intellectual Property- Product of individual Mind

<u>Trademark</u> – distinctive mark, motto, that is stamped or printed on goods to identify maker.

#### Trademark Dilution -

- 1) Plaintiff owns a famous mark
- 2) Defendant using mark in commerce
- 3) Similarities cause association of the marks
- 4) Impairs distinctiveness of famous mark.

Can be on non-competing goods

Mark does not have to be identical

## Trademark Infringement

Owner **must show** defendant's use of the mark created likelihood of confusion.

#### Remedy

- 1) Injunction
- 2) Recover actual damages
- 3) DESTRUCTION OF ANY GOODS BEARING UNAUTHORIZED MARK

### Distinctiveness of the mark

Strong Marks - automatic protection

Fanciful – made up ex. Google

Arbitrary – common word used in uncommon way – Ex. Apple for computers

Other marks – not automatic protection

Suggestive – indicates something about the product – like Dairy Queen

Secondary Meaning – no mark until the name or term acquires a secondary meaning – ex. Calvin Klein – designers name that has been associated with designer clothing line

No trademark for Generic Terms – words that became used in everyday language – ex. Escalator, aspirin, computer

Patent- gives inventor exclusive rights to sell their invention. 20 years

American Invents Act – first person to file gets the patent

Must be novel, useful, and not obvious

Patent infringement-

#### Remedies:

- 1) Injunction
- 2) Attorney fees
- 3) Treble Damages

# **Copyright** – on intangible goods

Must be fixed in a durable medium

Ex. Of copyrightable material

- 1) Literary works, books, magazines. Etc.
- 2) Musical works, music and the lyrics
- 3) Sound recording
- 4) Comics
- 5) Architectural work

# Copyright infringement

Does not have exactly but substantial part of original

Punishment:

Under Copyright act – criminal proceeding, fine and imprisonment

Civil suit – damages

Permanent injunction

**Trade Secret** – information has commercial value to a business.

Ex. Customer list, secret recipes, research and development.

Violations is if you obtain the information

- 1) through improper means
- 2) disclosure breach of duty to other part

#### **Punishment**

**Uniform Trade Secrets Act** 

Civil Suit under Common Law