

**The State of Cannabis 2018  
Intellectual Property Comparison Table**

	<b>What's protected</b>	<b>How to get protection</b>	<b>Term</b>	<b>Scope</b>	<b>What constitutes infringement</b>	<b>Other notes</b>
<b>Copyright</b>	Creative works of authorship	Register with U.S. Copyright Office (required to bring a lawsuit for infringement)	Life + 70 years / 95 years from first publication if for hire	Gives holder the exclusive right to reproduce, perform, display, etc.	Unauthorized reproducing, performing, displaying, etc.	No issues with cannabis at U.S. Copyright Office
<b>Trademark</b>	Logos, branding, and other marks used to designate a product or service provider	Start using mark in commerce. Can, but don't have to, file with state and/or federal trademark offices.	Limited by use; potentially indefinite	The right to use the mark in commerce and to exclude others from using the same or a similar mark	Unauthorized use of a mark, or a mark that is confusingly similar to a registered mark, in commerce	USPTO - No cannabis trademarks  CA SOS - Cannabis trademarks OK
<b>Trade Secret</b>	Information not generally known with economic value	Take reasonable steps to keep info secret; ideally, have a written protection plan	Limited by secrecy; potentially indefinite	Covers things like SOPs, product formulations, customer lists, etc.	Unauthorized access to or misappropriation of trade secrets	Accidental disclosure of protected info can void status

<b>Utility Patent</b>	Inventions (functional aspects)	File a patent application with the USPTO	20 years from filing (generally)	Exclusive right to make, sell, offer to sell, or import the invention	Making, selling, offering to sell, or importing without authorization of patent holder	USPTO has issued utility patents for cannabis and ancillary products
<b>Design Patent</b>	Inventions (ornamental aspects)	File a patent application with the USPTO	15 years from date granted	Exclusive right to make, sell, offer to sell, or import the invention	Making, selling, offering to sell, or importing without authorization of the patent holder	Design of packaging could be eligible for design patent
<b>Plant Patent</b>	New variety of asexually reproduced plant	File a plant patent application with the USPTO	20 years from filing	Right to exclude others from asexually reproducing, selling, importing, or offering to sell the plant or any part of it	Asexually reproducing, selling, importing, or offering to sell the patented plant without authorization.	Protecting anything other than clones requires utility patent. Different from PVP Certification which is another option for cannabis.

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