

Economics of IPR
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Module – 02
Lecture – 03
Economics of Trademarks

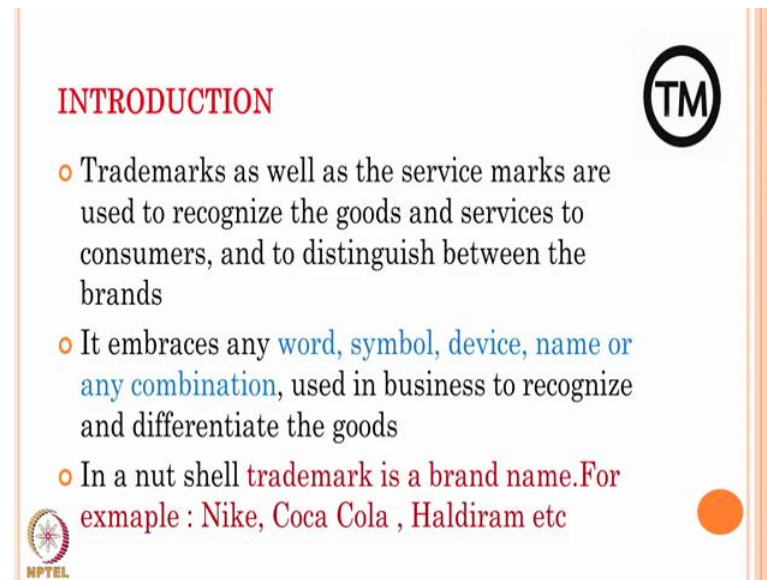
Economics of trademarks, a new discussion on how trademarks are also one of the important intellectual property rights today, and that is important for consumer as well as producer.

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So, we are basically going to learn today that, how trademarks which is presented as TM for many products in the circle or R in a circle is important for a consumer and also for a producer.

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INTRODUCTION

- Trademarks as well as the service marks are used to recognize the goods and services to consumers, and to distinguish between the brands
- It embraces any word, symbol, device, name or any combination, used in business to recognize and differentiate the goods
- In a nut shell trademark is a brand name. For example : Nike, Coca Cola , Haldiram etc

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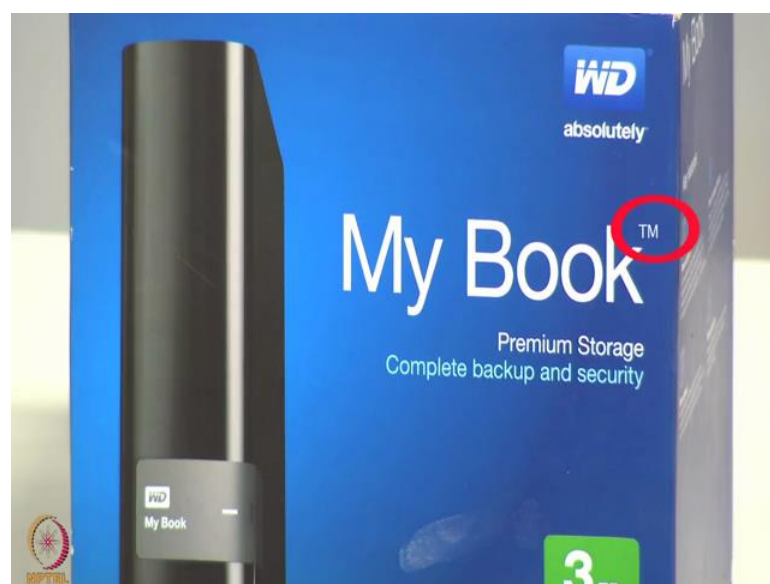
But before that, let me give you the introduction that, what is basically the meaning of trademarks. Trademarks as well as the service marks are used to recognize the goods and services to consumers, and to distinguish between the brands. Large number of products are available today and if you have to really find out that, which product is the genuine product which product is the real product, this trademark gets you the idea that, which one is the right and which one is the wrong and company and the form is keep going informing the consumer that, please try to see this trademark before using the product.

So, I can give you some of examples from the things available here. So, if you will see the glassware package, you will find this particular product is having this name with the TM. And this trademark TREO is the trademark of this glassware set and for a consumer it is very easy to find out whether this is a real product or not.

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Like that if we can see some of the electronic products today, this my book complete backup and security product, which is used for data backup, we find out that my book is again the trademark of this particular this particular company.

So, for example, I can give you some of the product based example here. So, if you think just see this product glassware, where you are finding there is a name written here and then you have this trademark on the top, this shows that, this is the trademark of this particular glassware. So, this is easy for a consumer to identify the product, whether a

product is really genuine or not; if it is really popular product, if it is really very demanding product, then other forms may try to copy the product; which already in grade the mark.

So, it is generally trademarks and other products are facing this problem, trademark is facing the challenge when the products are really having a great demand; one can also see here the product, which is the complete pack up product for the data and used for the computer. So, in this product also this book is the product which is a trademark of this particular company; and again we are finding that there is a TM on the top of the My Book; it means that this is the trademark of this particular company. This shows that how trademark matters for a producer because this is the single identification and this is the single name, which is giving the information to the consumer and this is the main motivation for the producer to reach the consumer and also the consumer is getting the idea that this product is really the authentic product.

The trademark may be presented in different way, the same my book here we are finding that TM is not written here, but it is R in the circle. This also means that it is the trademark whether it is R in the circle or TM this also the trademark for the book. So, I can give you one more example of another small product.

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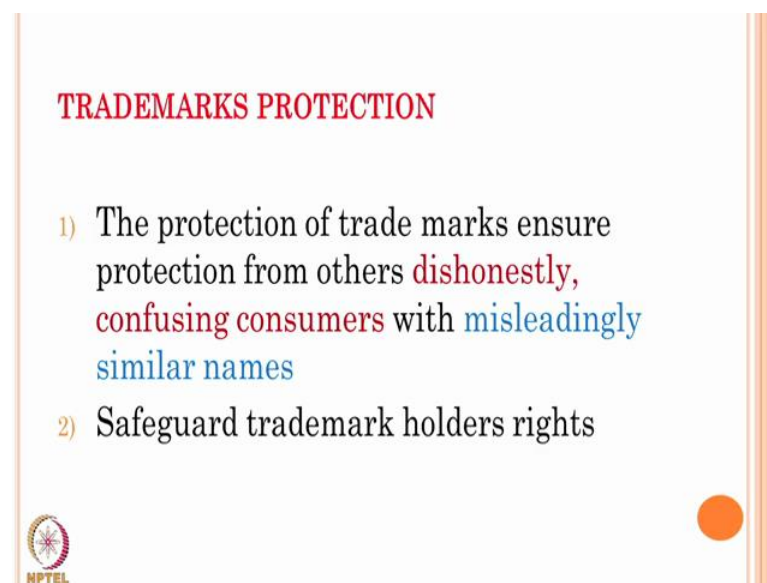
This fevi stik where we are finding that there are 2 elephants and its shows that this 2 elephants are basically the trademark, very small circled R is also here, which you can

identify a from bind this product from any saw other few have this product at your home, you can also find out that how these the symbol.

So, trademark can be a word, it can be a symbol, it can be a device, it can be a name and combination used in the business to recognize and differentiate the goods. So, in brief we can say that; trademark may be a word, may be a symbol, may be a devise, and may be a name or any combination. Basically to recognize and to differentiate the goods because whenever product is long universal services of provided to the consumer subscriber, it is very important to have the identification of those products, through certain symbols and through certain names or some slogans or some combination of words or whatever.



So, some examples may be again taken from the day to day consumer items like Nike or coca cola or Haldiram or any other products which is very popular in nature.

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TRADEMARKS PROTECTION

- 1) The protection of trade marks ensure protection from others **dishonestly, confusing consumers** with **misleadingly similar names**
- 2) Safeguard trademark holders rights

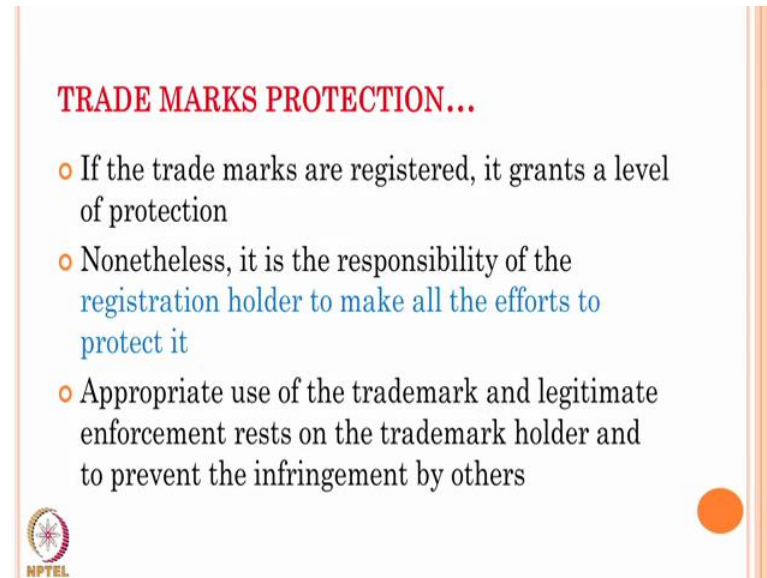
 

So, when it comes for the trademark protection. The protection of trademarks ensures the protection from others dishonestly because many forms are trying to confuse consumers with providing the misleading similar names. So, there are certain similarities in the names in the product which is in the market and if a consumer is not really aware if consumer is really confused.

They are basically cheated by different forms. So, trademark is basically safeguarding the rights of the trademark holders, at the same time we cannot disagree with this point



that trademark is also safeguarding the consumers, if consumer is really aware with those trademarks and identification.

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TRADE MARKS PROTECTION...

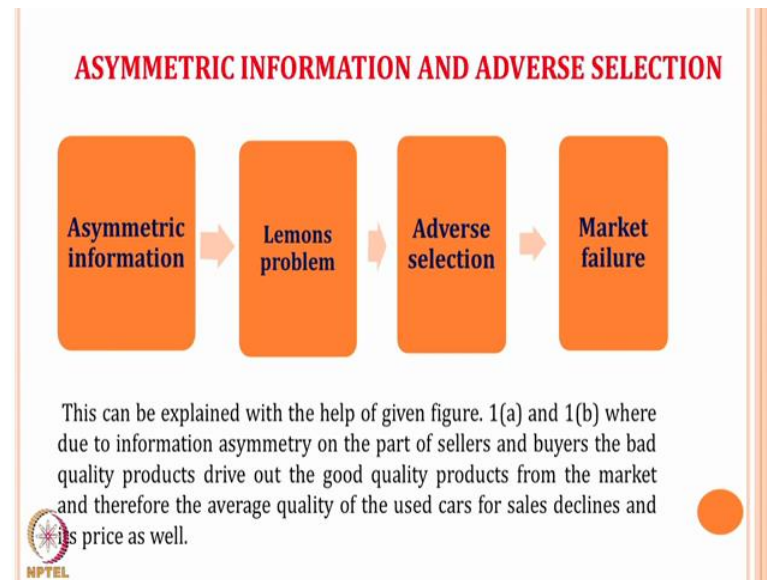
- If the trade marks are registered, it grants a level of protection
- Nonetheless, it is the responsibility of the registration holder to make all the efforts to protect it
- Appropriate use of the trademark and legitimate enforcement rests on the trademark holder and to prevent the infringement by others



So, if the trademarks are registered it grants a level of protection as known as your mark is not registered you cannot say that this is my trademarks. The moment your trademarks are registered, then only you can say that it is our registered trademarks. So, it is the responsibility of the registration holder to make all the efforts to protect it. So, if my trademark is registered I am running a firm and my trademark registered, but in if I not really concerned about protecting my trademarks, if I am not informing to the consumer, not informing the market that, what has to be seen on the product have it has to be received by the consumer and what slogan and what words, that is why we find today that many firms are trying to come out with different advertising at the distant with different names and difference slogans of the product and that mix thing life in the market because the movement if you are not really able to protect your trademark and if you are not able to advertise your trademark, then it is not really possible to basically stop the enforcement of the trademark products.

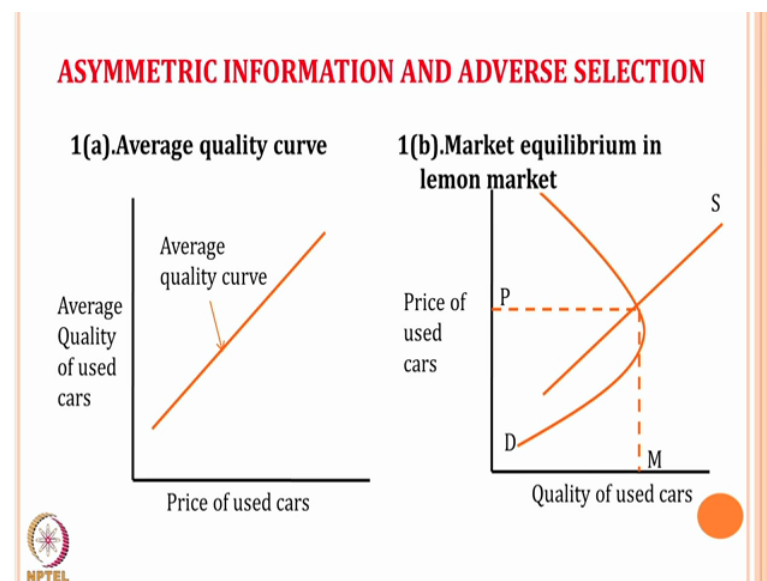
So, appropriate use of trade mark and legitimate enforcement are really in the hand of trademark holder and that prevents the infringement for those marks by others and if it is not really well taken then entire effort of registering those trademarks is over.

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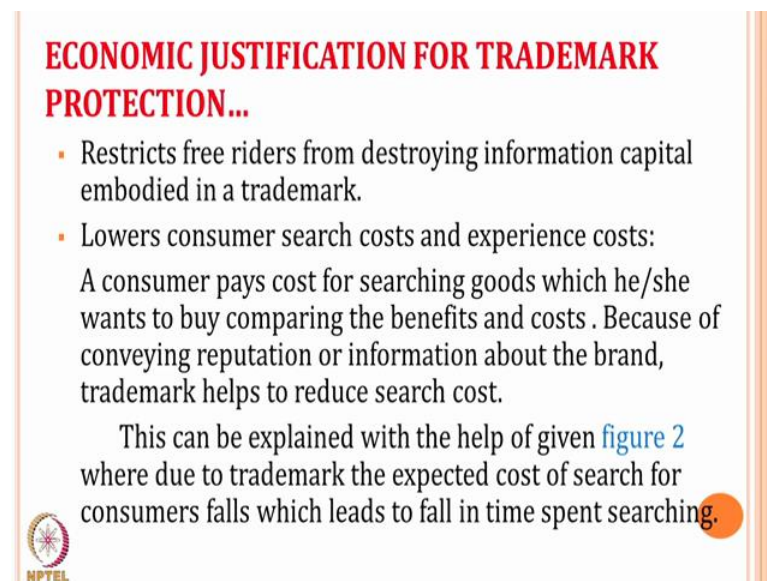
So, when we are discussing this economics beyond this trademark we cannot really ignore the discussion on asymmetric information and adverse selection. So, this can be explained with this particular chart that asymmetric information is dealing us to the lemons problem, means the adverse selection, lemons problem is pointed out by one of the economics; where he argue that due to the asymmetry in the information some time bad products are driving out good quality products from the market. And therefore, average qualities of used cars and itself are declining and its price as well.

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So, this was this was presented in figure 1 A and also in figure 1 B while in figure 1 A we are finding that, there is an average quality curve in the market fact. In figure 2 we find that, the markets is facing the Lemon problem and now the market is not really supporting the price of used cars and the quality of used cars are not in more demand after this price of used cars even if it is going high. The qualities of used cars supplied by the suppliers are not really very high because the bad cars due to their asymmetry in the information's are driving out the good quality cars from the market.


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ECONOMIC JUSTIFICATION FOR TRADEMARK PROTECTION...

- Restricts free riders from destroying information capital embodied in a trademark.
- Lowers consumer search costs and experience costs:
A consumer pays cost for searching goods which he/she wants to buy comparing the benefits and costs . Because of conveying reputation or information about the brand, trademark helps to reduce search cost.

This can be explained with the help of given [figure 2](#) where due to trademark the expected cost of search for consumers falls which leads to fall in time spent searching.

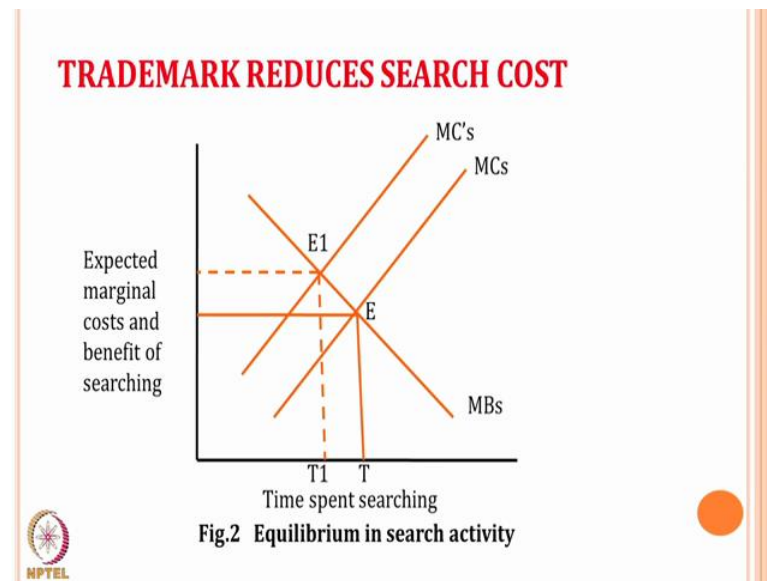


So, what is basically the economic justification for trademark because like other intellectually property rights, Trademarks is again restrict in the free riders from destroying the information, capital, embodied in the trademark because trademark is the key for protecting the forms from other free riders, from other a tapers and if it is not registered; trademark is not registered there are many free riders available in the market. And they basically enjoy the benefit of intriguing in the rights of the people who are already registered with their mark and it is true that only those companies those forms are facing that it acts, the companies which are really having very good name and very good fame in the market.

So, a consumer pays cost for searching goods, there is a search cost involved with trademark is not available people are finding very difficult that which one very good quality product for them and there is a huge transaction cost involved searching and

bargaining and consumer is paying huge cost and they are not having any benefits, but information about the brand trademark is to reduce search costs of searching the product search transaction in terms of bargaining because if we have a very clear cut indication that which brand and which mark then you are basically king in the market otherwise you are helpless.

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So, in figure 2 we have seen that, where due to the trademark the expected cost of search for consumer falls; which leads to the fall in time spent in searching. If we can go back here we can see that the time spent on searching if it is reduced it really happens when you have expected marginal costs and benefits of searching. In case if you have reduced to your marginal cost on searching and the benefits of searching, then you have certainly having more time spent, but it is true that if you have reduce the time you are in the position to really have you to the trademark the expected cost of search for consumer falls which lead to the fall in time has spent on searching.

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TRADEMARKS: PROBLEMS INSTANCE

- The domain name *newton.com* was registered by Mark Newton in 1994 for his bulletin board to offer computer assistance
- Subsequently, Mark Newton was asked by the Apple computer to discard the domain name, since the later has a trademark for 'Newton'
- Apple computer accused Mr. Newton to the InterNIC because he was reluctant to withdraw the domain name
- This has raised concerns whether trademarks actually confer ownership over a domain name to the companies
- The matter is on hold



One of the important example related to the trademarks is the domain name newton.com was registered by mark Newton in 1994 for his bulletin board to offer computer assistance subsequently Mark Newton was asked by the apple computer to discard the domain name. Since the later has a trademark for 'Newton' Apple computer accused mister Newton to the InterNIC because he was reluctant to withdraw the domain name this has raised concerns whether trademarks actually confer ownership over a domain name to the companies the matter is on hold. So, this shows that how even the domain name which was registered by Mark Newton in 1994, is really one of the challenge for apple computer.

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TRADEMARK: ECONOMICS OF LANGUAGE AND COMMUNICATION

- ❑ Trademark encourages investment in inventing new words
- ❑ Economizing language in 3 ways:
 - ✓ It increase the collection of names of things, thus **economizing on communication and information costs** in the ways just recommended.
 - ✓ Also create **new generic words** that denote entire products, not just individual brands.
 - ✓ It further develop the language, by **inventing new words or phrases** that people value for their natural attractiveness as well as their information value.

So, the trademark is link with the language and economics of language and communication because it is economizing the language in three ways first it increases the collection of names of things consuming, thus economizing on communication and information costs in the ways just recommended and it also creates new generic words that denote entire products; not just individual brands, it further develop the language by inventing new words or perhaps that people value of their natural attractiveness as well as their information value.

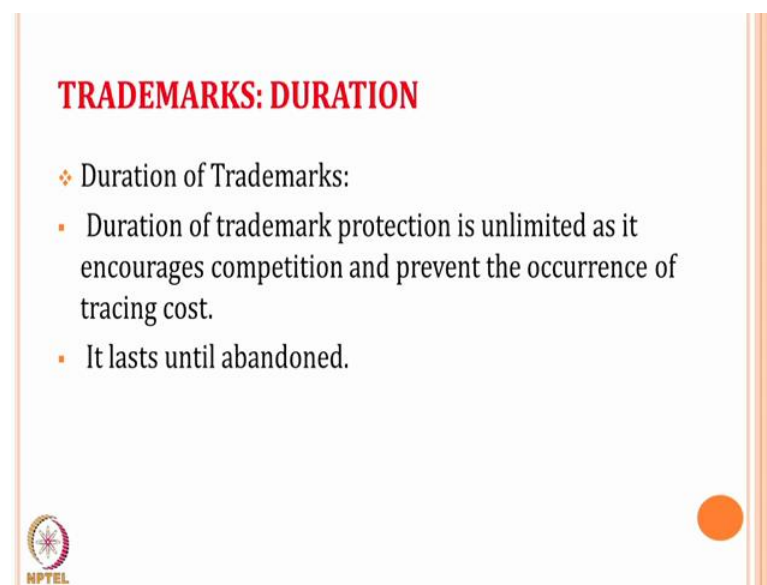
So, there are few words which is very popular this days, surf is coming out with the words [FL] or even [FL] for the soft drinks or when India is started telecommunication liberal very private oriented telecommunication business, then reliance came with the with the slogan called [FL]. So, all these all these words are basically the words which basically lead the market for many years and all these words are the new words invented by the forms and popularized by the forms to established their identity and to motivate the consumers to consume more and more, and to grab the market because these are the trademarks for the purpose of grabbing the market. You know that market is imperfect large number of producers are available in the market and you have the cut root competition available in the market.

So, you are trying, your base to convince the consumer, the particular product is the product which you can consume and that is the product which is very good for you. So,

through this words, through this generic required, through this invented words, you are trying to explore the market, you are trying to capture the market. So, the trademark helps in capturing the market through the language and communication and in different country they are trying to find out different people and they are trying to identify the people who can really lead those slogans those words in to the market through different electronic and a print advertisement and electronic advertisement channels and the boost which came with the slogan called “boost is the secrete of my energy” from Kapil Dev to Sachin Tendulkar.

We are finding that this particular slogan is coming again and again and we find that such advertisement and such trademarks which is connected with the advertisement is trying to really create a new world in the market and that you world is basically motivated to the language and communication.

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So, the that one major question like the patent or like the copyright the duration of trademark is also one of the important point to understand, but the duration of trademark protection is unlimited, in patent we have seen that it is limited, in copyright we have seen that life plus 60 years, in case of India. But the duration of trademark as I gave you the example of boost which gives this advertisement that boost is the secrete of my energy and that slogan that slogan is continuing in the market in India for many years

when the Kapil Dev was the Indian cricket team captain, from that time to Sachin Tendulkar and may be from the next generation of the cricketers also.

So, it is not like the patent that within few years you have to have the wait expired the market, but you have unlimited time to expired the market as known as your product is really have in the value and it is associated with the value of the product the quality of the product. So, the trademark is not only the mark, it is not only the word, it is not only the symbol; which itself is enough to expired the market, but you have to be very much competitive and very much active efficient in terms of maintaining the quality of the product and that trademark is identified by the consumer that trademark is your identity in the market associated with the identity and the quality of the product, but it suddenly creates encourage the competition and prevents the occurrence of tracing cost because ultimately through those slogans, through those words, through those marks ,your giving an identity to the consumers that see this is the product which you have to consume.

So, as known as your product is life your product is available your trademark is available.

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TRADEMARKS: BREADTH


- ❑ Generic products can not be trademark and trademark can not be generic products.
- ❑ Some times a competitive product succeeds so far that its trademark become a generic name

Some examples:

Xeroxing for photocopying

Surf for detergent powder

Hoover for vacuum cleaner

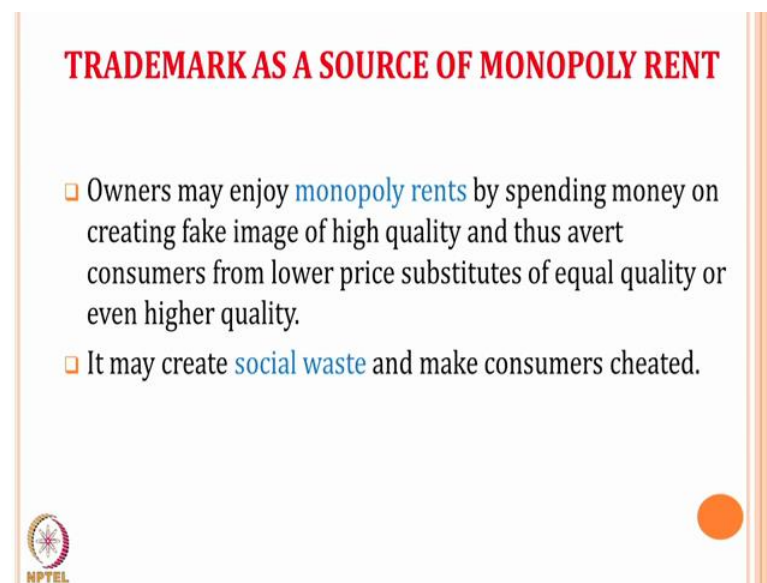


Some of the other examples what is basically the breadth after the trademark, so, the generic product cannot be the trademark and trademark cannot be generic products sometimes a competitive product succeeds. So, for that its trademark become a generic

name some examples are the Xeroxing for photocopying, surf for detergent powder, Hoover for vacuum cleaner.


Today we say that some of the information to our friends that we are going for Xeroxing, but the Xerox was the first for the copying machine in the world and now that Xerox is so popular that, Xerox itself is identifying the entire industry of the photocopying sector, surf itself is leading the entire detergent powder market today. But generic products cannot be the trademark and trademark cannot be generic products for example, if somebody wants to keep the name of medicine for a medicine product you cannot. Because medicine is a very generic name and that is that is identifying the entire medicine entire product in the medicine sector, so like that you cannot keep the generic products as the trademark.

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TRADEMARK AS A SOURCE OF MONOPOLY RENT

- ❑ Owners may enjoy **monopoly rents** by spending money on creating fake image of high quality and thus avert consumers from lower price substitutes of equal quality or even higher quality.
- ❑ It may create **social waste** and make consumers cheated.




But the trademark is a soft monopoly rents because owners may enjoy monopoly rents by spending money on creating fake image of high quality and thus avert consumers from lower price substitute of equal quality or even higher quality. It may create social waste and make consumer cheated sometime and all depends on how what is if the objective, what type of market conditions are available and in that condition; if are really uncontrolled and if are really not having any competition, a form can really come out with that trademark, but may not be matching the quality of the product high quality of the product which they way they used to offer in past.

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TRADEMARK AND INCENTIVE TO FREE RIDE

- The stronger the trademark the greater the incentive to go for free ride in the absence of legal regulation.
Generally, the trademark of **popular , big and famous brands** are pirated or tried to be imitated.
- The incentive to free ride depends on the difference between the revenue generated by the trademark and the costs of imitation.
If cost of imitation > revenue from trademark, there will be less incentive to free ride.
If cost of imitation < revenue from trademark, there will be more incentive to free ride.



So, this trademark an incentive to the free riders, the stronger the trademark the grater the incentive to go for free ride in the absence of free revel revolution. So, if you do not have a very strong legal revolution as we have seen in case of patent, also in case of future intellectual property rights, also if you do not have a strong set of rules and implementation of those rules, then in that case free riders is really having incentive to copy or to use or to really have a very dishonest effort to explode the consumers.

Generally the trademark of popular big and famous brands are pirated or tired to be imitated. The incentive to the free rider depends on 2 different conditions; the first if cost of imitation is higher than the revenue from the trademark and the second if the cost of imitation is higher than the revenue for the trademark there will be less incentive to the free riders because you have huge cost involved in imitation of a trademark compare to the revenue which you may you may get it.

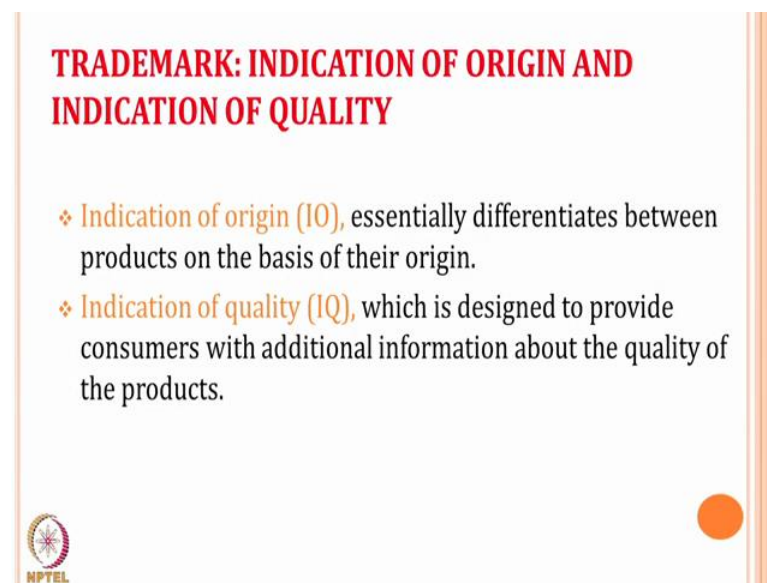
For example suppose a form name abuse a software form, once to imitate the trademark of a very established form. So, suppose if the cost of imitation as we know that cost of imitation is not only the cost of copying the mark copying the image, but also the cost in case of caught, in case of jailed in case of punished.

So, if we calculate that cost may be the locking out the company, for the forms blacklisting for the name of the forms. So, if a form is expecting 100 million dollar revenue from the trademark and if the set of rules are very high and the punishment is

very high and if the punishment one is expecting around 200 million dollar and did in that case, due to the strong set of rules and the huge cost involved in imitation the form will not go for imitating the trademark.

But see this is the condition of a country A, but in country B you have 20 million dollar cost involve that includes, all type of cost, but you have 200 million dollar revenue waiting. So, in this case revenue is higher than expecting cost. So, the form may try to imitate the trademark because higher revenue is there and cost of imitation is less.

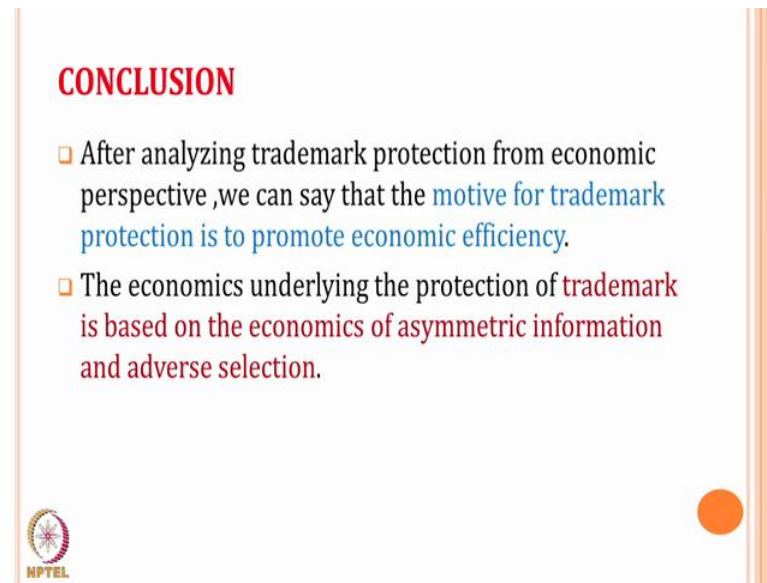
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So, trademark is also based on the indication of origin and indication of quality. So, for example, the Darjeeling tea one of the example of trademark from India, is essentially differentiating of from other tree available in the world because the Darjeeling tea is the indication of origin and that origin is origin is not in other part of to world expect India.


But it is also the indication of quality some time we promise that this particular quality is not available in other products.

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CONCLUSION

- ❑ After analyzing trademark protection from economic perspective ,we can say that the **motive for trademark protection is to promote economic efficiency.**
- ❑ The economics underlying the protection of **trademark is based on the economics of asymmetric information and adverse selection.**



So, we provide the information sensitive information to the consumer through our trademark indicating the quality available in the product, so the discussion on trademark, after analyzing trademark protection from economic perspective.

We can see that the motive for trademark protection is to promote economic efficiency and the trademark protection is really stopping all those mark serious forms and may be over serious form, who wishes to enjoy the benefits of all type of all type of revenue; from a adjusting name, from established forms, from a very popular forms.

So, it is not so easy to get the benefit without doing anything if a firm has really established this its identity in the in the market it means that it has really work hard or and they have really well informed consumer, but if a trademark for it wants to really become rich, they will try to imitate the trademark in try to capture the market.

So, the economics underline the protection of trademark is based on the economics of asymmetric information and adverse selection. So, if the information is not really reaching to the consumer, not authentic information is really reaching to the consumer; if the parallel forms are good enough to make them fool. In that case the consumer will not be able to select the good quality item, but they will go for the adverse quality or that quality item and the economy will face this lemon crises lemon problem.

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FURTHER READINGS

- ❖ Cooter, R. & Ulen, T. (2004). *Laws & Economics*. New Delhi: Pearson Education Pte. Ltd.
- ❖ <https://cyber.law.harvard.edu/IPCoop/87land1.html>
- ❖ WTO (2016). The Economics of TRIPS. from https://www.wto.org/english/tratop_e/trips_e/trips_econprimer1_e.pdf



So, trademarks are really helping producers as well as consumer. These are the further readings hope you can have a look on these readings I think this particular lecture will help you to understand the economic brand, the trademark and how trademarks is connected with both the demand side supply side consumer as well as producer.

Thank you.