

Intellectual Property
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Lecture - 77
Teaching Intellectual Property

Teaching Intellectual Property has certain difficulties especially when intellectual property has to be thought to non lawyers that traditionally intellectual property rights are subjects that are thought in law schools and again it is not subject that is thought in the initial years of study. So, it is something it is a course that will come in the final years of study in the fourth or in the fifth year. This is largely because of the principles of IP cuts across different subjects, for instance law students will know that there are elements of tort law in IP, there are elements of criminal law in IP, there are elements of contract law in IP, constitutional law international law.

So, IP Intellectual Property Rights, the legal student or a law student will know that it is actually a conglomeration of different legal subjects. So, that is one of the reasons intellectual property rights is not thought in the first year or in the second year of an LLB course. Now how does this relate to other branches of law? We are already seen that certain types of intellectual property rights like copy right and trademark can have criminal sanctions infringement is made a criminal offence.

So, that brings in aspects of criminal law criminal laws a separate subject in itself. Intellectual property can be licensed and it is normally licensed through agreements, an agreements are governed by principles of contract law. Intellectual property rights are created under the constitution. They are subject matters which come under the union list. The central government has power to create it and some intellectual property rights may have may effect the right of freedom of speech or some of the fundamental rights.

So, in that sense there is a bearing on constitutional law as well. Intellectual property right when there is an increment an increment is treated as a thought. The remedy of an infringement can be by way of compensation or by way of injunction. So, the compensation part is governed by a branch of law called tort, any civil wrong that is committed can be redressed by compensation; so, that brings in elements of tort law.

And finally, international law is relevant because almost all the changes that India brought into its IP regime was done by way of the international agreements to which India has been a party. So, we have this top down model that international treaties would set a particular standard which all the members of those international treaties will have to complain. India as a member founding member of the world trade organization and because of certain special requirements in the law, India had used a transition period of 10 years to bring its law in compliance with the WTO standards.

So, today the Indian Patents Act had undergone three amendments in those 10 years to make it in compliance with the WTO obligations. So, again you will find that IP law also is inherently connected with international law. So, how does institution and I just brought this out to show you that teaching intellectual property rights as a subject in a law school which has the competence to do it. Itself can be a matter which is which can put a significant load on the institution and the person who is teaching it.

Now, how can we take IP or how can we ensure that intellectual property can be thought in different institutions which union have say legal stuff or law professors in the faculty? Now how do we take this problem? So, we will look at how IP can be simplified and that is one way to look at it. There is no need to teach IP with the rigor that is with which it is thought in the law schools. IP can be intellectual property can be customized and it can also be simplified to different stakeholders based on their requirements.

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IP Education

- IP education in the past
 - Specialist lawyers, acquired IP knowledge on working on cases
- IP education in recent times
 - Knowledge based, trade related issue
 - Specialized course at university level
- Life long IP education
 - Continuing legal education



Now, IP education in the past was largely done by specialist lawyers because before 1990's Intellectual Property Rights was not even a subject even in the law schools. In fact, the bar codes he introduced in the late 1990's. It introduced intellectual property rate as a subject.

So, it was not even a subject before that and that is largely because the creation of the world intellectual property organization happened in the 1960s. And so, everything that we see with regard to the push of IP into the education systems has happened after the 1970s. Now there is a need for IP education and IP education preferably should be something like continuing legal education because of the nature of IP and the constant changes that happened in the field. It should ideally be something that it should be a part of continues legal education.

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IP Education

- Challenges
 - Producing more and better qualified IP professional
 - Need for an IP conscious workforce
- IP education should be designed to account for diversified needs in an inter-disciplinary manner



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And the challenges in teaching IP as I just mentioned this with regard to the skills and expertise that are available at the ground level and also with regard to what we should be teaching.

An educational institution should be designed to account for the diverse effect needs in an interdisciplinary manner by which we mean the focus in institutions technical institutions like engineering institutions should be on patents. Similarly for pharmacy colleges there B.pharm and M.pharm are thought; again the focus would be on patents. For colleges on journalism and media, the focus would be on copyrights; for business

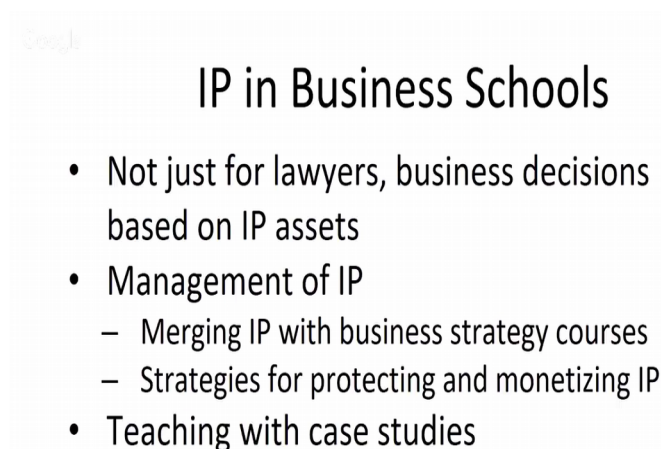
schools who have a core course on marketing, the focus would be on trademarks and for fashion and creative design industries, the focus could be on industrial designs. Now this is just to say that intellectual property and for agricultural institutions the focus would be on Plant Varieties Act.

Now the reason I am just giving this is that IP comes with different complexities and it may not be entirely necessary for us to cover the entire ambit of IP when we want to teach IP in a non loyal set up or in an institution where IP is thought to non lawyers. Hence the focus could be based on what is being taught because engineers lastly deal with technology and IP in technology can only be protected by patents. There could be a small amount of matters which would fall within the realm of copyright.

But if you look at almost all the institutions the technical institutions in our country and now that intellectual property as become a part of the ranking system. It is also the national attractions council is also looking at the innovation ecosystem of these institutions. You will find that the focus has always been on patents for engineering institutions.

So, we need to take an approach rather than covering the entire though this course covers everything it is meant for a wider audience. Then we need to look at teaching IP in non legal institutions, then we have to adopt an approach of simplifying the IP one and two looking at the IP that is most relevant and to focus of course, based on that.

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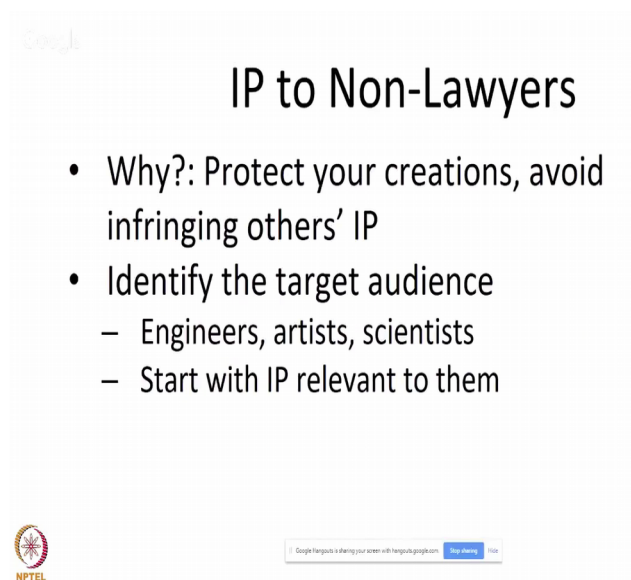
IP in Business Schools

- Not just for lawyers, business decisions based on IP assets
- Management of IP
 - Merging IP with business strategy courses
 - Strategies for protecting and monetizing IP
- Teaching with case studies

So, in apart from the law schools, it is the business schools that cover IP in some detail. Now IP intellectual property assets are intangible assets and intangible assets needs to be managed and as you have seen how the management scholars look at IP. They look at IP as limited life IP and unlimited life IP and they constantly try to migrate the value in the limited life IP into unlimited life IP. So, you find apart from the legal scholarship of IP you the management scholarship also plays a role in making contributions to the subject.

So, these are the two broad approaches that we have, you can take a legal approach in teaching IP or you can take a business school approach on managing IP, but the scholarship was largely focused on the legal aspect because it has like intellectual property as a legal subject.

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The image shows a presentation slide with a white background and a light blue header. The title 'IP to Non-Lawyers' is centered in a large, bold, black font. Below the title, there is a bulleted list of three items. The first item is 'Why?: Protect your creations, avoid infringing others' IP'. The second item is 'Identify the target audience', which has two sub-bullets: 'Engineers, artists, scientists' and 'Start with IP relevant to them'. At the bottom left of the slide is the NPTEL logo, and at the bottom center is a small Google logo and a text box that says 'Google has your IP address'.

IP to Non-Lawyers

- Why?: Protect your creations, avoid infringing others' IP
- Identify the target audience
 - Engineers, artists, scientists
 - Start with IP relevant to them

Now, as I mentioned taking IP to non lawyers could be a challenge, but it is important because non lawyers people who do not have a background in law are actually the creators and the users of intellectual property.

So, because intellectual property rights are created and used by people who belong different segments of the knowledge industry. It is important for us to take this to non lawyers as well. And as I mentioned IP the IP education has to be customized and it has to be simplified. Check you have to start with the IP that is more relevant for them and we will have to customize it to the industries that we are targeting. If it is technology,

then we will have to focus on patents. If it is creative industry will have to focus on copyright and if it is marketing and business, we will have to focus on trademarks.

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IP Education

- Current trends & future developments in IP
 - Artificial Intelligence, digital technology
 - IP and international trade
 - IP, biotechnology, and public health



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Now, future developments in IP will be interesting to watch, machine learning and artificial intelligence has itself created certain new issues. Scholars have already started debating on whether products of intellect artificial intelligence which are largely mission created should also be granted IP protection. There is nothing that is clear in the law right now, because IP today is confined to products of human creative labor and that is human creative labor at the first instance not human creative label leading to another product by itself.

So, we are not talking about second generation, third generation products. We are talking about what directly comes from human creative labor and for this reason law does not recognize IP even for non humans. And we had seen the copyright selfie case where a monkey made a selfie and there was a case in the United States law does not extend to it, because law right now defines creativity that is completely attributed to humans.

So, similarly mission creativity is also not covered under this; may be the first mission that is created which can make copies or which can duplicate other missions or other which can come up with other creative product could be the subject matter of IP. But all the derivative products that come out of artificial intelligence right.

Now, the law does not have a provision for this because creative works have to be directly an outcome of human creative labor. IP will always be important when it comes to international trade. So, that is another reason why we should have some amount of education IP in our educational system and certain sectors like biotechnology and computer science could also have an impact on public health.

Now, there is big data that is where our healthy details could be anonymized and it could be used to generate very valuable resources. There are privacy issues when it comes to storing and sharing of medical data and there are also issues with regard to protection of pharmaceutical and biotechnology products which could have an impact on public health.

So, for all these reasons, there should be some amount of education on intellectual property rights and that has to be customized and simplified looking at the diverse fields of knowledge in which we are currently operating.