

Intellectual Property
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Lecture - 09
Rights Granted by IP

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- Copyright – Life of author + 60 years
- If institution – from date of publication + 60 years
- Trademarks – granted for 10 years can be renewed thereafter



Now, just a quick run through on what these rights are what they manifest.

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Patent

- Exclusive Right
- Conferred by government
- Ability to stop others
- Make, sell, use, offer for sale, import
- Duration – 20 years from date of application



Patents grant exclusive right, they are conferred by the government, as I said exclusivity means it gives the ability to stop others. And the right pertains to making, selling, using, offering for sale and importing. And the right exist for a time period which as I said is twenty years from the.

Student: Date (Refer Time: 00:45).

Date of application, after which it falls into the public domain. So, whatever was covered by the subject matter of a patent, will then be free for everybody to use it.

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Copyright

- Exclusive Right
- Conferred by the Government/upon creation
- Print, Publish, Perform, film, record etc.
- Duration: Life of Author + 60 years
- No separate registration needed for enforcement



Copyright again it is an exclusive rights it is conferred by the government, in cases where you seek a registration, or upon creation I have mentioned this before, if you are publishing something, all you need to do is put the copyright notice, which is the c within a circle, your name and the year on which it was published.

You would see your copyright notice on most works. And that itself gives you are right and, that is done because of an arrangement, where you can just publish it and claim to be the creator. So, copyright comes into effect either upon registration by the government or upon creation, creation with the notice.

Student: I told even have to register.

No need for enforcement it is not required. In fact, all the books that are there in our library, it just the copyright notices sufficient there is no need to separately register that.

Student: (Refer Time: 01:55).

See copyright all most websites today have, at if you go to the bottom privately held websites company corporate websites, they will say copyright from this year to this year in the name of the company. So, which means everything that was put on the website is copyrighted and reproduction should be done only technically with permission.

But the point with the website is I need not copy or paste anything, I can give a hyperlink directly to that website. So, so in that sense it is irrelevant copyright is irrelevant on the internet, because I could give a hyperlink from my website and take to that person speech.

Student: But still in that page that the other persons logo, or whatever.

Logo is protected by trademark, but the point is the copyright notices put so, that people do not and mass copy things and put it and pass it off as somebody else as website. So, it is objective of, but if I need to refer to something say Mercedes Benz's website or Tata motor's website so, something I can just hyperlink and people can read from that page.

Student: (Refer Time: 03:01) what is the durations, or they cannot take another down that same name.

That does not come under copyright it is a separate registration like registering a company's name, does not come under the copyright law. The company's name has a noun for it, registering a domain name does not come under copyright law. There is a domain name registration service, where you can go like private link (Refer Time: 03:34) manages it you can get it as long as you keep renewing the name you can have it.

So, those things are it is not subject matter of copy right, they maybe some industry arrangement they may be some other statutes like the companies act, by which you can register company names. And now these rights pertain to multiple things, you can print as I said published perform record and depending on what the subject matter is and the

duration of life is life of the author and plus 60 years so, from the date of creation till the author dies and 60 years from there on.

Student: Is there some institute.

Institution the date of creation plus 60 years in some places in some countries it is 50 in some countries, it is more than 60 in America its more than that. So, though universally you will see that there is some leeway as to what could be the copyright term can vary, if you create a copyrighted product and have copyrights in multiple jurisdiction, it can vary because the countries are we do not have something like a trips mandate that the copyright term has to be same across all the countries we do not have that.

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Trade Mark

- Exclusive Right
- Conferred by Government/Established by use
- Symbol, word, mark etc.
- Marks help to identify the company
- Duration: Unlimited; subject to renewal



For trademarks, trademarks are exclusive rights, they are confirmed by the government it is possible for you to register them, or it is established by use. Now, establishing by use is if there is a mark that is used in Europe like IKEA, IKEA they are slowly coming here, but IKEA has been used in Europe. And assume that IKEA did not sell anything in India.

If someone an Indian manufacturers starts using IKEA, IKEA could still come and stop that person, because there a right to the mark is established by use international use. And they have a reputation and there is another branch of law, as I mentioned earlier a law of passing of can come to IKEA rescue to stop people from using it though, they may not have business here, and they may not have registered it in India so, it is possible.

So, so that is why we say that trademarks, when we say trademarks in that sense we also include the right to use which comes by way of you know, you can protect your right by way of the law of passing of.

Student: With the law of we applicable, if I do not register a trademark in India and still (Refer Time: 05:57) for if a long time for 20 years, or 30 years can I use it law of.

Yes the law of passing of will still come to your help, because you have been using it in trade, though you have not registered it. And you have some kind of reputation that is come out of it. So, we know some cases where people involved in old businesses, they do not registered their mark for, whatever reason either the business was too small then or whatever. Then the next generation takes the business and they are able to broaden it and take it to all places.

At that point they going for a registration, because the next generation at the new generation they are aware of these rights and they go in for a registration. But still as they enjoy the mark they would have been able to stop, any person who would have intervene even without registration that is the fact that, you have been using something and people know you by that and you can stop people from using it.

So, without even without registration so, the right is express itself in the form of a symbols words and marks so, that trademark is something it is a mark by which your products and services are identified by the world. So, when we see the Tata mark on a packet of common salt, we know who created it. When we see the same mark on an automobile we know who created, it we see the same mark on it company TCS you know that Tata mark, what I mean was the Tata mark we know that it belongs to a conglomerate.

So marks helps us to identify the producer, or to know more about the origin of goods and services. In a world where marks are not respected, they will be rampant piracy and counterfeit happening all over the place, because people would now pass of a cars as Tata's cars or they will pass of products as Tata's products. So, they will be issues with regard to reliability of those products. And also the company's reputation can get affected, because if you see businesses are run on reputation. And a reputation is built

over years sometimes it takes many years for somebody to build a reputation. And the marks become some kind of an ambassador for a business.

So, when they see the mark there is so much of reputation that is attributed to the mark, because this mark is how the company identifies itself. So, when others use the mark and they are not able to give the quality, even if they give the qualities still the mark holder can come and stop others from using it. Now, branding it also has certain issues some sometimes mark that is well known and well established may go for a rebranding they may decide to change the way they look.

And that has whole lot of trademark issues, because the existing mark is still held by the company, because they do not want others when a mark like that is discontinued, it will not be opened for others to use that mark. Unlike a patent which expires and comes into the public domain, because still this company would want others not use the mark. They will still keep it alive for instance if I do not know whether you noticed Airtel used to be known by a different logo, few years back Airtel used to be written.

Now, they have a symbol yeah, now they have a symbol now they made this transition; obviously, it was an transition done for business reasons, but just because Airtel made the transition, Airtel will not allow people to use its own mark. And Airtel can stop others from using its own mark, this is not the case with a patent if the patent is expired or revoke for whatever reason, when everybody can use that acknowledge.

Student: The Airtel pay for the review of the own mark.

Yes if it is keeping it alive and I would guess that they are keeping it alive, I would guess that, because it if they do not keep it alive, then there could be a reason for others to use it for whatever, but it is difficult because Airtel not just the mark the word itself is a subject matter of trademark. So, anybody who uses Airtel in any font can still be caught by their trademark, but the symbol you know it underwent a transformation.

Student: Then the medical therapy is all process of procedures can be protected to mutual properties.

There is an medical methods of treatment are exempted from protection under the Indian act. Section 3 does not allow methods of treatment to be protected and there are some

sound reasons for that, when we come across when we come to the issue of patents in detail we can discuss that.

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Design

- Exclusive Right
- Conferred by Government
- Shape, configuration, pattern etc. (aesthetic)
- No functional element
- Not protected by Copyright
- Duration: 15 years



Design again it is an exclusive rights it is conferred by the government, which means it involves registration. This right pertains to shape configuration pattern etcetera, which are esthetic in nature, which are pleasing to the eye, which does not involve functional limit, because if there is a functional element, then it goes to the domain of another right patents. And these rights or not rights which can be protected by copyright, because if something can be protected by copyright, then that is a subject matter of copyright nobody will go for a lesser term look at the duration of this.

So, if you have a design and if by some means you can protected by a copyright, then you can stop people from using that design through your copyright, because it is an artistic work you can say that there is infringement of your artistic work. Then the protection is your life plus 60 years.

Student: Why is it there is a separate (Refer Time: 11:45).

This is for another purpose, industrial designs, we are we now talking about artistic works industrial like interlocking tiles ok or TMT steel bars they have some novel designs over then.

Student: Engineering designs.

A engineering again esthetic, but not shape of a bottle for instance ok, you may argue that the shape of the bottle has a functional element, but we are looking at all bottles have functional function in that sense, but we are looking at some kind of a design which makes a bottle look unique.

So, this is largely mass produced, goods which come under this category. And again this is the weakest of intellectual property rights, because there are restrictions on enforcing it, you cannot stop people from doing things and your damages are also limited we will get to that.

Student: Dresses.

Mass produced dresses anything that is aesthetically appealing, anything can be done jewellery.

Student: (Refer Time: 12:43).

Yes jewellery, mass produced anything that is mass produced in a particular thing can come under this.