

The background of the slide features a vibrant, abstract design composed of overlapping, semi-transparent colored shapes. The colors transition through a spectrum, including shades of blue, green, yellow, orange, and red. These shapes are irregular and organic in form, creating a sense of depth and movement across the entire frame.

IN104

Intellectual Property

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Internet & Global Issues on IP

CONTENTS

1. Discussion on plagiarism
2. IP and the internet
 - (1)Trademark and domain name strategies
 - (2)Websites, e-commerce and privacy
 - (3)Copyright and piracy
 - A. ISPs Liability and online markets
 - B. Working with ISPs
 - C. An internet infringement strategy
 - D. Taiwan' s initiatives on online piracy
3. New issues: AI/blockchain/NFT/metaverse



PART
01

Discussion on Plagiarism



Plagiarism and Copyright

Plagiarism is not a legal concept but an ethical construct commonly enforced by academic institutions.

Copyright infringement is a legal concept. It occurs when a person takes an action that implicates one or more of statutory rights without authorization from the copyright owner or an applicable exception or limitation under the fair use.



Plagiarism and Copyright

Plagiarism in copyright law refers to the infringement of copyright owner's:

- 1) the right of reproduction;
- 2) the right to make derivative works.

On **plagiarism**,

- 1) **first** to distinguish whether is an idea or an expression,
- 2) **then** to determine whether they are substantially similar,
- 3) **the last** to discuss whether the infringer contacts the original work or not.



Plagiarism and Copyright

Comparison:

- Copyright protects “expression” and does not protect the “ideas” behind the expression.
 - The act(s) that is lawful under copyright law may not be qualified for the academic ethics (plagiarism)
→ **ghostwriter, self plagiarism or “concept” piracy**
 - The act(s) that constitutes a copyright infringement may not be against academic ethics
→ **used a full photo in a work and quoted where is necessary, but such a use is for profit without authorization/license.**



Plagiarism and Copyright

Author(s):

- Only the person(s) who creates the work can be named as an author under the copyright law.
- Any person who does not involve the creation/writing is NOT an author of the work. If that person names the author, he/she violates the copyright law → **right to attribution (author's right/moral right)**
- If a paper is for **dual (or multiple) submission**, it violates the academic ethics.



Plagiarism and Copyright

Plagiarism check:

Like Turnitin, it does not check for plagiarism in a piece of work. Instead, it checks the submissions against the database and find out if there are instances where your writing is similar to, or matches against, one of Turnitin's sources



Similarity Report

TITLE	SIMILARITY
Submission	0%
Submission	6%
Submission	43%
Submission	58%
Submission	80%



Plagiarism and Copyright

How to avoid plagiarism?

- **Always cite sources.** Show your information and give credit to the original authors.
- **Use a range of sources.** Don't just use one source when writing your assignments..
- **Don't just copy.** Describe other people's ideas or results by using proper references and their importance to your argument.
- **Develop your own style.** Try to be concise and clear. Using the words of another author will stand out from the rest of your work and may alert lecturers to possible plagiarism.
- **Keep good quality of notes.** Put direct quotations in quotation marks and always keep a note of your sources.



Plagiarism and Copyright

- Plagiarism is determined by the academic institutions themselves and is **on a case-by-case basis**. It involves not only the aspect of morals but the legal liability.
- **The major principle of academic ethics is “transparency.”** The demand of academic ethics is higher than the law.
- There is no actual statute limitation on the breach of academic ethics. Thus, anyone should **take responsibility** on one's own.
 - **In school**, it could mean you fail an assignment or face disciplinary action.
 - **In the workplace**, it would result in damage to your reputation, legal consequences or even losing your job.



PART
02

IP and the Internet



Trademark and domain name strategies

1

Domain Names
網域名稱

2

Trademark filing and DN registration
商標策略與網域註冊

3

Cybersquatting and UDRP
網路蟑螂與爭議解決

4

Geographic and field-of-use rights
地域性和使用領域的權利



Trademark and domain name strategies

Domain Names

combination of a second-level DN (e.g., profilebooks) and a top-level domain name (TLD) (e.g., .com or .co.uk)

→ profilebooks.com

The Internet Corporation for Assigned Names and Numbers (ICANN) manages domain name system, and set up a **trademark clearing house** → a verified database of trademark information supporting new gTLDs.

Registered trademark owners are able to record their marks in the registry to obtain protection against cybersquatters.



商標和網域名稱的策略

網域名稱

是集合二級域名 (e.g., profilebooks) 和頂級域名(e.g., .com or .co.uk)的組合，據此創建出網域名稱 → profilebooks.com
網際網路指定名稱與位址管理機構 (ICANN) 負責管理網域名稱系統，並與有權提供服務的註冊商簽約，申請人則與註冊商之間則存在契約關係。

ICANN成立**商標資訊交換中心 (trademark clearing house)** → 使已註冊之商標權人得將其商標紀錄註冊到註冊管理機構中，從而獲得針對網路蟑螂(cybersquatters)的某些防護和通知。



Trademark and domain name strategies

- **A TM filing programme would be linked to a DN registration**
 - Lawyers or trademark agents handle trademark filings and
 - business people or advertising agencies handle acquisition of domain names.
- Mistakes occur due to **failure to transfer DN ownership** to employers or clients, or to **keep track of renewal notices**.
- Third party companies provide DN management services enabling DN to be managed as a portfolio.
- [What's the Difference Between Web Hosting and Domain Hosting?](#)



商標和網域名稱的策略

網域名稱與商標策略息息相關

律師或商標代理人負責處理商標申請程序，而業務人員或廣告代理人負責處理網域名稱的購買，雙方不一定有相互交流。

由於網域名稱容易取得，因此員工或機構可能出自善意直接購買，而忘記將所有權移轉給雇主或客戶，或網域名稱延展通知忘記轉達給雇主或客戶。

目前有一種第三方公司提供網域名稱管理服務，會將網域名稱搭配成產品組合管理。



Trademark and domain name strategies

Cybersquatting

Involves acquisition of a DN for a brand, company name or celebrity before legitimate owner acquires that DN.

Other forms of abuse: typo-squatting, or acquisition of inadvertently lapsed DNs.

A cybersquatter adopts a DN identical or confusingly similar to a trademark in which someone has rights may be prevented from using it. → **protection of DN is derived from trademark rights.**



商標和網域名稱的策略

網路蟑螂

會在合法的所有人取得網域名稱前，搶先收購品牌、公司名稱或名人的網域名稱，另外還有一些濫用行為，包括搶先註冊錯別字（特別是著名品牌的錯別字），或取得意外失效的網域名稱等。

網路蟑螂通常採用與他人擁有權利之商標相同或容易混淆的網域名稱，但這會被禁止使用，因為**網域名稱的保護**，本質上就是根據商標權所取得。



Trademark and domain name strategies

The Uniform Domain Name Dispute Resolution Policy (UDRP)

An arbitration procedure administrated by the WIPO.

The owner of a registered trademark may obtain transfer of a cybersquatter's DN that is identical or confusingly similar to the registered trademark.

UDRP provides a quicker and less expensive resolution.

Filing a case with the UDRP DOES NOT prevent either party from filing suit in a national court.



商標和網域名稱的策略

網域名稱爭議解決制度

由WIPO和其他部分組織所管理的一種仲裁程序。

依據該程序，註冊商標的所有人可以從網路蟑螂手上，取得這些與自身註冊商標相同或容易混淆的網域名稱。

UDRP提供一種更快速、更便宜的解決方案。

提起UDRP仲裁，與各國法院的訴訟制度彼此並不相關。



Trademark and domain name strategies

Contractual relationship between the registrant and the registry.

The registry has the right to demand the registrant, who violates the agreement about providing mistaken or misleading data that makes harms to others, or the domain name registration infringes other's trademark rights, or such registration is under the unjust purpose, to transfer the domain name to the right holder (TM).

The reasons for the complaints under the arbitration procedure

- The **DN is identical or similar to** pleader's trademark, name, business name or other marks and **cause confusion**
- Registrant has **no right or justified interests to use the DN**
- Registrant **registers or uses the DN with bad intent**



商標和網域名稱的策略

網域名稱註冊者與註冊管理機關之間有契約關係。

管理機關有權要求註冊者移轉網域名稱給有權利之人(例如商標權人)，倘若註冊人提供錯誤不實的資料而侵害他人權益、或申請註冊的網域名稱侵害他人商標權、或以不正當之目的或故意以違反法令之方式註冊或使用該網域名稱。

權利人(申訴人)應提出以下「**申訴理由**」及相關證據與資料：

- 網域名稱與申訴人商標、標章、姓名、事業名稱或其他標識
相同或近似而產生混淆
- 註冊人就其網域名稱**無權利或正當利益**
- 註冊人**惡意註冊或使用網域名稱**



Trademark and domain name strategies

Geographic and field-of-use rights

Except of famous trademarks, the same mark can be registered by different companies for, say, crackers and hotels (e.g., Ritz).

As to DN, different companies with legitimate trademark wish to use the same DN. But there is only one web address available for that trademark with a particular TLD.

→ First come, first serve.

The priority is to take steps to avoid consumer confusion.



商標和網域名稱的策略

地域性和使用領域的權利

一般除了著名商標之外，不同的公司可以註冊相同文字組成的商標，例如：Ritz餅乾和Ritz飯店，只要使用類別不同即可。

但當分別擁有相同文字組成之合法商標之不同公司，希望使用相同的網域名稱時，就會出現問題，因為一頂級域名只能對應一個商標，只能有一個可用網址。

→ 此時公司取得域名的順序是先到先得 (First come, first serve.) 後到註冊人就必須使用其他頂級域名或其商標的變體。這是為了避免造成消費者的混淆誤認。



Websites, e-commerce and privacy

1

Risk mitigation (風險抵減)

2

Terms and conditions and architecture
(條款和條件，以及架構)

3

Privacy and data protection laws
(隱私權和資料保護法)

4

Linking and framing (連接和框架)

5

Use of TM in metatags and search terms
描述標籤(metatags)和關鍵字檢索中的商標使用



Websites, e-commerce and privacy

Risk mitigation

Establishing an Internet-based business involves potential risks, obligations and liabilities, often of an international nature.

- A website set up in the UK, sell product while collect personal information about its customers, including credit-card information.
- EU regulation on contracting, data protection and privacy (such as cookies).

One solution: to build an internet business in a series of steps, starting with the home country and then, **through the use of differing DNs and TLDs**, directing consumers to websites created for and tailored to the risks and regulations in a particular country or region.



網站、電子商務和隱私權

風險抵減

建立網路型業務涉及潛在的風險、義務及責任，且通常具有國際性質。在英國建立的一個簡易型網站來銷售產品，會蒐集有關客戶的個人資料，包括信用卡資訊，且受到歐盟關於合約、資料保護和隱私權的監管，例如Cookies須遵守歐盟法規。

解決方案是，從本國開始建立網站，**透過使用不同的網域名稱和頂級域名**，進而將客戶導向針對特定國家/區域的風險和法規所量身訂做好的網站，來建立網路業務。



Websites, e-commerce and privacy

Terms and conditions and architecture

Website's **terms and conditions of use** and a **privacy policy** borrowed from some other context are sometimes inapplicable to business model and technology. There is typically **little co-ordination between technical architecture of website and the legal and contractual aspects.**

In fact, each website needs terms and conditions and a privacy policy developed in conjunction with a legal review of how third-party, customer or employee personal data is handled.

A secure legal and technical framework and a well-executed website should address IP issues through correct use of trademarks, copyright notices and terms and conditions.

The website owner should own the **copyright on text and illustrations** of website as far as possible → exclusion and remedies.



網站、電子商務和隱私權

條款和條件、以及架構

網站上面的使用條款和條件以及隱私權政策，通常會參閱其他網站而拼湊出來，有時顯然不適用於該新網站的商業模式和技術。**網站的技術架構和法規和合約之間，通常很少進行協調**，導致購買產品的客戶可能永遠不必勾選同意銷售時的使用條款和條件，即便勾選了同意，網站上也可能沒有留存該協議的紀錄。

正確地建立網站的使用條款和條件，以及內外部技術架構，應能減輕網路公司的許多風險，遵守最直接適用的監管法規，並試圖控制國際風險。網站架構應盡可能避免遭受駭客的入侵，並應遵守適用於管理客戶資料安全性的法律。

除建立安全的法律和技術框架外，還應藉由正確使用商標、著作權聲明，並闡明何者為允許及部分允許使用型態的使用條款和條件，來解決智財問題。**網站內容的著作權應盡可能歸網站所有人所有**，以便於第三人複製時得以採取救濟措施。



Websites, e-commerce and privacy

Privacy and data protection laws

Collection and use of **personal information** on website users, customers and employees may be regulated or prohibited → EU GDPR.

Compliance is a significant cost and administrative burden for companies.

Control over personal information remains with **individuals** not the data collector/controller → **the right to be forgotten**

Privacy policies may limit or restrict the use, disclosure, export or processing of personal information and require minimum standards for confidentiality and security.



網站、電子商務和隱私權

隱私權和資料保護法

對於網站使用者、客戶和員工之個人資料，法律會規範或禁止收集和使用此類資訊 (例如歐盟的GDPR)。對公司而言，**合規性是巨大的成本和管理負擔。**

從歐盟法院對於被遺忘權的判決，**個人資料的控制最終仍保留在個人手中**，而非資料蒐集者或控管者上。

隱私權政策 所做之承諾，可規範或限制此類資料的使用、揭露、匯出或處理，並要求基礎保密性和安全性標準。



Websites, e-commerce and privacy

Linking and framing

Linking is where one website connects to another through a link, taking the user to another website.

Framing occurs when the second website may be viewed through the original website, so that the user is presented with the original website and the second website on one page.

Linking and framing may raise issues under trademark or unfair competition rules if users are likely to become confused as to the association between the two websites, or if logos of linked site are used.

News content. Germany's ancillary copyright law enables newspaper to share revenue of news aggregators, such as Google/Facebook.

- Australia's News Media Bargaining Code in 2021



網站、電子商務和隱私權

連接和框架

連接(Linking) 指從一網站透過網頁連接可以連接到另一網站，進而將使用者帶到另一個網站上，例如超連結(hyperlinks)。

框架(Framing) 透過原始網站瀏覽第二個網站時，讓使用者變成在原始網站的同一頁面上瀏覽第二個網站內容的狀態。

倘若讓使用者對兩個網站之間的關聯性產生混淆，或使用了被連結之網站的標誌，則連接和框架可能會引發商標或不正競爭防止的問題。

新聞內容 德國的附屬著作權 (ancillary copyright)立法，旨在讓新聞媒體能夠分享新聞匯集網站(news aggregators, 例如谷歌或臉書)的收益，新聞匯集網站可以在新聞列表中發佈短文章，並帶有指向原始網站的連結。

→ 回顧2021年澳洲《新聞媒體議價法》



Websites, e-commerce and privacy

Use of trademark in metatags and search terms

Various online practices aimed at **driving traffic** to websites or **providing targeted advertising** using competitors' trademarks are subject to litigation over their legality.

Initial interest confusion → keywords advertising

The use of a trademark in the metatags to drive searches to a website not owned by the trademark owner has been found to be a basis for possible infringement in the US.

In fact, there would be no infringement if no consumer is confused.

[The single biggest reason why start-ups succeed | Bill Gross](#) (optional)



網站、電子商務和隱私權

描述標籤 (metatags) 和關鍵字檢索中的商標使用

在網站實務中，如以將流量導引至網站或使用競爭對手商標作為**針對性廣告**等行為，因合法性問題而可能會面臨訴訟，但結果仍依個案事實而定。一家公司可能會在其網站上標記競爭對手的品牌，以便讓搜尋引擎將搜尋競爭對手公司品牌的結果，導向自己公司的網站。

初使興趣混淆

關鍵字廣告指搜尋引擎所提供之可讀網頁資訊中，在metatags中使用商標，藉以導向非商標權人所擁有的網站。在美國可能被認定構成商標侵害基礎。但在多數國家則認為沒有商標侵害，因為消費者本身並不被誤導網站內容所混淆 → 消費者沒有混淆誤認就沒有商標侵害的問題。



Copyright and piracy

1

ISPs Liability and online markets
網際網路服務供應商和電商平台責任

2

Working with ISPs
與網際網路服務供應商合作

3

An internet infringing strategy
網路侵權的策略

4

Taiwan's initiatives on online piracy
台灣近來對網路盜版的行動



Copyright and piracy

The Internet has enabled enormous piracy of copyright materials and the easy sale of knock-offs (counterfeit) of branded goods.

The economics of **music** industry have been fundamentally changed by the combination of the digitalization of music, the internet as a means of copying and transmission, and the availability of massive amounts of low-cost digital memory.

The doctrine of fair use and the boundaries of the law are constantly being changed.

The sheer quantity and ubiquity of infringing material on the internet means that owners of content or branded products are involved in a never-ending effort to stop such piracy. This has led to IP owners trying to attach liability to internet service providers.



著作權與盜版

網路讓著作權內容的盜版風潮開啟了另一個世代，並讓品牌商品的山寨品易於銷售。

以網路作為複製和傳輸手段，到大量且低成本的數位儲存設備的結合，根本上改變了音樂產業經濟，並且免費提供電視節目和電影的盜版。

合法公司也正推展著作權法規的界限，例如新聞匯集網站、Google 圖書等，**這涉及許多合理使用等議題，法律界限證不斷受到挑戰。**

網路侵權內容數量龐大且無所不在，意味著內容或品牌產品所有人必須鍥而不捨努力制止盜版行為，致使權利人嘗試**將責任加諸於網路服務供應者身上**。



Copyright and piracy

Optional watching

Pirates Are The Best Customers* (5:29)

<https://www.youtube.com/watch?v=XXxzWgl3nHs>

Distribution, Quality & Pricing* (8:50)

<https://www.youtube.com/watch?v=FMo6e7VXKkg>



Copyright and piracy

ISPs liability and online markets (1/3)

Find a balance between the remedies of IP owners and freedom of internet.

US Digital Millennium Copyright Act (DMCA) is to address internet and digital issues, a network service provider may **avoid liability for copyright infringement** as a result of content posted by users, provided that the service provider:

- (A) (i) does not have **actual knowledge** that the material or an activity using the material on the system or network is infringing;
- (ii) in the absence of such actual knowledge, is **not aware** of facts or circumstances from which **infringing activity is apparent**;
- (iii) upon obtaining such knowledge or awareness, acts **expeditiously to remove, or disable access to, the material**;



著作權與盜版

網際網路服務供應商和電商平台責任 (1/3)

盜版銷售的侵權責任難以證明，且法規仍舊寬鬆，這是由於權利人的救濟措施和網路自由之間的立法平衡所引起的。

美國千禧年著作權法 (Digital Millennium Copyright Act, DMCA) 處理網路數位議題，服務供應商**可避免因使用者發布之內容而導致的著作權侵權責任，前提是：**

- (A) (i) 對於系統或連網中該內容或使用該內容之行為係侵害著作權，不了解或確不知情者；
 - (ii) 非不知情，對於明顯侵害行為之事實或情況不了解者；
 - (iii) 知情或了解後，立即採取行動刪除或禁止存取該內容者。



Copyright and piracy

ISPs liability and online markets (2/3)

(B) does not receive a **financial benefit** directly attributable to the infringing activity, in a case in which the service provider has the right and **ability to control** such activity; and

(C) upon notification of claimed infringement...**responds expeditiously to remove, or disable access to, the material** that is claimed to be infringing or to be the subject of infringing activity.

So long as the ISP complies with the statutory requirements and takes down the infringing material upon being notified by the copyright owner, it may avoid liability and be inside what is often called **a “safe harbor.”**

Similar legislation in EU → E-commerce Directive (2000/31/EC)

→ Modernized under the **Digital Services Act (DSA)** regarding illegal content, transparent advertising, and disinformation passed in 2022.



著作權與盜版

網際網路服務供應商和電商平台責任 (2/3)

- (B) 服務提供商雖有權且有能力控制該侵害行為，但未直接因侵害行為蒙受經濟利益者；以及
- (C) 接到侵權通知後...立即採取行動刪除或禁止存取經認定為涉嫌侵害或侵害標的者。

只要服務供應商符合法要件，並在著作權所有人通知後將侵權內容取下，就得以避免承擔責任，稱之為**「安全港」條款**。

在歐盟有類似立法 → 電子商務指令 (2000/31/EC)

→ 近年歐盟另制定數位服務法 (**Digital Services Act (DSA)**)，已於2022年下半年通過) 處理關於違法內容、線上廣告透明化以及虛假內容等議題。



Copyright and piracy

ISPs liability and online markets (3/3)

The increasing amount of internet piracy has led to intense lobbying and political pressure from providers of copyright content to **enact new legislation (UK's DEA 2010 and US SOPA 2011)** and enter into IP-focus treaties.

It might require ISPs to **block access to sites** that provide infringing content, or stop search engines linking to such sites. Such efforts have been vigorously opposed by telecommunications and internet companies, which often argue that such legislation would **curtail free speech**.



著作權與盜版

網際網路服務供應商和電商平台責任 (3/3)

網路盜版行為的增加，促使音樂和娛樂行業之著作權內容供應商的積極遊說並造成政治壓力，進而頒布新的法案(例如英國的2010年數位經濟法及美國2011的終止網路盜版法案(草案))並簽訂以智財權為核心的條約。

這些法案需要網路服務供應商阻止存取提供侵權內容之網站，或停止搜尋引擎連接到此類網站等措施。但電信公司和網路公司強烈反對這些作為，他們認為這類立法會限制言論自由。



Copyright and piracy

Working with ISPs

Many content owners negotiated with major industry player such as Google to voluntarily take steps to reduce piracy.

MPAA report, *Understanding the Role of Search in Online Piracy*, indicated that **the pivotal role of search engines** in providing access to pirated material.

****Following the money.**

Some ISPs adopted notice and takedown procedures to remove infringing sites from their advertising programs, which provide revenue for those sites.



著作權與盜版

與網際網路服務供應商合作

無法在司法或立法層面取得勝利的情況下，許多內容權利人轉向與諸如谷哥等平台業者進行談判，主動採取打及盜版之措施。

根據美國MPAA報告 (*Understanding the Role of Search in Online Piracy*) 指出搜尋引擎是提供存取盜版內容的**關鍵角色**，透過追查金流的模式 (**Following the money**) 透過通知取下將侵權網站從其廣告計畫中移除。



Copyright and piracy

An internet infringing strategy – Questions to ask:

- Are companies worldwide marketing or pricing strategies encouraging piracy through unmet demand?
- Are there sources of **counterfeit products** from within the company's supply chain that can be stopped?
- Are the problems industry-wide? Can a trade association negotiate with legitimate ISPs or lobby government? Cooperate with competitors? Persuade a legitimate ISP to take steps stopping piracy?
- Are there **technological solutions** to piracy (such as license keys)?
- How can **infringement issues be prioritized**?
- Where are **identifiable infringers located**?
- Are the company's IP rights registered in these places?
- Are any of **activities potentially criminal** in any affected jurisdictions?



著作權與盜版

網路侵權的策略 – 應先行確認的問題：

- 公司全球市場行銷或定價策略，是否因未滿足顧客需求而導致鼓勵盜版？**是否可調整這些策略，讓顧客可合法取得網路內容？**
- 是否可制止公司供應鏈中的**仿冒產品來源**？
- 是否為整個產業範圍內的問題？產業協會是否能**與合法ISP或政府遊說團體進行談判**？若與遭受相同問題的競爭對手合作，可以做甚麼？是否可**說服合法ISP採取某些措施**（例如從廣告計劃中移除侵權網站）？
- 針對盜版是否可使用**技術上的解決方案**（例如授權金鑰）？
- 如何優先考量侵權問題？例如哪些網路行為會**損失收益**，或可能威脅到IP所有權或其價值？
- 可識別的侵權者位於何處？
- 公司的IP**是否已在這些地方註冊 / 申請 / 登記**？
- 在受影響國家裡，該活動是否會構成犯罪？執法部門是否能藉由**扣押侵權網站**來提供協助？



Copyright and piracy

Taiwan's initiatives on online piracy (1/5)

The most controversial issue on combating piracy is how to deal with **infringement on offshore websites**.

- ISP has duty under Copyright Law concerning **notice and takedown and enforcement of three-strike clause** to have the protection of exemption of civil liability. But **offshore infringing website** cannot apply to these rules.
- In 2017 local content providers cooperated with ad agencies to “**cut financial support**” to indirectly make pressure on offshore infringing websites.



著作權與盜版

台灣近來對網路盜版的行動 (1/5)

防制網路盜罪版具爭議的議題，莫過於如何處理境外侵權網站。

ISP在現今著作權法下有**通知取下、執行三振條款等義務**，以享有民事免責之避風港保護。但境外侵權網站無法套用這些規則。

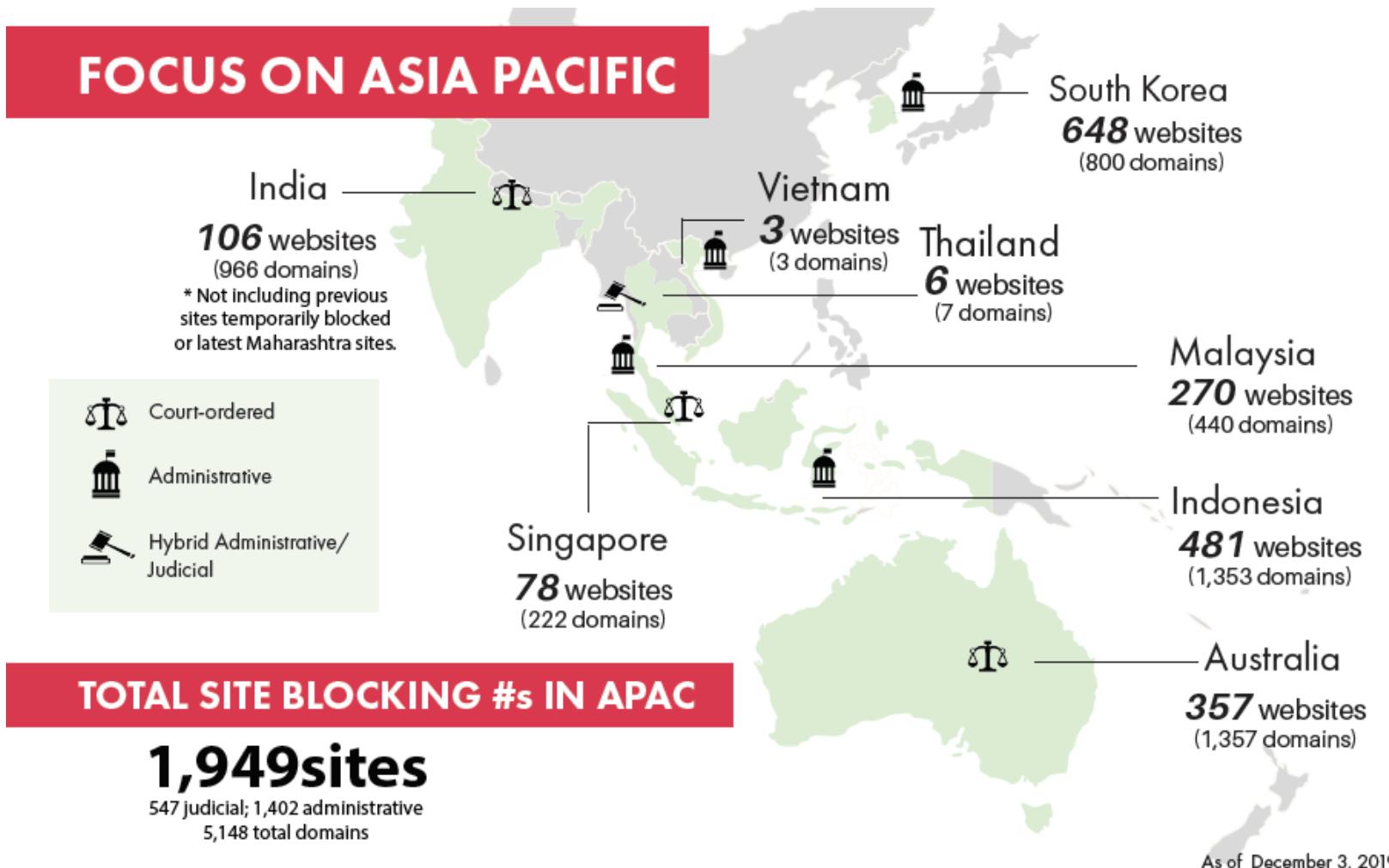
但**境外侵權網站**則無法透過上述(國內)著作權法規定來解決。

2017年台灣內容產業與廣告代理商合作，透過「斷金流」方式間接地對侵權網站施壓。



Copyright and piracy

According to MPAA, 42 countries enforced site-blocking measures, either by administrative or judiciary ways.





Copyright and piracy

Taiwan's initiatives on online piracy (2/5)

Combating the illegal set-top boxes by revising the copyright law:

Art 87(8): Knowing that the works broadcast or transmitted publicly by another person infringe economic rights, with the intent to provide the public to access such works by the Internet, acting as follows, and to receive benefit therefrom:

- 1) To provide the public with computer programs which have aggregated the IP addresses of such works (such as APPs for users to download from GooglePlay or Apple Store);
- 2) To direct, assist or preset paths to the public for using computer programs in the illegal set-top boxes;
- 3) To manufacture, import or sell equipment or devices preloaded with the computer programs of the illegal set-top boxes.



著作權與盜版

台灣近來對網路盜版的行動 (2/5)

著作權法第87條第8款新增三種新侵權行為態樣：

一、提供公眾使用匯集非法影音網路連結的APP應用程式（俗稱追劇神器）上架到GooglePlay商店、Apple Store等平台或其他網路位址給民眾下載使用。

二、未直接提供電腦程式，而是另以指導、協助或預設路徑供公眾下載使用電腦程式，例如號稱純淨版的機上盒雖沒有內建前述的APP應用程式，但卻提供指導或協助民眾安裝；或在機上盒內提供預設路徑，供民眾安裝使用該追劇APP。

三、製造、輸入或銷售載有可以連結前述電腦程式的設備或器材，例如：製造、進口或是在市面上銷售內建此類APP應用程式的機上盒。未來明知銷售的機上盒可供民眾連結侵權內容而仍繼續販售，也會觸法。



Copyright and piracy

Taiwan's initiatives on online piracy (3/5)

8maple.ru case → domain name can be seized by court order





著作權與盜版

台灣近來對網路盜版的行動 (3/5)

楓林網事件 → 域名可成為刑事扣押之內容



20200409楓林網被抓！其他盜版網避風頭「暫停關閉」



Copyright and piracy

Taiwan's initiatives on online piracy (4/5)

The notorious STB manufacture, Unblock, was seized by the police administration, and all signals were disconnected on December 28, 2021.





著作權與盜版

台灣近來對網路盜版的行動 (4/5)

近來惡名昭彰的安博機上盒遭檢調大動作查緝，且已扣押其網域，盜版訊號已於2021年12月28日遭到斷訊。



20211228畫面只剩一片黑..."安博盒子"被斷訊了！檢警直搗機房查扣網域斷訊

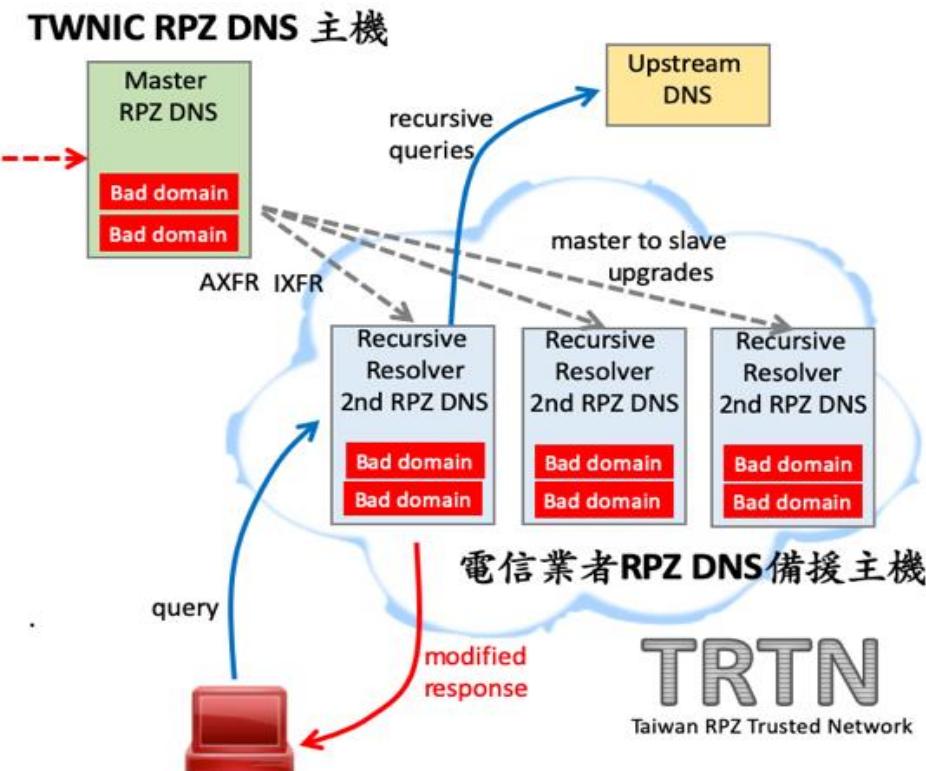
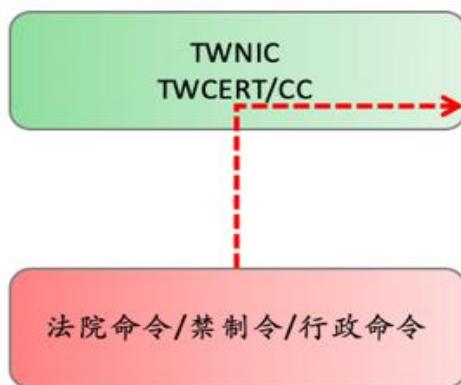
Copyright and piracy

Taiwan's initiatives on online piracy (5/5)

Structure of DNS RPZ (Response Policy Zone).

國家型 DNS RPZ 架構

TWNIC 將停止解析之網域載入 RPZ DNS 後，
將同步更新至國內電信業者 DNS 資料庫。
全國統一停止解析。



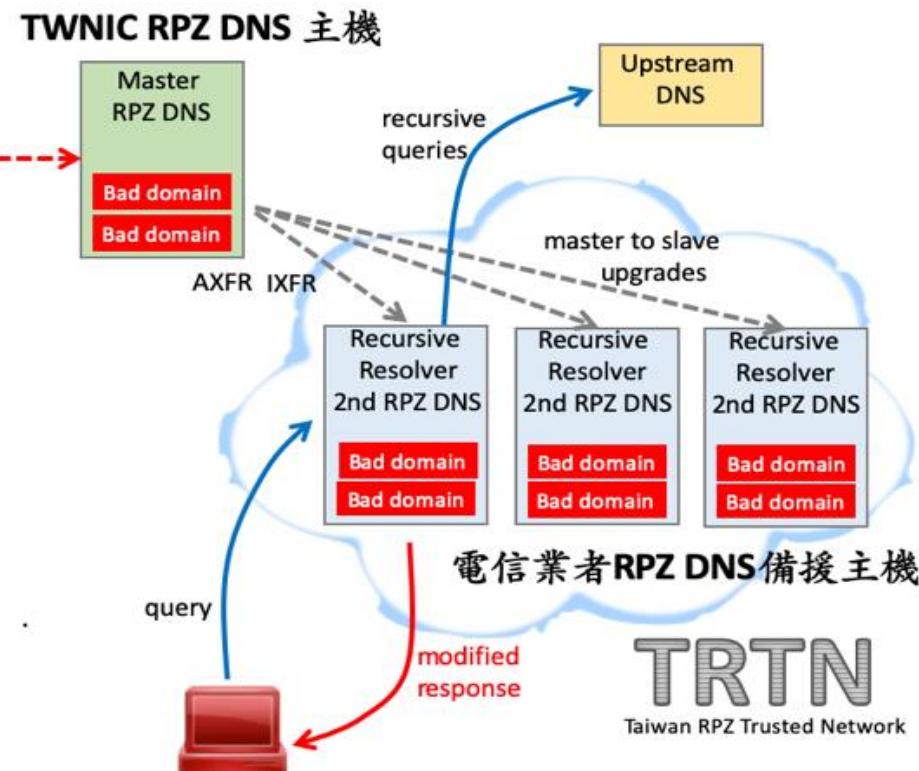
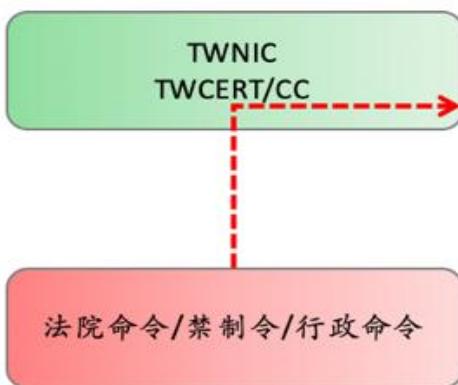
著作權與盜版

台灣近來對網路盜版的行動 (5/5)

TWNIC停止解析侵權網域的 DNS RPZ 架構

國家型 DNS RPZ 架構

TWNIC 將停止解析之網域載入 RPZ DNS 後，
將同步更新至國內電信業者 DNS 資料庫。
全國統一停止解析。





Copyright and piracy

Optional watching

Online piracy is illegal, but is it wrong? | Douglas Bednorz
(8:28)

<https://www.youtube.com/watch?v=FwRu6ur7eN4>

Defend our freedom to share (or why SOPA is a bad idea) | Clay Shirky
(13:56)

<https://www.youtube.com/watch?v=n6L1hh-StSk>



PART
03

New issues: AI/blockchain/NFT/metaverse



New issues - AI

Artificial Intelligence:

Machine vs Human

Creation by human, not animals or act of god.

Remember the *DABUS* case in many jurisdictions:

Intellectual property: human creation → AI has no room

Some countries (such as South Africa and Australia)

recognized the eligibility of inventor. But most countries adopt a wait-and-see attitude.

Can Copyright Law Stop Generative AI and ChatGPT? (9:13)



New issues - AI

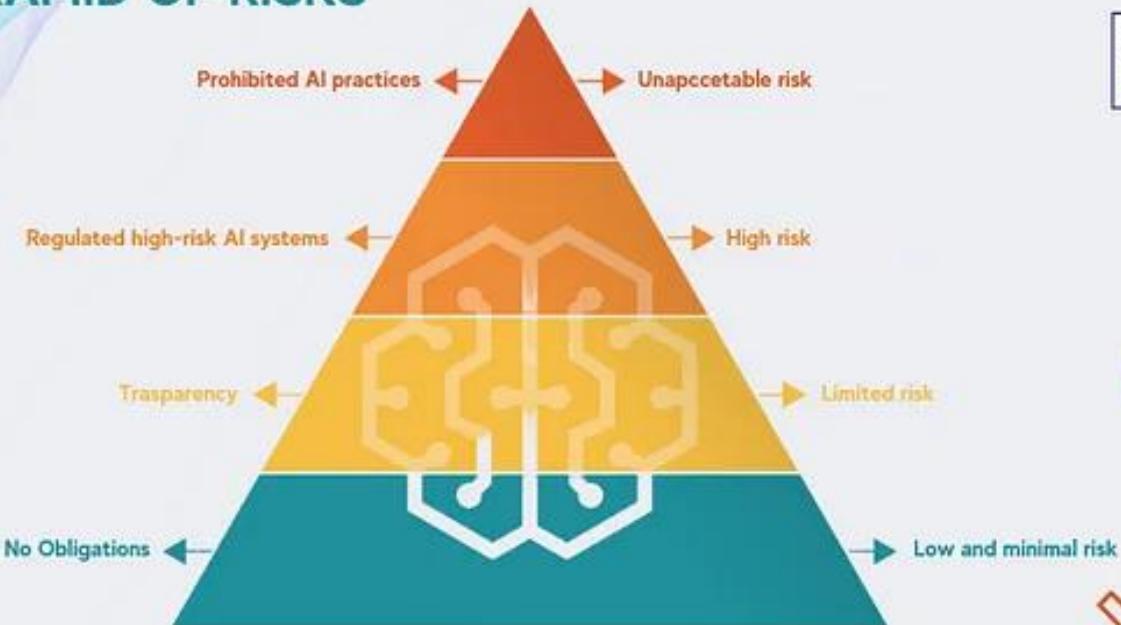
- On Dec. 8, 2023, the EU agreed on **the AI Act**, a far-reaching set of rules for the people building and using AI.
- The EU AI Act is the most sweeping rulebook of its kind for the technology. It includes **bans on biometric systems** that identify people using sensitive characteristics such as sexual orientation and race, and the indiscriminate scraping of faces from the internet. Lawmakers also agreed that **law enforcement** should be able to use biometric identification systems in public spaces for certain crimes.
- **New transparency requirements** for all general purpose AI models, like GPT-4. Companies that don't comply with the rules can be **fined up to 7% global turnover**.
- Measures designed to make it easier to **protect copyright holders** from generative AI and require general purpose AI systems to be more **transparent** about their energy use were also included.
- The EU agrees on AI regulations: What will it mean for people and businesses in the EU?



ARTIFICIAL INTELLIGENCE ACT: NEW RULES AND ACTIONS FOR EXCELLENCE AND TRUST IN AI

The use of AI, with its specific characteristics (e.g. opacity, complexity, dependency on data, autonomous behaviour), can adversely affect a number of fundamental rights and users'safety. To address those concerns, the proposed AI act follows a risk-based approach whereby legal intervention is tailored to concrete level of risk.

PYRAMID OF RISKS



Regulating the use of AI models is a global concern

ACT NOW

ESTABLISHING MODELOPS AS THE FOUNDATION FOR MODEL GOVERNANCE



Most regulatory bodies require that the personnel who test and validate models must be separate from those who develop models. A well-designed ModelOps platform includes the continuously updated model inventory that captures all the necessary documentation and metadata for every model, including any changes and approvals.



Regulatory authorities have levied significant penalties against organizations deemed to have inadequate governance.

The AI act distinguishes between AI systems posing:



- unacceptable risk
- high risk
- limited risk
- low or minimal risk



Under this approach, AI applications would be regulated only as strictly necessary to address specific levels of risk.



THIS SET OF PROPOSED REGULATIONS APPLIES TO AI SYSTEMS PRODUCED AND USED IN THE EU AS WELL AS IN NON-EU COUNTRIES. THE AIM IS TO REGULATE THE USE OF AI FOR FAIRNESS AND TRANSPARENCY



AI ADOPTION CONTINUES TO GROW WHILE ETHICS CONCERN SURFACE. THAT'S WHY A GROWING NUMBER OF COMPANIES LOOK TO AI AS CRUCIAL TO THEIR FUTURE.



IMPLEMENTING MODELOPS AS AN ENTERPRISE CAPABILITY ALLOWS YOU TO ESTABLISH AND ENFORCE BUSINESS AND TECHNICAL CONTROLS WITH A RULES-BASED ENGINE THAT GOVERNS AND SCALES AI INITIATIVES

- Establishing clear policies regarding the standards that models must meet across all contexts, including business metrics, statistical metrics, internally generated compliance metrics, and external regulations
- Extensively documenting the purpose for each model, its metrics, how it was developed, and how it needs to be deployed
- Identifying all necessary approvals and approvers as the model moves from concept to development and into production
- Capturing all artifacts and metadata associated with the model, including code, training data, test cases, and results
- Logging all activities that happen with the model from the time of release to production through retirement, including deviations from KPIs, remediations such as code changes or retraining, and all approvals that took place at each step





New issues

Blockchain / Non-Fungible Token(NFT) / Metaverse

(1) Blockchain

A **blockchain** is a growing list of records, called *blocks*, that are linked together using cryptography. Each block contains a cryptographic hash of the previous block, a timestamp, and transaction data.

The timestamp proves that the transaction data existed when the block was published in order to get into its hash.

As blocks each contain information about the block previous to it, they form a chain, with each additional block reinforcing the ones before it.

Thus, blockchains are resistant to modification of their data because **once recorded, the data in any given block cannot be altered retroactively** without altering all subsequent blocks.



New issues

Blockchain / Non-Fungible Token(NFT) / Metaverse

(2)NFT

A **non-fungible token (NFT)** is a unique and non-interchangeable unit of data stored on a blockchain, a form of digital ledger.

NFTs can be associated with reproducible digital files such as photos, videos, and audio.

NFTs use a digital ledger to provide **a public certificate of authenticity or proof of ownership**, but do not restrict the sharing or copying of the underlying digital files.

Ownership of an NFT does not inherently grant copyright or intellectual property rights to whatever digital asset the token represents.

[NFTs Are Fueling a Boom in Digital Art. Here's How They Work \(5:39\)](#)



New issues

Blockchain / Non-Fungible Token(NFT) / Metaverse

(3)Metaverse

A **metaverse** is a network of 3D virtual worlds focused on social connection.

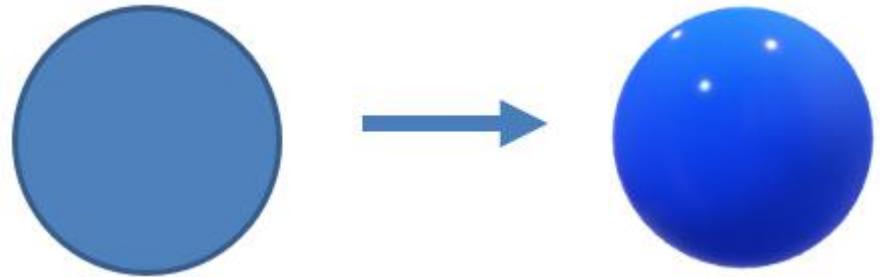
In futurism, the term is often described as a hypothetical iteration of the Internet as a virtual world that is facilitated by the use of virtual and augmented reality headsets.

[How The Metaverse Will Change The World | Brian Jung \(16:43\)](#)

[Blockchain: The Future of Intellectual Property Protection | Kary Oberbrunner**](#)



New issues

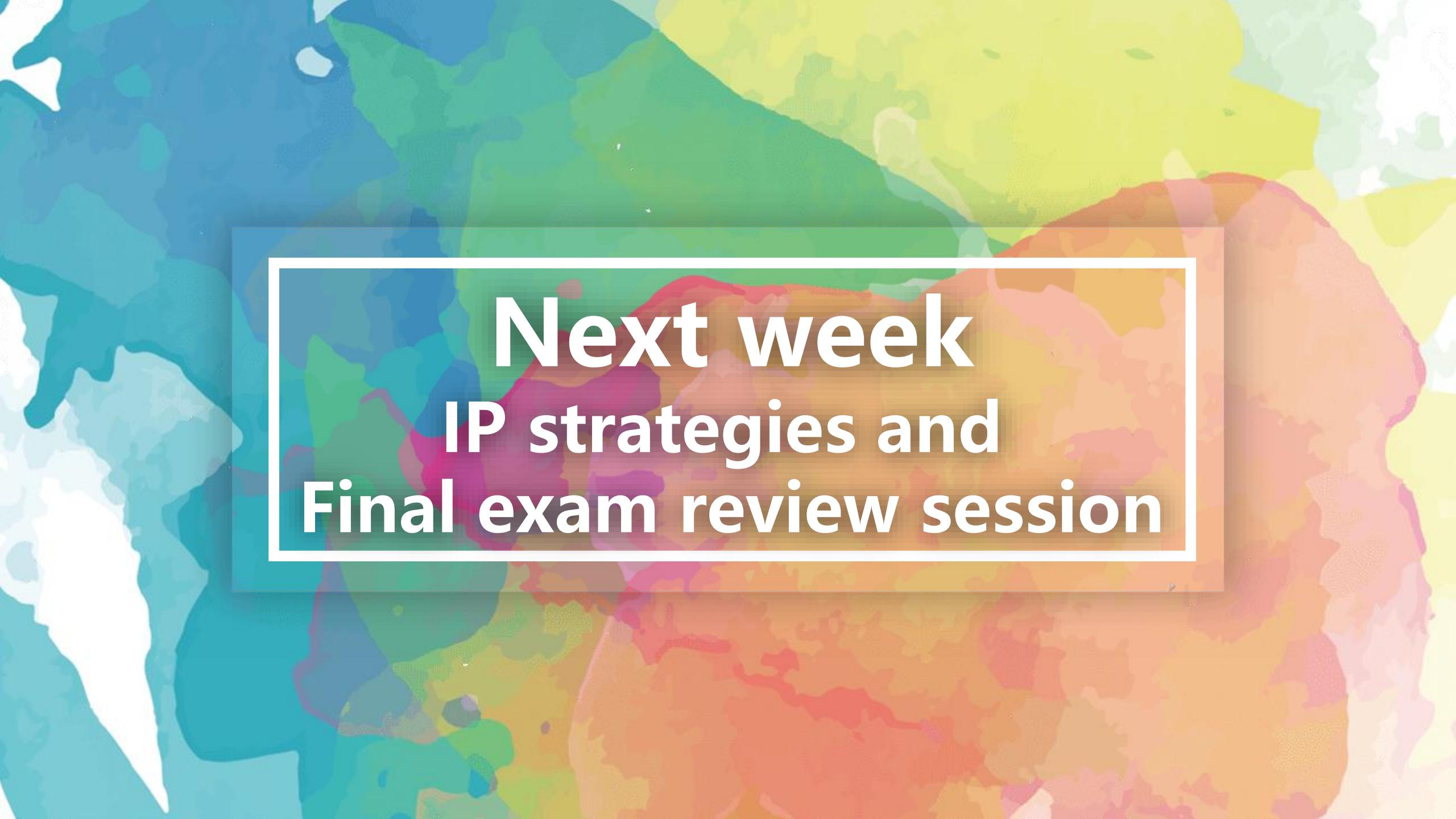


Trademark Issue → 2D transformed into 3D in the Metaverse (Trade Dress in the US).

Need to consider:

- (1) evaluate how they can use existing brands in metaverse without damaging already established value of the brand.
- (2) be aware that creating new 3D virtual source identifiers is unlikely to immediately satisfy the requirements for trade dress protection.

→ **The mark must create the same, continuing commercial impression so that consumers consider both as the same mark.**



Next week
IP strategies and
Final exam review session