

Chapter VIII: Intellectual Property

Copyrights , Trade Secrets &
International Protection For IPR

copyrights

Copyright Concept

- Is an **intangible property right** granted by federal statute **to** the **author** of a **literary** **or** **artistic** production of a specified type.
- copyright protection for the **life of the author** **plus** **70 years**.
- For copyrights owned by **publishing houses**: the copyright expires **95 years** **from** the date of **publication** **or** **120 years** from the date of **creation**, **whichever comes first**.
- **For works by more than one author**, the copyright expires **70 years** **after the death of the last surviving author**

Copyrights categories

- **To obtain protection**, a work must be **original** and fall into one of the following **categories**:
 - 1. Literary works** (including newspaper and magazine articles, training manuals, catalogues, brochures, and print advertisements).
 - 2. Musical works and accompanying words.**
 - 3. Dramatic works and accompanying music.**
 - 4. Pantomimes and accompanying music**(including ballets and other forms of dance).

Copyrights categories

- 5. **Pictorial, graphic, and sculptural works** (including cartoons, maps, posters, statues, and even stuffed animals).
- 6. **Motion pictures and other audiovisual works** (including multimedia works).
- 7. **Sound recordings.**
- 8. **Architectural works.**
- 9. parts of a **computer program that can be read by humans**, such as the “high-level” language of a source code.

Exclusions of Copyrights

- It is **not possible** to copyright an **idea**
- anyone can freely use the underlying ideas or principles embodied in a work. What is **copyrightable** is the particular way in which an idea is expressed.
- **Facts** widely known to the public **are not copyrightable** ex: Page numbers, Mathematical calculations.
 - **Exception: compilation** of facts, If the facts are selected, coordinated, or **arranged in an original way**, they can qualify for copyright protection.

For example, a genealogy chart may arrange birth dates in an original way, or a **cookbook** may arrange ingredients in a creative and original way as part of its recipes. In each of those instances, the creator of the work would have a copyright in the creative arrangement of the facts, but not the facts themselves.

Copyright Infringement

- If **all** or **substantial part** of the original is **reproduced**, the copyright has been infringed.
- whenever a party **downloads software or music** into a computer's random access memory, or RAM, **without authorization, a copyright is infringed**
- **Remedies:**
 - **Actual damages** based on the harm caused to the copyright holder by the infringement
 - **statutory damages**, not to exceed \$150,000, are provided for under the Copyright Act.
 - **Criminal proceedings** may result in fines and/or imprisonment
 - **permanent injunction** when the court deems it necessary to prevent future copyright infringement.

THE “FAIR USE” EXCEPTION for Infringement

- In certain circumstances, a person or organization **can reproduce copyrighted material without paying royalties** (fees paid to the copyright holder for the privilege of reproducing the copyrighted material):
 - if for purposes such as **criticism, comment, news reporting, teaching** (including multiple copies for classroom use), **scholarship, or research**, is not an infringement of copyright

Is Sarah subject to any copyrights infringement?

- Sarah is a big fan of Fayrouz Songs. She made an advertisement for her father's restaurant on You Tube using a famous song of Fayrouz found on Spotify.
- Sarah made a study on Fayrouz songs using parts of her songs.

Answer

- **Case1:** Yes , she made an infringement to Fayrouz and Spotify copyrights as she reproduced the song in advertisement without authorization.
- **Case2:** No infringement as this is a fair use of copyrights for purpose of research.

Trade Secret

Trade Secret

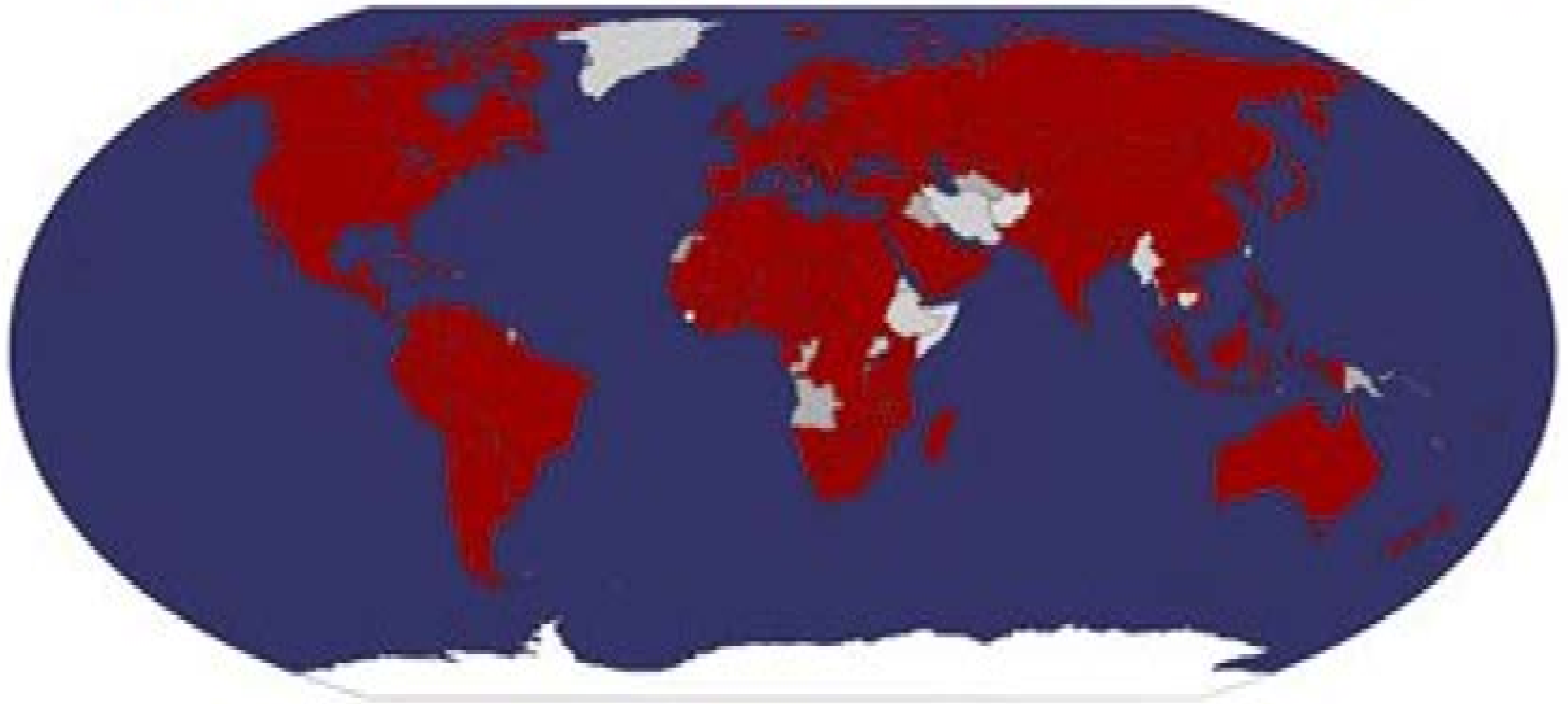
- **Concept**: is basically **information of commercial value**. Trade secrets may include **formula**, **customer lists**, **plans**, **research and development**, **pricing information**, **marketing methods**, **production techniques**, and generally anything that **makes an individual company unique** and that would have **value to a competitor**.
- **Infringement = crime of theft of trade secrets** *if* (1) secret is discovered by **improper means** **OR** (2) their **disclosure** or use constitutes a **breach of a duty** owed to the other party.

International Protection for Intellectual Property

1. Berne Convention

- if a U.S. citizen writes a book, **every country** that has **signed** the convention must **recognize** the U.S. author's **copyright** in the book.
- if a **citizen** of a country that has **not signed the convention** first publishes a book in one of the 170 countries that have signed, all other countries that have signed the convention must **recognize that author's copyright**.

Berne Treaty Signatory Countries



2.The TRIPS (Trade-Related Aspects of Intellectual Property) Agreement

- **protection of all intellectual property rights**, including patents, trademarks, and copyrights for movies, computer programs, books, and music.
- provides that **each member country of the World Trade Organization must include in its domestic laws broad intellectual property rights and effective remedies** (including civil and criminal penalties) for violations of those rights.
- **forbids** member nations from **discriminating against foreign owners** of intellectual property rights (in the administration, regulation of such rights) **nationals = Foreigners in protection rights**



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3. The Madrid Protocol

- Resolves **difficulties** in protecting **trademarks** internationally concerning the **time and expense** required to apply for trademark registration in foreign countries By:
 - a company wishing to **register its trademark abroad** can submit a **single application and designate other member countries** in which the company would like to register its mark by local agents in the applicable jurisdiction



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