

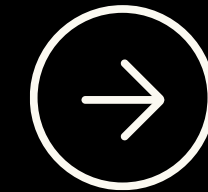


INTELLECTUAL PROPERTY (IP)

A BREIF CONTEXT AND APPLICABLE EU LAWS

Present by Lawrence C. Obi

DISCUSSION & AGENDA



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- 2 Key concepts
- 3 Types of Intellectual Property
- 4 Importance of Intellectual Property Protection
- 5 Intellectual Property Laws in the EU and International Treaties
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INTRODUCTION

Intellectual property (IP) refers to creations of the mind like inventions, literary works, artistic works, designs, symbols, and names used in commerce.

It includes inventions, artistic works, industrial designs, trademarks, and trade secrets. IP protection ensures that creators and innovators can benefit from their work, encouraging innovation and economic growth.

- IP theft can result in significant economic loss and competitive disadvantage.
- Protection involves rights management, strict access controls, and potentially watermarking or other methods to trace and identify unauthorized copies



KEY CONCEPTS

ORIGINALITY

The work must be the product of the author's own intellectual effort.

FIXATION

The work must be expressed in a tangible form.

CREATIVITY

The work must involve a degree of creative thought.

INFRINGEMENT

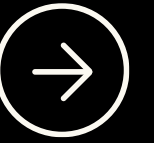
Unauthorized use or exploitation of Intellectual Property



TYPES OF INTELLECTUAL PROPERTY

- **COPYRIGHT**
- **TRADEMARK**
- **PATENT**
- **TRADE SECRET**
- **DESIGN RIGHT**

COPYRIGHT



Copyright law grants protections against unauthorized duplications of an original creative work.

Protects original works of authorship, including literature, music, art, and software. E.g: J.K. Rowling's **Harry Potter series**

Authors can control how their work is distributed, reproduced, and used.

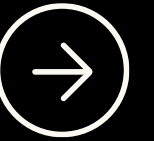
Protection

- 70 years after the death of the last remaining author of the work, unless it's "work for hire".
- Works for hire and anonymous works are protected 95 years from the date of first publication or 120 years from the date of creation, whichever is shorter

Penalties: Up to \$1,000,000 in damages and ten years in prison for repeat offenders



TRADEMARK



A trademark protects words, brand names ,symbols, sounds, shapes, colors, musical tones, or combinations used to identify products to distinguish them from others.

The primary purpose is to avoid confusion in the marketplace
Eg. Netflix Sound Intro, Nike Swoosh

Protection

- Protect from someone stealing another company's "look and feel"
- While registration is not mandatory, it provides significant benefits, including nationwide protection and the ability to sue for infringement. This occurs when someone uses a trademark that is confusingly similar to another.

Granted for an initial period of 10 years and can be renewed an unlimited number of times for another 10 years



PATENT



Patents protect the rights of inventors and their inventions.

Types: Utility patents protect inventions, design patents protect the ornamental appearance of a product, and plant patents protect new and distinct plant varieties.

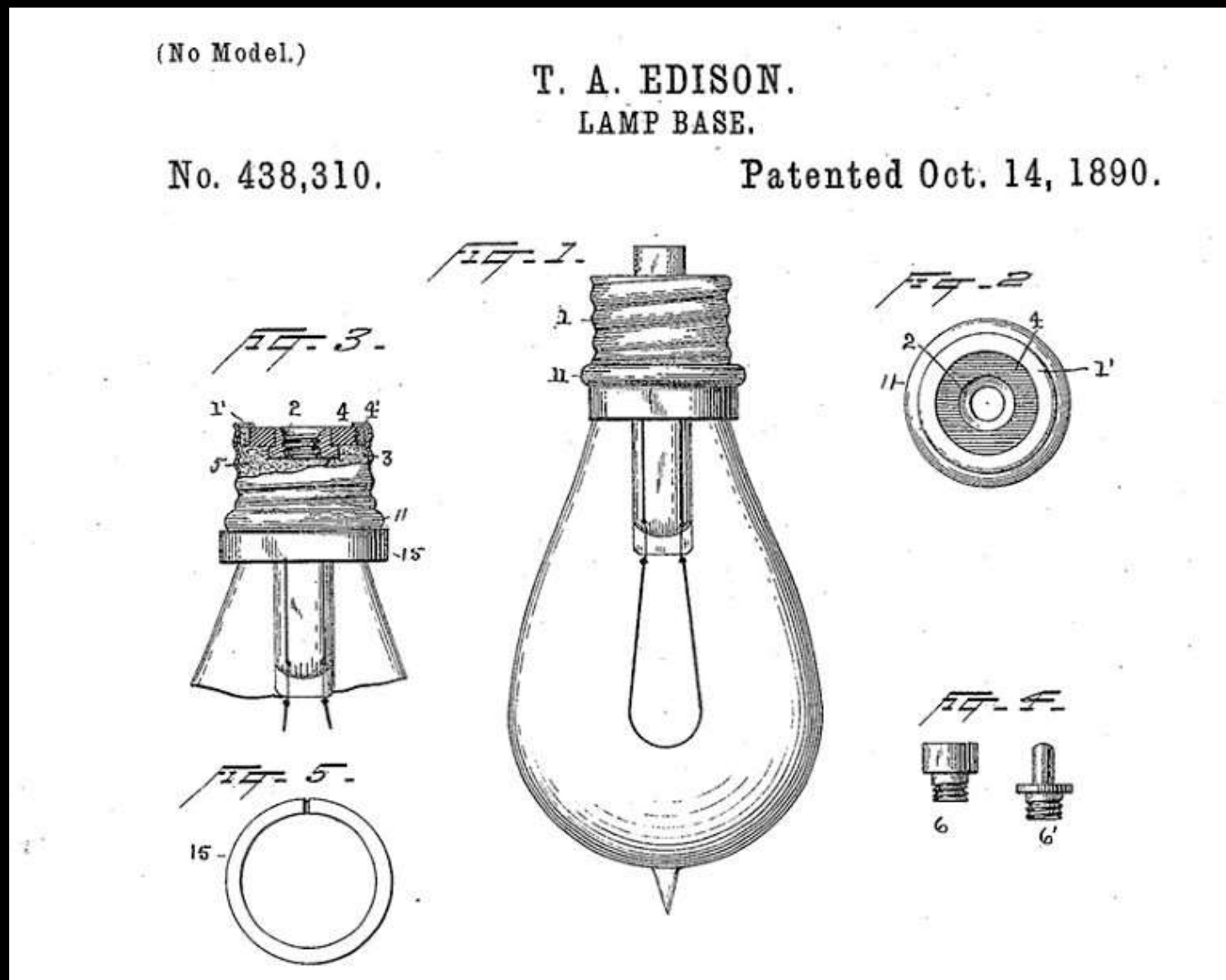
Eg: The electric lamp was invented by Thomas Edison, patented in 1880, and lamp base in 1890.

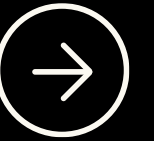
Protection: for those who have legal ownership of the patent

Patent Requirements:

- Invention must be new
- Invention must be useful
- Invention must NOT be obvious

Owner has exclusive control of the invention for 20 years - after which the invention enters the public domain.





TRADE SECRETS

Confidential business information that provides a competitive advantage.

To qualify as a trade secret, information must be valuable, secret, and have measures in place to protect its secrecy.

- Examples: The McDonald's burger recipe.

Rights: No exclusive rights, but protection against misappropriation and unlawful acquisition

Economic Espionage Act of 1996: Anyone found guilty of stealing trade secrets.

- From US corporation - Fined up to \$500,000 and 15 years
- Under other circumstances - Fined up to \$250,000 and 10 years

Nondisclosure agreements (NDA) should be used to prohibit the sharing of trade secrets.





DESIGN RIGHTS

Protect the visual design of products that are new and have individual character.

Example: The unique design of the Coca-Cola bottle is protected by design rights.

Exclusive rights: to use the design and prevent others from using it in a confusingly similar way.

Duration: Design rights are typically time-limited. Depending on the jurisdiction, these rights can last for 10-25 years



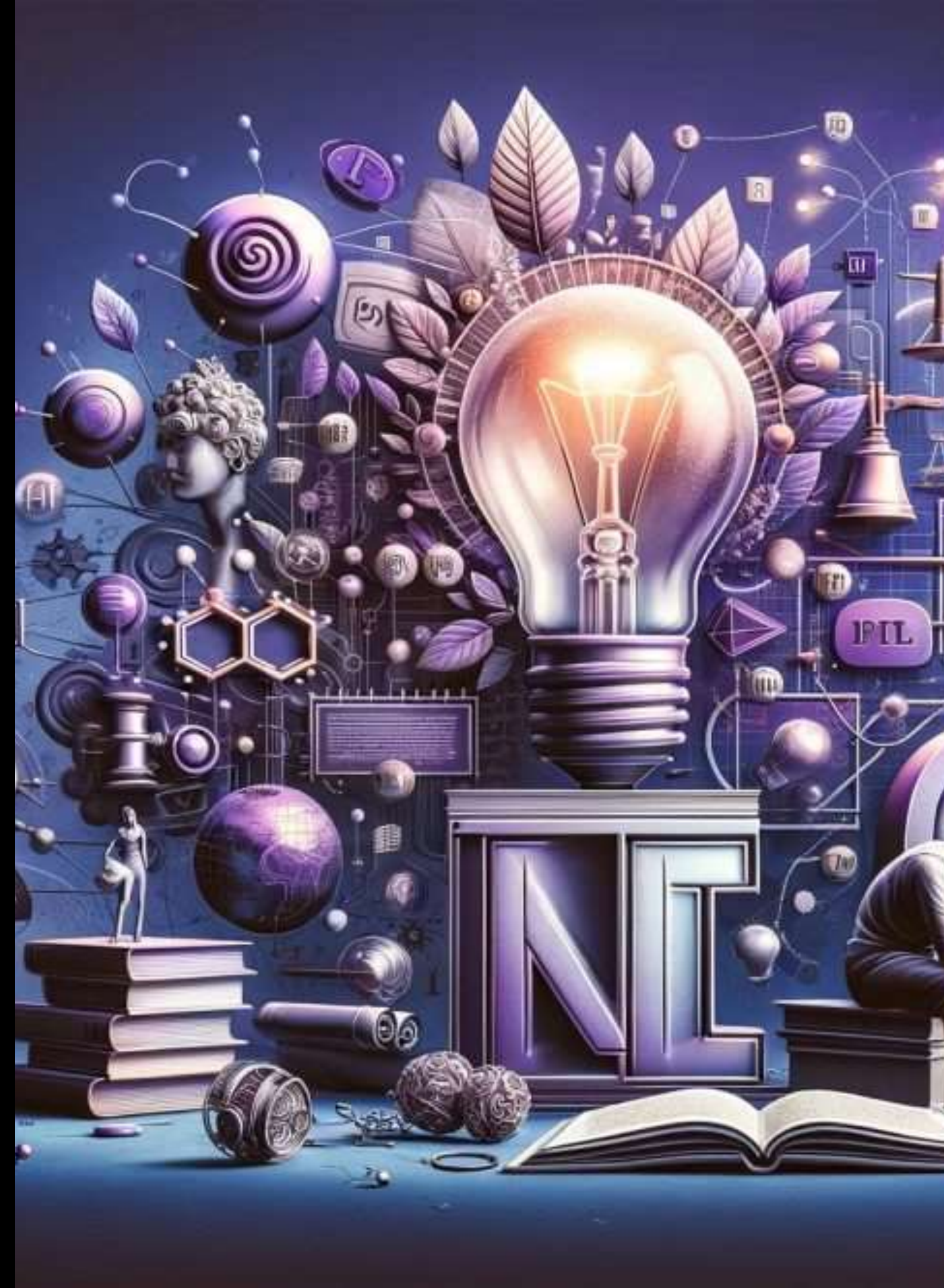
IMPORTANCE OF INTELLECTUAL PROPERTY PROTECTION

Encourages Innovation

Stimulates Economic Growth

Protects Jobs

Prevents Unfair Competition



INTELLECTUAL PROPERTY LAWS IN THE EU



Copyright Directive (2001/29/EC):

- Protects authors and other creators of literary, artistic, and scientific works, including software, music, and films.

Trademarks Directive (2008/95/EC):

- Harmonizes trademark law across EU member states, protecting brand names, logos, and other distinctive signs.

Patent Regulation (Regulation (EU) No 2017/1001):

- Establishes a unitary patent system within the EU, simplifying the process of obtaining and enforcing patents.

Design Directive (2003/87/EC):

- Protects the appearance of products, such as industrial designs and the ornamental aspects of products.

INTERNATIONAL TREATIES



TRIPS Agreement:

- Establishes minimum standards for IP rights globally, influencing national legislation.

Paris Convention:

- Protects industrial property (patents and trademarks) and promotes international cooperation.

Berne Convention:

- Safeguards literary and artistic works, ensuring authors' rights are respected globally.

CHALLENGES AND CONSIDERATIONS



Enforcement

Ensuring effective enforcement of IP rights can be challenging, especially in the digital age where the copying of content is easier than ever.



Global Challenges

Protecting IP in a globalized world requires international cooperation and agreements, to address complexities in cross-border trade.



Balancing Rights

IP protection must be balanced with other rights, such as freedom of expression and fair competition while ensuring public access to information and cultural works.



Technological Advancements

New technologies, such as artificial intelligence and blockchain, raise new challenges and opportunities for IP protection.

IP INFRINGEMENT

Violation of an intellectual property right

Remedies

In cases of IP infringement, the owner may seek damages, injunctions, and attorneys' fees.

International Protection

International treaties and agreements, such as the Berne Convention and the Paris Convention, provide for the protection of IP rights in multiple countries



Enforcement Directive (2004/48/EC)

Provides procedures and remedies for effective enforcement of IP rights, allowing rights holders to take action against infringements.

Customs Regulation

Empowers customs authorities to act against counterfeit goods at borders, protecting both consumers and IP owners.

CASE STUDY: APPLE VS. SAMSUNG



Background: Apple filed a lawsuit against Samsung in 2011, claiming that Samsung had infringed on several of its patents related to smartphone technology and design.

Outcome: The case highlighted the importance of design patents, leading to a significant ruling in favor of Apple. Samsung was ordered to pay damages for infringement.

Implications: This case underscored the value of IP protection in the tech industry and prompted companies to invest heavily in securing their innovations.

A conceptual image featuring a glowing lightbulb and a human brain, both encased within a glass dome. The background is dark and moody, with a bookshelf visible on the right side. The lightbulb is on the left, and the brain is on the right, both under the same dome. The overall theme is intellectual property and innovation.

BEST PRACTICES FOR IP MANAGEMENT

Register IP Rights

Ensure that patents, trademarks, and designs are registered to provide legal protection.

Monitor and Enforce

Actively monitor for potential infringements and be prepared to take action.

Educate Employees

Foster a culture of respect for IP rights through training and awareness programs.

Consult Legal Experts

Work with IP attorneys to develop effective strategies for protecting and enforcing IP rights.

CONCLUSION

Intellectual Property laws in the EU are essential for fostering innovation and economic growth. The EU's harmonized approach provides a solid foundation for protecting IP rights across member states, while ongoing adaptations will be necessary to meet future challenges.



Q&A

THANK YOU

for your time and attention

Present by Lawrence C. Obi

