

TICT 3142 Social and Professional Issues in IT

Lesson 04 Intellectual Property Rights

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Kinds of Property

- Movable Property
 - ▶ Car, Pen, Furniture, Dress
- Immovable Property
 - ▶ Land, Building
- Intellectual Property
 - ▶ Literary works, inventions

What is Intellectual property (IP)

- Intellectual property (IP) is a term referring to a brand, invention, design or other kind of creation, which a person or business has legal rights over. Almost all businesses own some form of IP, which could be a business asset.
- Intellectual Property is a property that arises from the human intellect. It is a product of human creation.
- Intellectual Property is the creation of the human intellectual process and is therefore the product of the human intellect or mind.

What is Intellectual property (IP)

"Intellectual Property shall include the rights relating to

- literary, artistic and scientific works,
 - performances of performing artists, phonograms, and broadcasts,
 - inventions in all fields of human endeavor.
 - scientific discoveries
 - Industrial designs
 - trademarks, service marks and commercial names and designations
 - protection against unfair competition
- and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields."

Importance of IPR

- IP can be used to establish the goodwill and brand value in the market.
- Inventor, creator or author of an IP can mention about the IP in his/her resumes and thus show their competence
- IPR certificate establishes legal and valid ownership about an intellectual property
- It encourage new industry and research
- Facilitate technology transfer

world intellectual property day



WIPO

- **WIPO** World Intellectual Property Organization was established by the WIPO Convention in 1967
- The WIPO is a **specialized agency** of the United Nations.
- It **promote the protection** of IP throughout the world.
- Its headquarters are in **Geneva, Switzerland**





National Intellectual Property Office

Ministry of Trade

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Intellectual Property

Integrated
Circuits

Patents

Trademarks

Copyright

Industrial
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TM

Trademarks



Patents



Industrial Designs



Copyright

<https://www.nipo.gov.lk/>

Types of IPR

- It is of following types
 1. Patent
 2. Trademark
 3. Copyright
 4. Geographical indication
 5. Neighboring rights
 6. Integrated Circuit
 7. Industrial design
 8. Trade secret

1. Patent

- A patent is an exclusive right granted to the inventor to use and market the invention for a limited period of time in consideration of the disclosure of the invention.
- The product must be
 - (a) novel,
 - (b) have industrial application and
 - (c) must be useful for entitlement of a patent. Patents are given only for inventions.



Life & Duration

- Term of the patent is **20 years** from the date of filling for all types of inventions.
- Priority date- first to file
- The date of patent is the date of filing the application for patent.
- The term of the patent is counted from this date.

Question

Is A Patent granted in one country enforceable in other Countries?

- **No**, there is nothing like a global patent or a world patent. Patent rights are essentially territorial in nature
- Granting a patent in one country of the Union does not force other countries to grant the patent for the same invention.
- The refusal of the patent in one country does not mean that it will be terminated in all the countries

WHAT CAN BE PATENTED ?

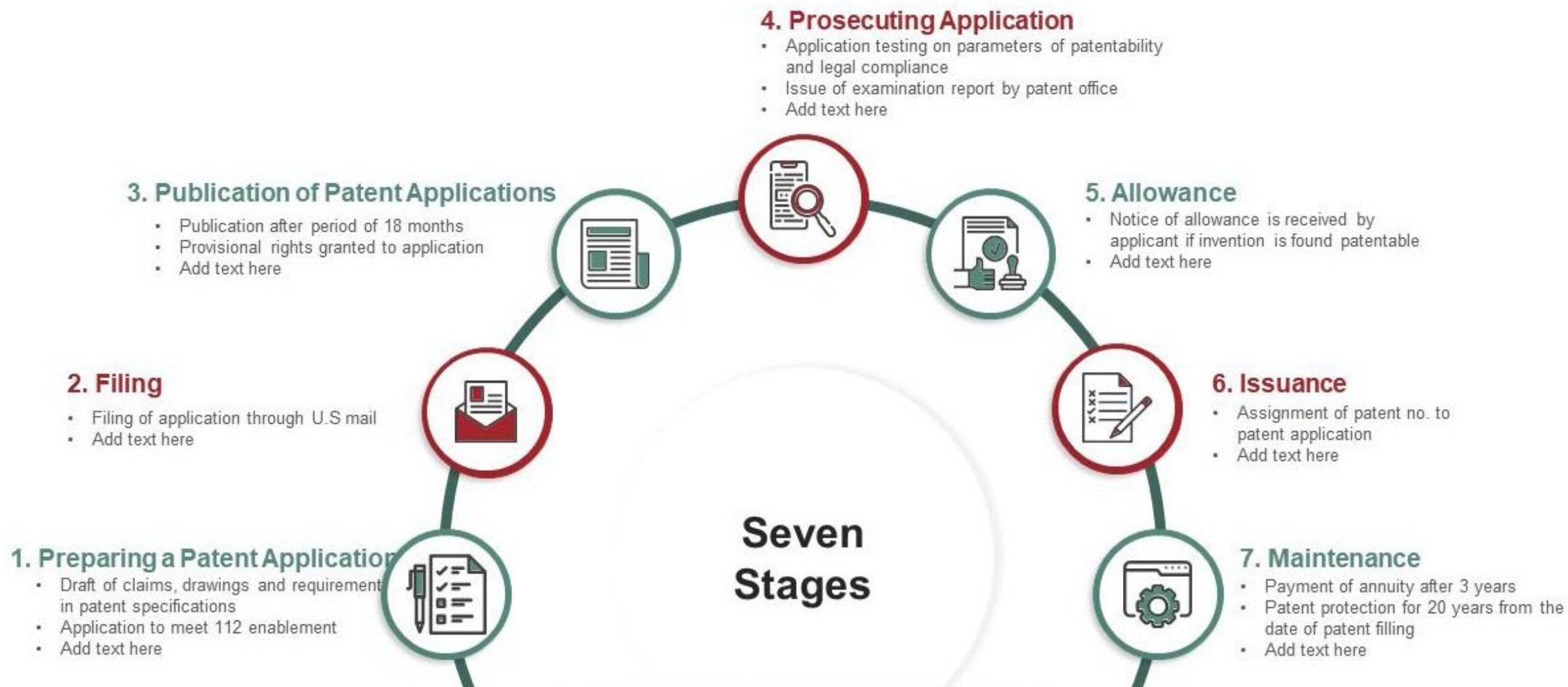
- ALL PROCESSES & PRODUCTS WHICH ARE
- NEW
- INVOLVING INVENTIVE STEP
- CAPABLE OF INDUSTRIAL APPLICATION
- PRODUCT MEANS
 - APPARATUS
 - DEVICES
 - MACHINES
 - CHEMICAL PRODUCTS
 - DRUG/ FOOD & THEIR COMPOSITIONS
 - CHEMICAL COMPOSITIONS
 - BIOLOGICAL PRODUCTS

What is not Patentable

- A method for agriculture and horticulture
- Any methods of treatment of human beings, or animals
- Plants and animals in whole or any part thereof other than microorganism
- A mathematical or business method or a computer program.
- A literary, dramatic, musical, artistic work, etc.
- A scheme or rule or method of performing mental act or method of playing game
- A presentation of information
- Topography or integrated circuits
- An invention relating to the traditional knowledge

Seven Stages of Patent Filing Application Process

This slide shows the seven stages of application filing which are to be fulfilled by individuals at the time of getting their innovation patented. It includes preparing, filing, publishing, prosecuting of patent application and its allowance, issuance and maintenance.



Importance of Patent

- It encourages research.
- Induce an inventor to disclose his invention.
- Encourage establishment of new industries.
- Reasonable assurance for commercialization.
- Facilitate technology transfer.
- Stimulate R&D at Universities and Research center.
- Acts as catalysts for new technologies and new business .

2. Trade Mark

- A symbol, logo, word, sound, color, design, or other device that is used to identify a business or a product in commerce.
- The trademark owner can be an individual or business Organization.

A trade mark is located on a package, a label on product itself.

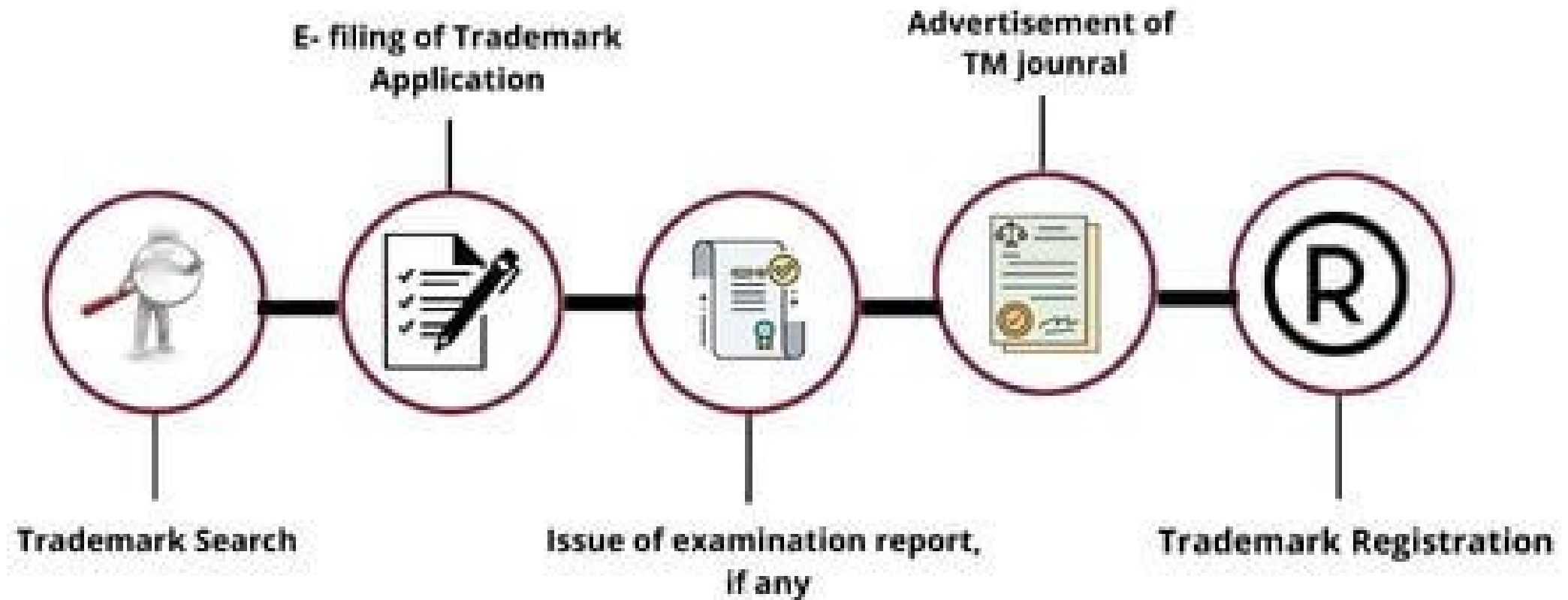


- **A trademark may be designated by the following symbols:**
- **™**(the "trademark symbol", which is the letters "TM" in superscript, for an unregistered trademark, a mark used to promote or brand goods)
- **SM**(which is the letters "SM" in superscript, for an unregistered service mark, a mark used to promote or brand services)
- **®**(the letter "R" surrounded by a circle, for a registered trademark)

Life & Duration

- Trademark is valid for 10 years from the date of application which may be renewed for further period of 10 years on payment of prescribed fees.
- Service mark Rights are reserved exclusively for owners for 17 year & it can also be renewed.

Trademark Registration Process



YAHOO!



BBC



Walmart

CNN



Coca-Cola

FedEx Corporation

Google



NOKIA
Connecting People

HONDA
The Power of Dreams



IBM



TOYOTA



Mobil



3. Copyrights

- The term originated in the copyright law means that the work originated with the author
- It is right which grants protection to the unique expression of Idea

Life & Duration

- **Copyright in Sri Lanka is generally protected during the life of the author and 70 years after his death.**
- Author's life+ 60 years for literary work (Books)
- 60 years (Films, photographs)
- 25 years (Broadcasting)
- **Symbol of copyright:- ©**
© + year + name
- **Example:-**
- © 2021 *Pharmaceutical Education and Research*

WHAT CAN BE PROTECTED ?

- Literary Works
- Musical Works
- Dramatic Works
- Choreographic Work
- Pictorial, Graphic, and Sculptural Works
- Motion Pictures and Audio Visuals
- Sound Recordings
- Architectural



WHAT IS NOT PROTECTED ?

- Titles
- Slogans
- Short phrases
- Names
- Familiar symbols or designs
- Font designs
- Ingredients or contents
- Facts
- Blank Forms Etc.....

What Does Copyright Give Rights Holders?

- Right to reproduce the work.
- Right to prepare derivative works.
- Right to distribute copies for sale.
- Right to perform AV works publicly.
- Right to display musical artistic works publicly.

What Happens when copyright Expires?

After the period of copyright protection has expired, a work becomes available for use without permission from the copyright owner; it is said to be "In the Public Domain".

Most works enter the public domain because the copyrights have expired.

4. Trade secret

A trade secret is a formula, practice, process, design, instrument or pattern which is not generally known by which a business can obtain an economic advantage over competitors or customers.



5. Neighboring rights

Neighboring rights, is a copyright, were created for three categories of people who are not technically authors: performing artists, producers, and those involved in radio and television broadcasting.

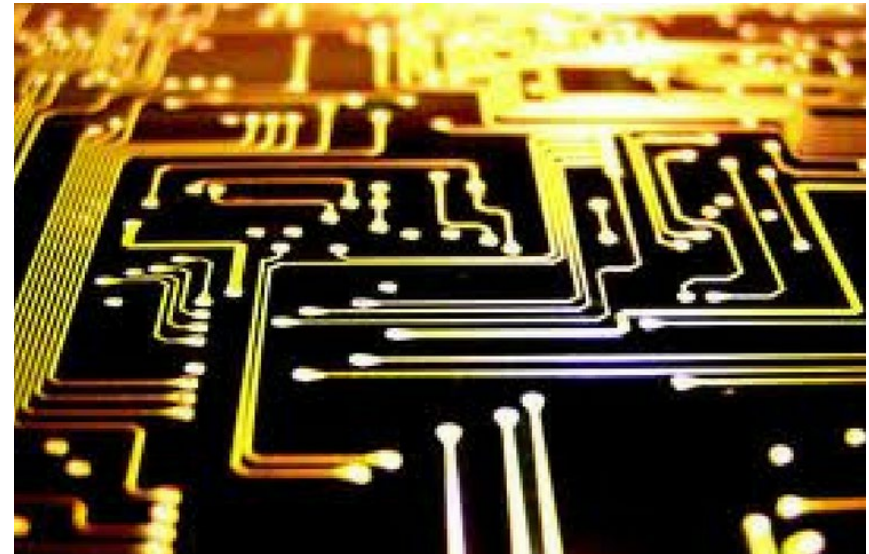
For example, a live concert are protected by copyrights and neighboring rights. The songs sung are entitled to royalties on copyright. If there are parties who stream the live concert, then the parties appear at the concert are entitled to royalties for their appearance.



6.Integrated circuit

Layout designs of integrated circuits are a field in the protection of intellectual property.

In United States Intellectual Property Law, is a two or three-dimensional layout of an integrated circuit IC or "chip" , i.e. the arrangement on a chip of semiconductor devices such as transistors and resistors and interconnections.



7.Industrial Design

The industrial design is an intellectual property right that protects the design or shape, color pattern, no.of lines 2d or 3d design of objects.



8. Geographical Indication

A GI is a name or sign used on goods by a group of producers or manufacturers to indicate that the goods originate from a specific place and have special quality, character, or reputation due to that origin.

Examples:

Swiss Watches: Watches made in Switzerland, known for their quality and precision.

Ceylon Tea: Tea from Sri Lanka, known for its unique taste and aroma.



What is “Fair Use”

- Gives permission to use copyrighted materials if certain criteria are met
- And the most important: It protects freedom of speech with other benefits too
- Promotes public benefits like education.



Beware the “Fair Use Excuse”

- Never assume that your use falls under the fair-use exception!
- "Saving money" is not a sufficient excuse
- Laziness can be a trap!

Fair Use Limitations

Motion media	10% or 3 minutes, whichever is less
Text material	10% or 1000 words, whichever is less
Music	10% or 3 minutes, whichever is less
Photographs / Illustrations	5 images per photographer/ artist; 10% or 15 images from a collective work

4 Key Factors of Fair Use



Purpose and character of the use

The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;



Nature of the copyrighted work

The nature of the copyrighted work;



Amount and substantiality of the portion used

The amount and substantiality of the portion used in relation to the copyrighted work as a whole;



Effect of the use upon the potential market

The effect of the use upon the potential market for or value of the copyrighted work.

How Much I can Use?

- **Photos and images** - up to 5 works from one author; up to 10% or 15 works, whichever is less, from a collection.
- **Database information** - up to 10% or 2500 fields or cell entries, whichever is less

What constitutes Infringement?

- Any reproduction, use , distribution, performance, etc. of the work without the permission of the owner.
- An **identical** or **substantial similar** reproduction is also covered
- Infringement - Damages - Injunction

Remedies for Patent Infringement

- A suit can lie in the District or High court,
- It may issue an injunction either to prevent the infringer from any further use & award damages to the patent owner or will pay the patent owner royalties for further use.



Apple sued HTC over iPhone patents

- Apple accused HTC of infringing on 20 of its patents related to the iPhone's user interface, underlying architecture, and hardware. The lawsuit was filed in 2010. Apple argued that HTC was copying its technology rather than creating its own original innovations.



- **Apple's Lawsuit:**
- In 2010, Apple filed two lawsuits against HTC, alleging that HTC was infringing on 20 of Apple's patents related to the iPhone.
- **Patents in Dispute:**
- The patents in dispute covered aspects of the iPhone's user interface, underlying architecture, and hardware.
- **HTC's Counterclaims:**
- HTC responded by filing counterclaims against Apple, alleging that Apple's products infringed on two patents HTC had acquired from Hewlett-Packard.
- **Settlement:**
- In 2012, Apple and HTC reached a global settlement that included the dismissal of all current lawsuits and a ten-year license agreement.

Remedies for Copyright Infringement

- A **suit** can lie in the District or High court or in a high court.
- Punishable with imprisonment up to **3 years** and fined as per the claims



END