

IP in India



Introduction to Intellectual Property

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**Medical
Equipments,
Furniture,
Musical
instruments,
Combination of
hardware and
software,
Agricultural
Equipments**



Utility i.e the
invention capable of
being made or used
in an industry



Patentable

Novelty - product or
process i.e. a new way of
doing something better
and/or more efficiently.

Non-Obviousness
-substantial technical
advancement as compared
to the existing knowledge

Patent



Patent

- A patent is a right, granted by the government, to exclude others from making, using, or selling your invention.
- Patents protect inventions such as new processes, machines, or chemicals.
- The basic idea is that patents protect ideas, not just expressions of them.
- The main effect of patents is to give their holders the right to challenge any use of the invention by a third party.
- He/She thereby gets a temporary monopoly of exploitation which can be understood as a financial incentive for inventive industrial activities.

Registering patents

- Patents must be registered.
- There are 3 general requirements for patentability: (1) the invention must be novel, (2) it must be useful, and (3) It must be original.
- Patents expire for 20 years after the filing date, at which point they must be re-registered.
- Patents registered in India only prevent the use of the patent within India.
- However, patents can also be registered internationally.

1876 telephone patent controversy

- In the 1870s, two inventors Elisha Gray and Alexander Graham Bell both independently designed devices that could transmit speech electrically (the telephone)
- Both men rushed their respective designs to the patent office within hours of each other, Alexander Graham Bell patented his telephone first
- Elisha Gray and Alexander Graham Bell entered into a famous legal battle over the invention of the telephone, which Bell won

Process of registration: Patent

- Patent search
- File Indian application (foreign filing within 12 months)
- Publication
- Examination
- Grant
- Renewal



Strong IP plays an important role

Strong market position

- Microsoft, Apple, and IBM lead the world in hardware & software patent innovations
- Samsung, Johnson & Johnson, LG Electronics, Alphabet, Qualcomm, Ford, Intel, Microsoft, Sony, and VW are the ten most innovative companies in the world
- Ford leads the global automotive industry in patent innovation, due in large part to successful R&D efforts in autonomous driving.

Strong IP plays an important role

- **Branding/Valuation of company goes up**
 - Disclosure becomes easy
 - Patent is a tool, not guarantee
 - Labelling of products as patent applied or patent pending, patented
 - M&A advantage

Strong IP plays an important role

- **Licensing/Sale is a possibility**
 - Once you own the IP asset, you may license or sell it off
 - Royalty
 - Licensing/Assignment/JV

Strong IP plays an important role

- **Enforceability**
 - Could be a source of revenue

Apple vs VirnetX

- Apple infringed four patents used in its FaceTime video calling service.
- Apple was sued by VirnetX which had registered a number of video related patents between 2002 and 2011
- Apple had argued that it was using different technologies in its Facetime services
- Apple was ordered to pay US\$368.2 million in damages for infringing four patents (U.S. Patent Nos. 6,502,135, 7,418,504, 7,921,211 and 7,490,151) used in its FaceTime video calling service.

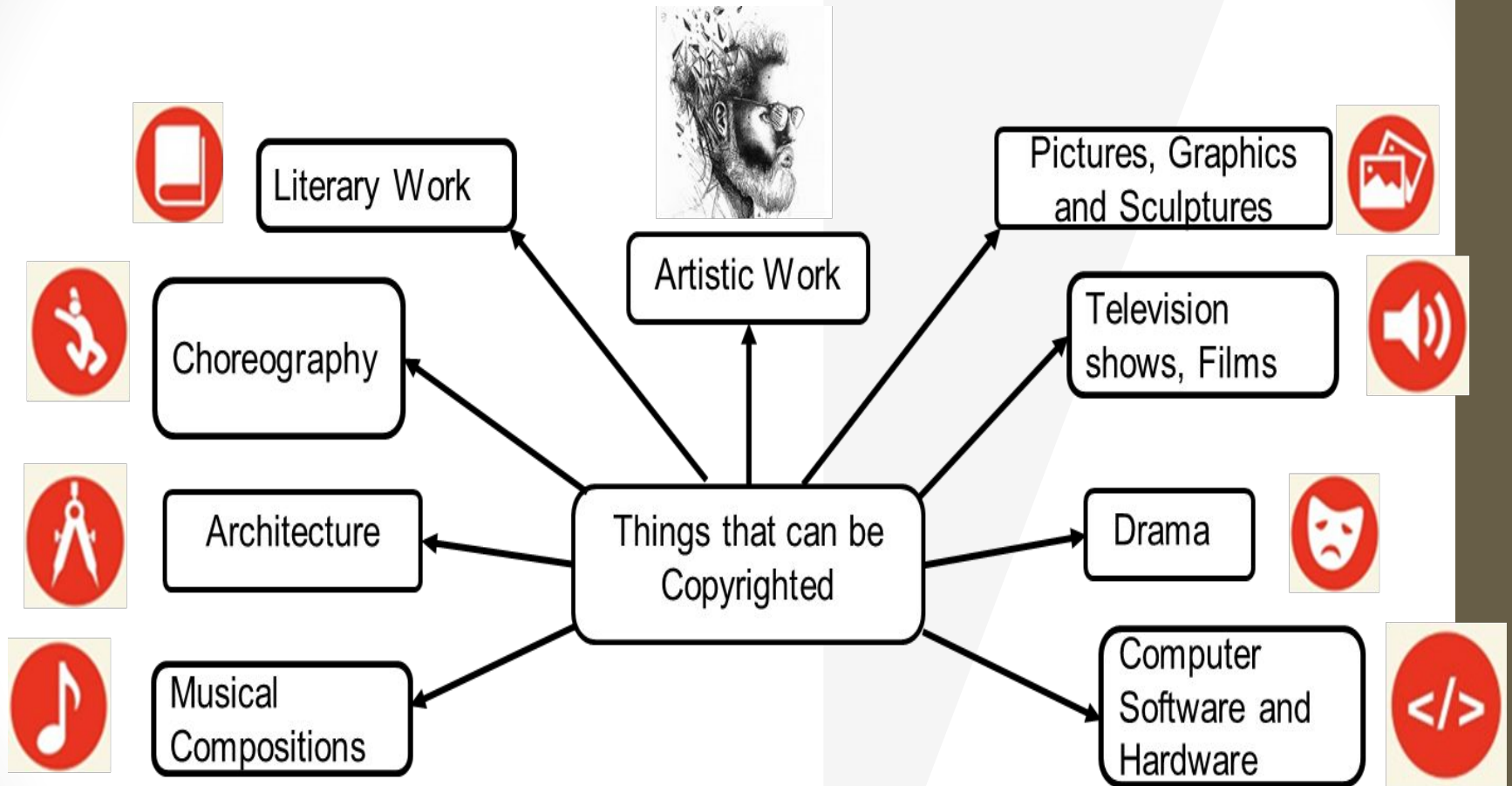
- Anant Electronics and Futuristic Concepts Media Ltd were using “digital transmission system” technology to manufacture VCDs
- In India, Philips had a patent protection on this technology
- Delhi High Court ordered the two Indian companies to stop manufacturing the VCDs that infringed Philip’s “digital transmission system”
- **LESSON:** Using technology protected by another company can drive you out of business

Copyright

- Copyrights protect the expression of ideas.
- Artistic works are generally considered to be expressions of ideas – books, paintings, songs, movies, and computer programs are examples.
- Copyright will **not protect the process** through which a particular work was created or the use of information within it (instructions, etc.).

Contd..

- Cookbooks cannot be reproduced without permission because they are an expression of ideas (the recipes).
- However, people can still follow the recipes in the cookbook because they are replicating the ideas contained in the literary work.
- If the recipes were protected by a **patent**, users would need permission to follow them,
- Because patents protect particular ideas from being used without authorization.



#FACT

Facts

Works not fixed
in tangible form

Historical
Information

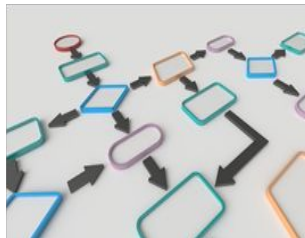
Things that can't
be Copyrighted

Trademarks

Ideas

Processes

Inventions



- Copyright contains moral rights and economic rights.
- Economic rights include the right to copy or publish a work or any substantial part of it.
- Moral rights include the right to the integrity of the work and the right to be listed as its author .
- The author does not lose these rights when they allow their work to be copied or published. Moral rights can be waived, but they cannot be assigned to others.
- Economic rights can be transferred.

India Copyright ACT1957

- Subject matter of copyright on Internet
- Computer database
- Computer Programmes or software
- Computer Layouts Design
- Various works on web
- Multimedia works etc
- Course material

Copyright in cyberspace

- You buy a piece of software and email it to five friends
- You download an article from a newspaper's web page and post it on an electronic bulletin board
- You take a post from one news group and forward it to another news group
- Each of these examples implicates copyright law

Computer software as copyright

- Computer software is protected as literary work
- Operating systems : Microsoft Windows
- Web browsers
- Word processors
- Software for making presentation
- Specialised software such as Computer-aided design, software for statistics, accounting software

How to create copyright to your work?

- The copyright is created by law the moment you create something of your own
- You need to add the symbol



<https://creativecommons.org/>

- Creative Commons **licenses give everyone from individual creators to large institutions a standardized way to grant the public permission to use their creative work under copyright law.**
- Creative Commons (CC) is an American non-profit organization and international network devoted to educational access and expanding the range of creative works available for others to build upon legally and to share



Open Source Movement

- The open-source-software movement is a movement that supports the use of open-source licenses for some or all software
- The open-source movement was started to spread the concept/idea of open-source software.
- Programmers who support the open-source-movement philosophy contribute to the open-source community by voluntarily writing and exchanging programming code for software development.
- The term "open source" requires that no one can discriminate against a group in not sharing the edited code or hinder others from editing their already-edited work.
- This approach to software development allows anyone to obtain and modify open-source code. These modifications are distributed back to the developers within the open-source community of people who are working with the software.

Important Links

- <https://ipindia.gov.in/>
- <https://copyright.gov.in/>

Copyright infringement in cyberspace

- When copies are made of software which are distributed on the internet and sold by any person other than owner, it amounts to copyright infringement.
- Copying from website or content from the blog also amounts to a copyright violation.

Copyright Issues In Cyber Space:

- Linking:
- It allows the user of the website to go to another website on the Internet without leaving that website that he is using. It is done by clicking on a word or image in one web page. Linking damages the rights or interests of the owner of the webpage.
 - Linked sites can lose their income as revenues are often equal to the number of persons who visit their page
 - It may create the impression that the two linked sites endorse the same and are linked to each other.
- In **Shetland Times, Ltd. v. Jonathan Wills and Another**, the Shetland News's **deep link** to embedded pages of the Shetland Times's web site, through the use of Times' web site's news headlines, was held to be an act of copyright infringement under British law and an injunction was issued for the same.

Copyright Issues In Cyber Space:

- Software Piracy:
- It is also covered under Indian Copyright Act . This is knowingly making use on a computer of an infringing copy of a computer programme.

Piracy can be of 3 types:

- Soft lifting
- Software Counterfeiting
- Uploading-Downloading.

What is trademark?

- A trademark, trade mark, or trade-mark is a recognizable sign, design or expression which identifies products or services of a particular source from those of others.
- The trademark owner can be an individual, business organization, or any legal entity.
- A trademark may be located on a package, a label, a voucher or on the product itself.

Cybersquatting And Trademark Infringement:

- Trademark means a mark capable of being represented graphically and which can distinguish the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.
- Cybersquatting is done when domain names are registered, sold or trafficked-in with the intention to make profit from the goodwill of someone else. It is a punishable.

Trademark issues in Cyberspace

- A domain name dispute arises when more than one individual believe that they have the right to register a specific domain name. It arises when a registered trademark is registered by another individual or organization who is not the owner of trademark that is registered. All domain name registrars must follow the ICANN's policy .
- Cybersquatting is a type of domain name dispute. **Yahoo! Inc v. Akash Arora & Anr** , the defendants were using **yahooindia.com** for providing internet services.

The petitioner was the owner of the trademark Yahoo! and had registered its domain name with different countries like yahoo.in for India. Hence, the domain name yahooindia.com could be mistaken as an extension of Yahoo!. The Court treated the matter as passing off and granted an injunction restraining the defendant from using the domain name yahooindia.com.

- Meta tagging is a technique in which a word is inserted in the keywords field of the site to increase the chances of a search engine returning the site, even though the site may have nothing to do with the word which was inserted. Infringement of trademark occurs when companies include their own websites meta tags containing the names or descriptions of other companies.

- The UDRP Administrative Procedure is only available for disputes related to abusive registration of a domain name. For a domain name registration to be abusive, certain conditions are needed to be fulfilled.
- The **Uniform Domain-Name Dispute-Resolution Policy** (UDRP) is a process established by the Internet Corporation for Assigned Names and Numbers (ICANN) for the resolution of disputes regarding the registration of internet domain names.

- **The conditions are:**

- The domain name registered by the domain name registrant is identical or confusingly like a trademark or service mark in which the complainant (the person or entity bringing the complaint) has rights; and
- the domain name registrant has no rights or legitimate interests in respect of the domain name in question; and
- the registered domain name is being used in bad faith.

- YouTube allows creators to mark their videos with a Creative Commons CC **BY license**. If you've marked your video with a CC BY license, you retain your copyright.

YouTube search results for "mayer multimedia" showing Creative Commons filtered results.

Search filters: Filters Creative Commons x About 183 filtered results

A Practical Guide to Mayer's Multimedia Principles
LearnTech Northampton
1 year ago • 861 views
This video provides an overview of of Richard Mayer's principles of multimedia learning. It also gives practical examples of how ...






Cognitieve multimediatheorie Xplained
Don Zuiderman
3 years ago • 3,145 views
Deze kenniscip gaat over de cognitieve multimediatheorie van Mayer (1998).

Richard Mayer - Multimedia Theory
Maastricht University Library
4 weeks ago • 6 views
Richard Mayer - Multimedia Theory - UM Library video.

Other visible video thumbnails include:

- What is an argument? (20:35)
- Integration multimedia theory, cognitive load theory, dual code theory
- Richard Mayer - Multimedia Theory (4:33)

Intangible assets are valuable

	#1	Apple	\$170 B	10%	\$214.2 B	\$1.8 B	Technology
	#2	Google	\$101.8 B	23%	\$80.5 B	\$3.9 B	Technology
	#3	Microsoft	\$87 B	16%	\$85.3 B	\$1.6 B	Technology
	#4	Facebook	\$73.5 B	40%	\$25.6 B	\$310 M	Technology
	#5	Coca-Cola	\$56.4 B	-4%	\$23 B	\$4 B	Beverages

References

- <https://www.legalserviceindia.com/legal/article-3233-intellectual-property-issues-in-cyberspace.html>
- Innovation and Patent webinar delivered by Bindu Sharma Origiin IP Solutions LLP Bangalore organised by IUCEE foundation
- Intellectual Property webinar delivered by Dr Kranti Vithal Ghag from Shah and Anchor Kuttchi Engineering college
- Copyrights, Patents, Trademarks delivered by Madam Shailaja Gogate during her term in KJSCE