

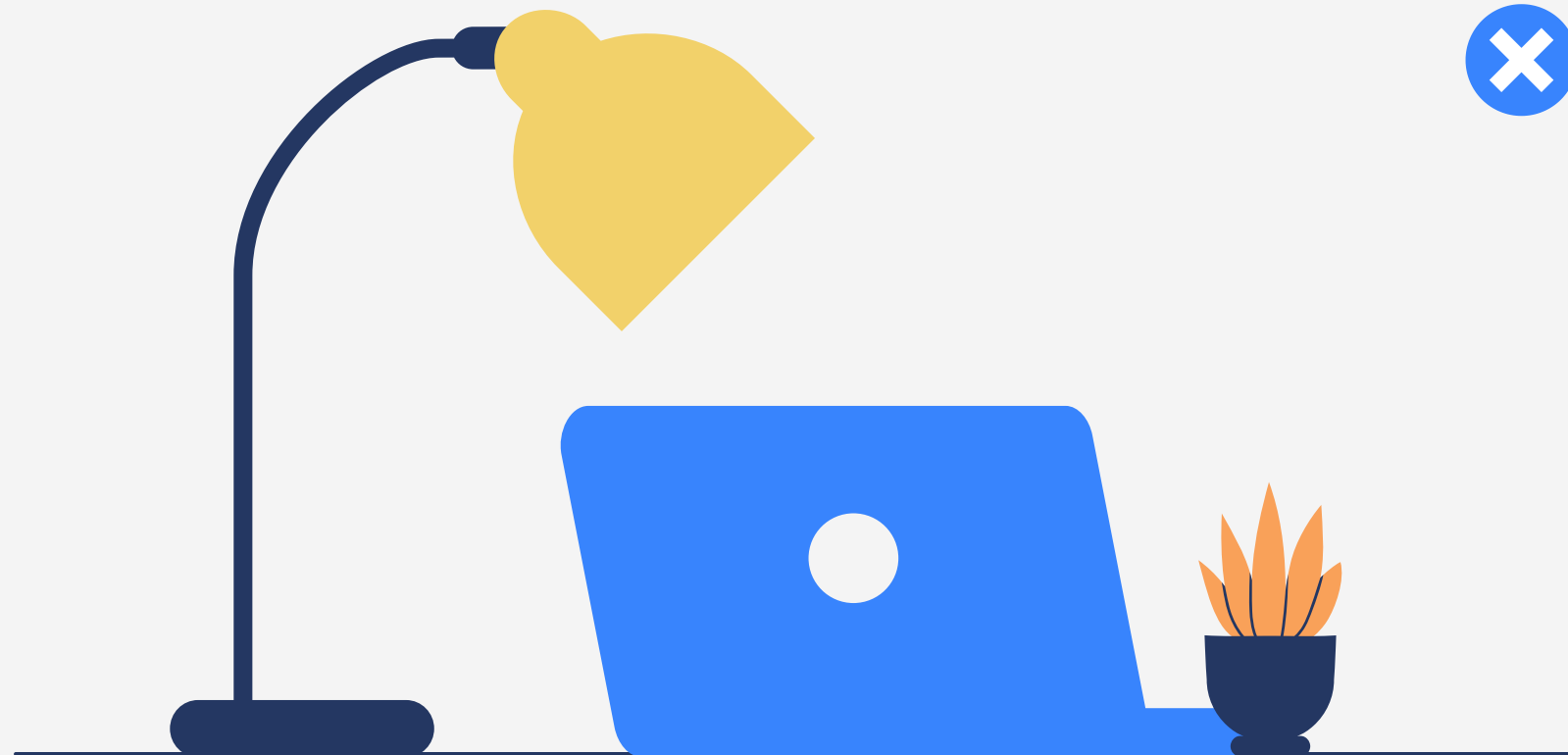
# Intellectual Property Infringement

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



# Forms of IP infringement

An intellectual property infringement may for instance be one of the following:



## Patent infringement

Patent infringement is the commission of a prohibited act with respect to a patented invention without permission from the patent holder. Permission may typically be granted in the form of a license. The definition of patent infringement may vary by jurisdiction, but it typically includes using or selling the patented invention. In many countries, a use is required to be commercial (or to have a commercial purpose) to constitute patent infringement.

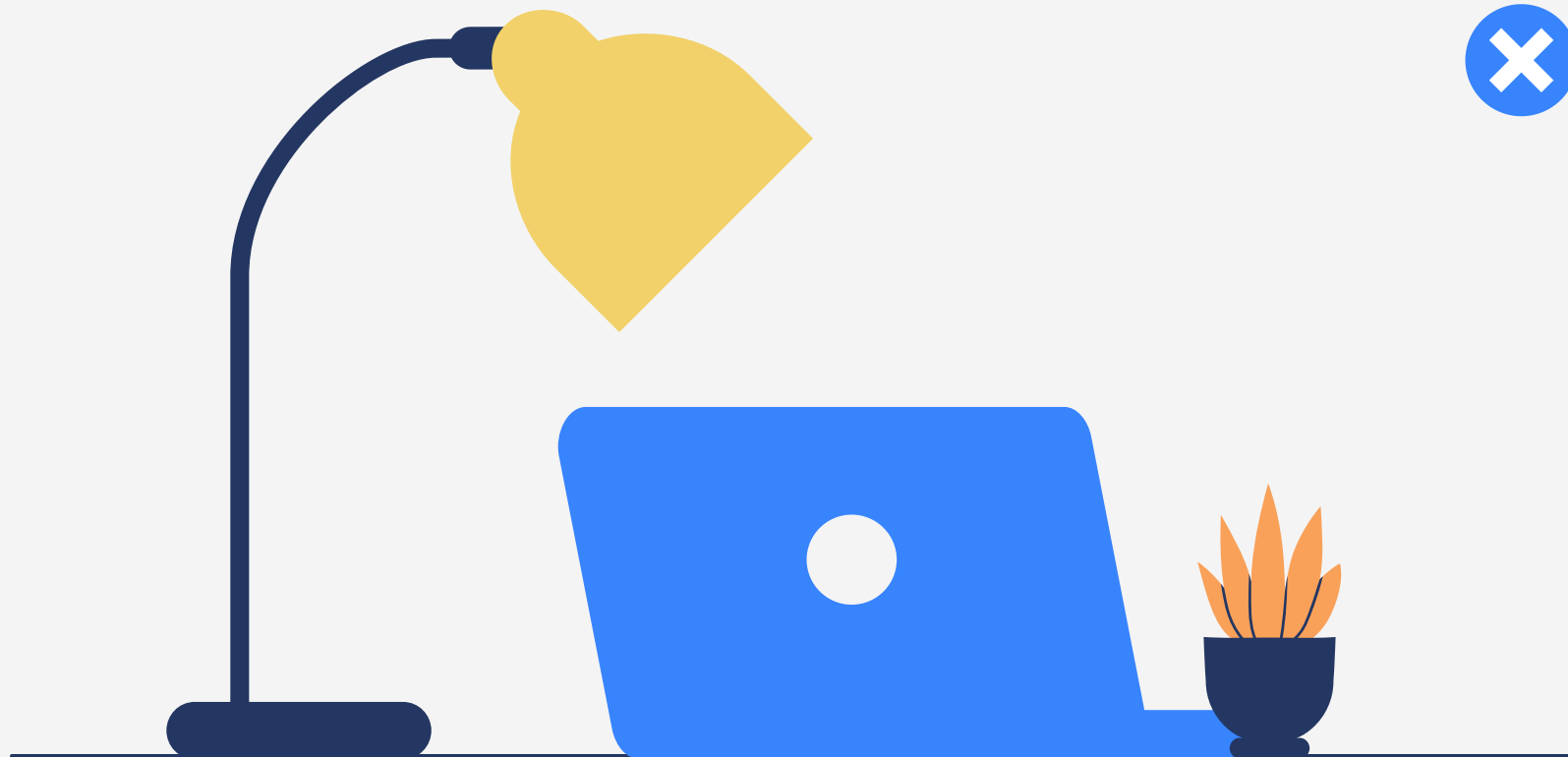


## Copyright infringement

Copyright infringement (at times referred to as piracy) is the use of works protected by copyright law without permission for a usage where such permission is required, thereby infringing certain exclusive rights granted to the copyright holder, such as the right to reproduce, distribute, display or perform the protected work, or to make derivative works. The copyright holder is typically the work's creator, or a publisher or other business to whom copyright has been assigned.

# Forms of IP infringement

An intellectual property infringement may for instance be one of the following:



## Trademark infringement

Trademark infringement is the unauthorized use of a trademark or service mark on or in connection with goods and/or services in a manner that is likely to cause confusion, deception, or mistake about the source of the goods and/or services.



## Trade Secret infringement

Trade secret infringement is called “Misappropriation”. The unauthorized acquisition, use or disclosure of such secret information in a manner contrary to honest commercial practices by others is regarded as an unfair practice and a violation of the trade secret protection. In such cases, the secret is said to be misappropriated.



# Patent infringement

Let's discuss the ways to avoid it!

# Meaning

## 01 What is patent?

According to the definition given by World Intellectual Property Organisation (WIPO), a patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem.

## 02 Why is patent needed?

A patent is important because it can help safeguard your invention. It can protect any product, design or process that meets certain specifications according to its originality, practicality, suitability, and utility.

## 03 Validity of patent

Patent protection is granted for a limited period, generally 20 years from the filing date of the application.



# General case study



When a company invents/develops something novel, then the company files for a patent. Now in such a scenario, if an individual/organisation doesn't license the article under consideration, then it results into patent infringement. In such a scenario, territorial/international laws are in place which protects the patent of the patentee and assure them complete help.

# Solutions

Measures that can be adopted to avoid patent infringement



## Education

---

As such there are no ways of avoiding your patents getting used without permission, but one thing which can be done is educate people. There should be awareness spread amongst the people telling them what can be the consequences of violating a patent. They must also be educated with ways of avoiding patent infringement.



## Self-examination

---

Other steps which can be taken by an individual to avoid patent infringement by themselves is to check each independent claim in the patent and see if each claim feature is found in your product. If an independent claim is not infringed, then logically a dependent claim cannot be infringed. The doctrine of equivalents (DOE) must also be considered even if your product does not literally infringe. If a claim limitation is missing from your product (thus, no literal infringement), you still have to consider whether your product might include a feature that is equivalent to that missing claim limitation.



## Laws

---

As patent infringement is a voluntary unethical action which cannot be tracked/dodged because patents are available in public database, the only way of tackling them is with awareness and laws.





# Copyright infringement

Let's discuss the ways to avoid it!



# Meaning

## 01 What is Copyright?

Copyright is a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression.

## 02 Why is copyright needed?

Registration of a copyright is important to protect the work from unauthorized use or copying as it is a prima facie evidence to prove the ownership of the work and it also provides the owner of the registered copyright to avail the maximum benefit by licensing, assigning and raising capital

## 03 Validity of copyright

The general rule is that copyright lasts for 60 years. In the case of original literary, dramatic, musical and artistic works the 60-year period is counted from the year following the death of the author.



# General case study



Section 51 of the Copyright Act specifies when a copyright is infringed. According to Section 51 of the Act, Copyright is deemed to be infringed if:

- A person without obtaining the permission of the copyright holder does any act which only the copyright holder is authorised to do.
- A person permits the place to be used for communication, selling, distribution or exhibition of an infringing work unless he was not aware or has no reason to believe that such permission will result in the violation of copyright.
- A person without obtaining the authority from the copyright holder reproduces his work in any form.

Real Life Scenario of Copyright infringement:

A famous example between Apple and Microsoft, when both operating systems windows as well as macintosh were in the developing phase. Apple filed a case against Windows for copyrighting their work in version 2.0. Apple lost all claims in the Microsoft suit except for the ruling that the trash icon and folder icons from Hewlett-Packard's NewWave windows application were infringing.

# Solutions

Measures that can be adopted to avoid copyright infringement

## **Understand what copyright laws protect**

---

Copyright laws are often confused with trademarks, patents, and licenses. Although these are all forms of IP, copyrights are perhaps the easiest to obtain and also to violate—either intentionally or unintentionally

## **If it's not your original work, don't use it**

---

We're all probably familiar with the saying, "If it's not yours, don't touch it." Copyright laws adhere to the same philosophy: the golden rule is to obtain the express permission from the owner, creator, or holder of the copyrighted material

## **What you find on the internet is generally not fair game**

---

Generally speaking, anything you see or read on the internet has been copyrighted, by default, given that the material (blogs, literary or artistic works, etc.) were created by someone else. If you copy, reproduce, display, or otherwise hold out another's work (such as an image, musical recording, article, or any other type of work that you did not create) as your own, you are undoubtedly infringing on copyrighted material. This is true whether you benefited financially from the use or not.



# Trademark infringement

Let's discuss the ways to avoid it!

# Meaning

## 01 What is trademark?

According to WIPO, “a trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises.” Trademarks are protected by intellectual property rights.

## 02 Why is trademark needed?

The trademark registration protects the logo of a company from the misuse by the third party. Trademark registration would provide a legal right to initiate an action against the third party in case of infringement of trademark.

## 03 Validity of trademark

The registration of a trademark is valid only for a period of 10 years. After which, it can be renewed from time to time.



# General case study



It takes more than merely some money to create a brand. And one of the most fundamental backbones for any brand is its trademark. Businesses often opt for Trademark registration in India to protect the brand in the domestic circuit. There are other ways to avail international protection through Madrid Protocol of WIPO. Many brands run a great risk of infringement when they go out in the open market as minor negligence in being vigilant can cost millions and also the reputation.

Most of the “BIG” companies already have their Trademark protected, and have to fight for trademark infringement every once in a while, for example famous clothing designer firm Louis Vuitton had a run-in with Louis Vuiton Dak, a restaurant in South Korea for its similar Logos and packaging designs.



# Solutions

Measures that can be adopted to avoid trademark infringement



## Education

---

Spreading awareness and educating general public about Trademark infringement and its consequences should be the first and foremost step that needs to be taken. Merchants need to know that copying the mark of another Brand may cause legal actions to be taken against them.



## Preventive measures

---

Merchants use the 'TM' or ® logo next to their brand, it is informing their customers that it is a registered mark. If you wilfully take that mark and duplicate it, you are liable for trademark infringement. This method cannot stop deliberate violations of trademark, but can at least prevent unknown violation of the same.



## Self-examination

---

To prevent being on the “Infringer” side of the Trademark infringement, requires a basic understanding of trademark law, good research and sound judgment. Before starting any new venture, take the time to make sure that you are not getting too close to any existing trademarks.





# Trade Secret infringement

Let's discuss the ways to  
avoid it!

# Meaning

## 01 What are trade secrets?

According to WIPO ( World Intellectual Property Organization ), trade secrets are intellectual property (IP) rights on confidential information which may be sold or licensed. In general, to qualify as a trade secret, the information must be:

- o commercially valuable because it is secret,
- o be known only to a limited group of persons, and
- o be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements for business partners and employees.

It is also known as confidential information. The exact definition of a trade secret may differ according to the law of that particular country. They are not registered for, as the name suggests, they are kept a secret until the owner decides otherwise.

## 02 How can trade secret be legally acquired?

- o Independent discovery
- o Emergence into the public domain
- o Reverse engineering



# General case study



It is not generally useful for computer programs as typically in order to sell or licence software, one must give away the secret.

Many companies attempt to circumvent this through disclosure agreements and performing in house customization/ maintenance/repair of their software for their customers.

They also put special wording in license agreements. This is one reason why software is typically licensed and not sold.

Example:

- o Your company developed a new software product—an automatic ticket pricing product perhaps. A company—after receiving several trial periods and demonstrations—became a customer and licensed your software.

After becoming a licensee, the customer received continuous training from you. While licensing your software, the customer decided to build its own automatic ticket pricing product. To do so, the customer hired a developer and sent the developer various annotated screenshots of your software.

You sued the customer. It was abundantly clear to the court that your customer closely modelled its product on yours and relied heavily on its knowledge of your product to build its own software. Yet the court refused to stop the customer from using and selling its software. The law of trade secrets did not protect your software.

Why? In short, because the company gave free trials of its software without confidentiality agreements.

# Solutions

Measures that can be adopted to avoid trade secrets infringement

## Loyalty

---

Employees/people associated with company should have utmost loyalty within them. For this, companies should be alert while recruiting new candidates. They should make sure that the incoming recruits have a sense of loyalty in them and can withhold their organisation's secrets with them.

## Agreements (Legal measures)

---

Companies should make their employees sign "Non-disclosure agreements" which is a written contract between two parties (people or organisations) that prohibits the sharing of confidential information shared between both the ends. This reduces the risk of leaking private information due to fear of law.

## Privacy

---

When companies deal with very sensitive information, they must make sure that they don't leave loose ends and involve the minimum number of people in this. Lesser the people, lesser is the risk of getting information leaked.

# Thank You



19BCE222 Mayusha Rathod



19BCE238 Harshil Sanghvi



19BCE239 Saurin Prajapati



19BCE248 Dhruvil Shah