

## Trade Secrets

- A product that cannot be easily replicated
- If it becomes known, the owner cannot do much.
- So, the owner needs to be protected
  - The employer can be protected by making his employees sign a NDA or non-compete.
- We think that because trade secret law provides less protection to the inventor than patent law does, no rational person would opt for secrecy:
  - This reasoning may be incorrect.
- **Inventors choose trade secret protection when:**
  - 1) They believe that patent protection is too costly relative to the value of their invention,
  - 2) Or that it will give them a reward substantially less than the benefit of their invention because the length (or other conditions) of patent protection is insufficient.

## Trade Secrets

- Less likely to do if:
  - Product innovation
  - Reverse engineer
  - Distance with other innovations is short
  - The knowledge can be decoded
    - Periodic Table: 1869
  - Many competitors

- The effect is stronger for firms
  - i) with a greater risk of losing key employees to rivals,
  - ii) facing financially stronger rivals
  - iii) in industries where competition is more intense.

## Copyrights

- Copyright is a legal right created by the law of a country that grants the creator of an original work exclusive rights for its use and distribution. This is usually only for a limited time.
  - Type of ownership: book, painting, photos, film, software, databases
- In order to have protection, one needs to disclose his/her work (except software)
- Duration of a Copyright: Creator's life plus 70 years from his death (depending on the jurisdiction)
- U.S. copyright law is generally limited to the **life of the author plus an additional 70 years**. There are, of course, exceptions.
- The Copyright Term Extension Act of 1998 addresses when a creation is a "work for hire," which protects a company's copyright for 95 years from first publication or 120 years after its creation, whichever ends sooner.
- This extension came into being after Disney successfully lobbied Congress and has been dubbed "The Mickey Mouse Protection Act" after numerous campaigns to protect one of the world's most recognizable characters.
- Disney acquired the rights to the Winnie-the-Pooh books and their characters from Milne's estate back in 1961.
- Winnie the Pooh is → accumulated revenues of more than \$80 billion over the years, putting it neck-and-neck with Mickey Mouse.
- While estimates vary → annual revenue of between \$3 billion and \$6 billion from Pooh and friends.

- Beginning in 2022, Disney won't be able to sue anyone that uses A.A. Milne's original Winnie-the-Pooh stories as inspiration, adapting the fictional bear for new projects or original creative works.
- Disney can, however, go after anyone that tries to use Disney's version of Winnie the Pooh and the **trademarked characters** it created based on Milne's stories.
- The House of Mouse also maintains the rights to Milne's books and characters created after 1926, including Tigger, who first appeared in 1928.

## Copyrights

- Even though innovation is not mandatory, the creator needs to show a minimum creativity (you cannot copyright the phone book)

“Fair Use” (Δίκαιη χρήση) is the usual defense for infringement (e.g. freedom of speech, parody)

- If infringement is proven, penalties are comparable to crime penalties.
- They protect against copying
  - *They protect expressions, not ideas.*

# Geographical Indications

## PDO/PGI

### Protected Designation of Origin (PDO)

is the name of an area, a specific place or, in exceptional cases, the name of a country, used as a designation for an agricultural product or a foodstuff

- which comes from such an area, place or country,
- whose quality or properties are significantly or exclusively determined by the geographical environment, including natural and human factors,
- whose production, processing and preparation takes place within the determined geographical area.

**In other words, to receive the PDO status, the entire product must be traditionally and entirely manufactured (prepared, processed and produced) within the specific region and thus acquire unique properties.**

## **Protected geographical indication (PGI)**

**to receive the PGI status, the entire product must be traditionally and at least partially manufactured (prepared, processed or produced) within the specific region and thus acquire unique properties.**

## PVPs – Plant Variety Protections

- The owner can protect plant varieties
- The owner can exclude anybody from:
  - 1) Produce or re-product
  - 2) transfer,
  - 3) sell
  - 4) export or import
  - 5) store

- But he cannot exclude somebody from a non-profit purpose.
- The owner has the following rights:
  - Production or re-production
  - Sell (exports and imports)
- Protection is for 25 years (30 for grapes, trees and potatoes)
- According to the Union for the Protection of New Varieties of Plants (UPOV) the new variety needs to:
  - Different from any other existing variety\*
  - Be uniform
  - Be stable

\* The new traits need not be useful.

## How do we know if they are valuable?

- In certain jurisdictions PVPs get renewed (like trademarks). So, we can infer (albeit with substantial noise) their private economic value.

- *The value distribution of plant variety protection certificates is highly skewed with a large proportion of innovations providing virtually no returns to innovators.*
- *Increasing competition from newer varieties appears to have accelerated the turnover of varieties reducing appropriability further. Plant variety protection emerges as a relatively weak instrument of protection.*

## Industrial Designs – Design Patents

- The significance of design, and competing through design, hit the headlines worldwide when, in 2011, Apple accused Samsung of “slavishly copying” both aesthetic and technical aspects of its iPhone and iPad products.
- Apple filed a number of lawsuits against Samsung worldwide, and succeeded in having an injunction placed on the sale of some Samsung products in Germany.
- Among these lawsuits was one that alleged Samsung’s infringement of Apple’s registered community design No 000181607-0001 related to its iPad products. The case was heard in the High Court in London in July 2012.
- An industrial design constitutes the ornamental aspect of an article
- In principle, the owner of a registered industrial design or of a design patent has the right to prevent third parties from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes.