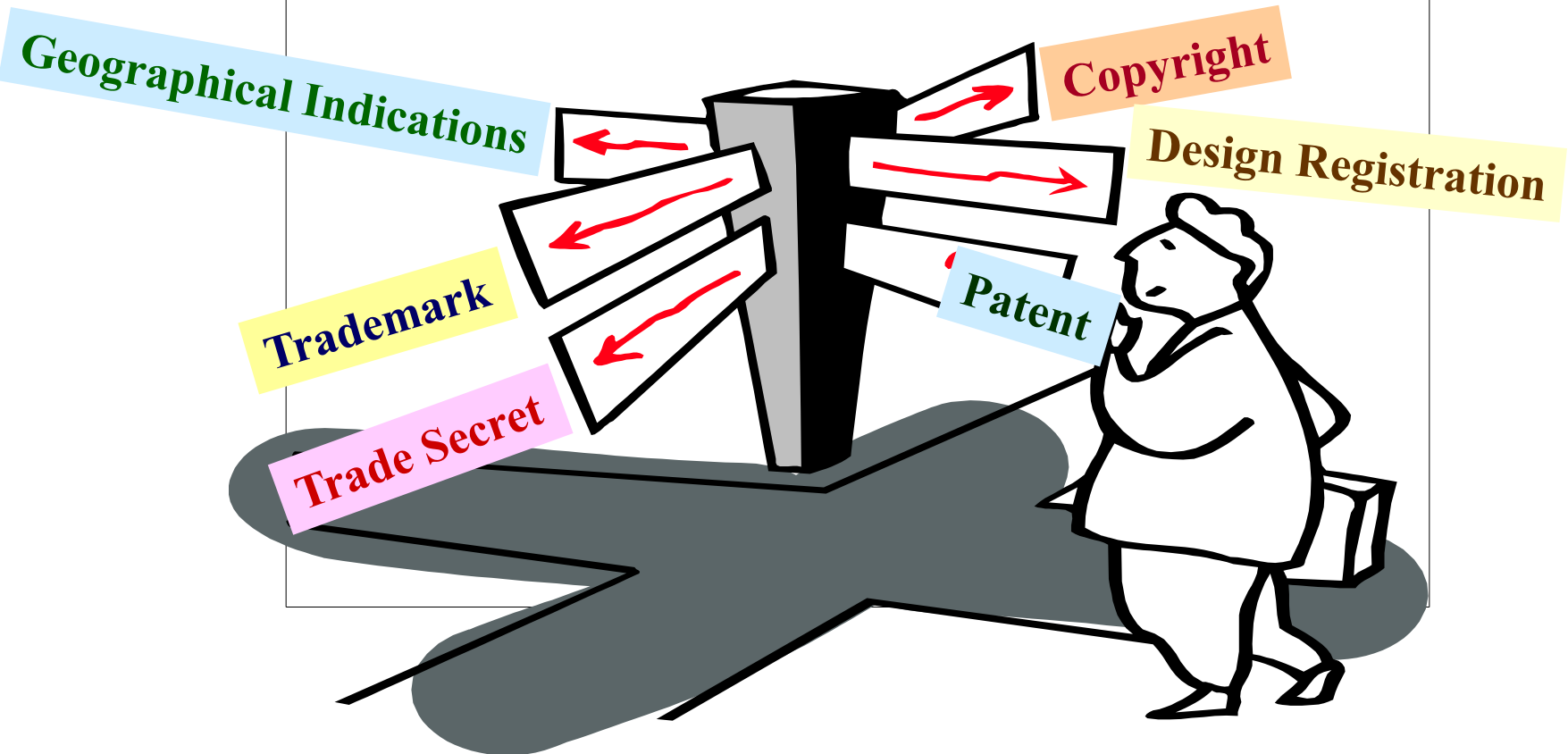


Professional Issues in IT

(Lecture Slides Week # 9)

Intellectual Property Rights

You have an innovation How can you protect it in the market ???



Intellectual Property Rights

■ Patents:

- Patents relate to inventions and are primarily intended to encourage and protect new inventions, by giving inventors a monopoly on exploiting their inventions for a certain period.
- A patent for an invention is grant of exclusive rights to make, use and sell the invention for a limited period of 20 years (Pak).
- A patent cannot be obtained on a mere idea or suggestion. Invention to be novel, useful and non-obvious.
- Patent protection does not start until the actual grant of a patent.
- Patent applications are examined for both technical and legal merit.
- The TRIPS Agreement requires Member countries to make patents available for any inventions, whether products or processes, in all fields of technology without discrimination, subject to novelty, inventiveness and industrial applicability.

Intellectual Property Rights

■ **Patents** (Contd.):

- A patent owner has the right to decide who may or may not use the patented invention for the period in which the invention is protected.
- The patent owner may give permission to, or license, other parties to use the invention on mutually agreed terms.
- The owner may also sell the right to the invention to someone else, who will then become the new owner of the patent.
- Once a patent expires, the protection ends, and invention enters the public domain, that is, the owner no longer holds exclusive right to the invention, which becomes available to commercial exploitation by others.
- Patent applications must be filed in each country to receive patent protection.

Intellectual Property Rights

■ Patents (Contd.):

- Any person who makes an invention may deal with it in any of the following ways:
 - May broadcast the invention for free use by the public
 - Rare chance of mass-production scale manufacturing
 - May work the invention in secrecy without patenting it
 - Extremely difficult to work useful inventions in secrecy
 - May work the invention openly without patenting it
 - Same risks as those involved in secret-working, but sooner than secret-working
 - May exploit the invention on the basis of patents
 - Rights could be enforced legally
 - Secure commercial –scale manufacturing / Profitable use by selling or licensing

Intellectual Property Rights

■ **Patents** (Contd.):

- **Typical patent includes:**
 - Drawings
 - Brief abstract or summary
 - Patent specification
 - Detailed description of how to make or use the invention
 - Claims outlining boundaries of the claimed invention to prevent infringement
- **Patents are categorized / organized into classes / sub-classes**
 - Patents may be assigned to more than one subclasses
 - Patent summary is published in the Official Gazette
 - Paris Convention and the Patent Cooperation Treaty provide reciprocal protection and filing rights in member countries
- **Patentable inventions in Pakistan:**
 - The invention is new
 - It involves an inventive step
 - It is capable of industrial application
 - It should not be contrary to law or morality

Intellectual Property Rights

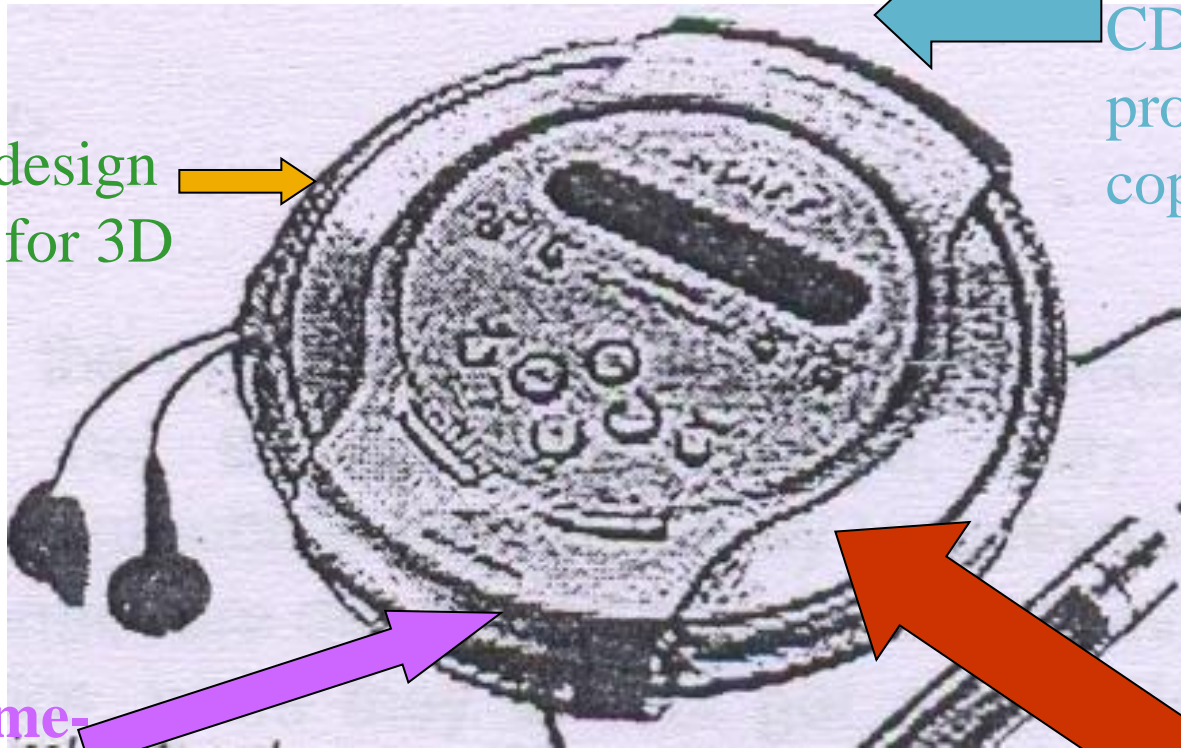
■ **Patents** (Contd.):

■ **Un-Patentable Inventions in Pakistan**

- Discoveries of Laws of nature
- Method of producing sound
- Computer Programs (Software)
- Method of writing music
- The discovery of new properties of known substance
- A system of alphabet, shorthand
- Literary, dramatic, musical and artistic works
- Mere charts, diagrams, or printed sheets
- Purely scientific & mathematical formulae & principles

Intellectual Property Rights

CD PLAYER



Music played on the CD player is protected by copyright

Various technical parts & mechanisms are subject matter of protection under Patents

Industrial design protection for 3D shape

Brand name- registered under trademark

Intellectual Property Rights

■ Trademarks:

- Trademarks relate to product names or symbols.
- Either a word, name, phrase, color, symbol or design, or combination of words, phrases, symbols, or designs that identifies and distinguishes the source of the goods or services of one party.
- Trademarks identify the product of a particular manufacturer or supplier. E.g. Microsoft, McDonalds, Oracle, Coca Cola etc.
- Trademark protects any word, name, logo or device used to identify, distinguish or indicate the source of goods or services.
- Appears on the product or on its packaging (TM - trademark).
- The purpose is to safeguard the integrity of products and to prevent product confusion and unfair competition.
 - Protects trademark owner's interest in brand name value and good will
 - Protects consumers from confusion
- Trademarks are renewable indefinitely as long as the mark is being used.

Intellectual Property Rights

■ Trademarks (Contd.):

- Registering Trademark: First to File vs. First to Use
- Select registration in countries in which the company will manufacture, distribute and/or license its mark.
- The owner of a trademark must protect the mark in different countries under that countries' relevant laws.
- Under International Agreements, an applicant from one country may file a trademark application based on an application or registration in another country.
- Trademark filing / registration has four purposes:
 - To retain control over the quality and types of use of the marks
 - To provide a basis for challenging infringers
 - To prevent third parties from registering a company's marks
 - To minimize the financial risk

Intellectual Property Rights

■ Trademarks (Contd.):

- Selecting the right trademark:
 - The strongest type – an invented word such as “XEROX”
 - The weakest type – descriptive such as “QUALITY SOFTWARES”
- Register the appropriate form of the trademark - Composite marks:
 - Register the entire composite mark
 - Register the word portion of a mark alone
 - Register the design element
- Trademark symbols:
 - ® – Registered trademark / service mark symbol
 - TM – Unregistered trademark symbol
 - SM – Unregistered service mark symbol
- Don't use the registration symbol (®) in countries where the mark has not been registered to avoid civil and criminal penalties.

Intellectual Property Rights

■ Trademarks (Contd.):

- Trademarks legislation in Pakistan:
 - Trademarks Act 1940
 - Revised Rules 1963
 - Trademarks Ordinance 2001
 - Trademarks Rules 2004
- Registration Validity (Pak):
 - Initially for Ten (10) years from the filing date
 - Renewal after every Ten (10) years

Intellectual Property Rights

■ Domain Names:

- Internet Corporation for Assigned Names and Numbers (ICANN)
 - Internationally organized, non-profit making corporation
- Domain Name System (DNS)
- Universal resolvability – always lead to the same location
- Originally for connecting computers, now for identifying businesses
- Companies want to use trademarks as domain names
- Trademark – Domain Name Conflict:
 - **Trademarks:**
 - Territorial registration and application / regional basis
 - Different classes
 - Examination and opposition
 - Goods and services in commerce
 - **Domain Names:**
 - First come first served
 - One unique registration
 - Application across jurisdictions
 - In principle, no examination
 - Broad use

Intellectual Property Rights

■ Domain Names (Contd.):

- Cyber Squatting:
 - Registering trademarks of other companies as your own domain names
 - Then sell domain name to the owner of trademark at an inflated price
 - Possible because of inconsistencies in trademark and domain name registration systems
- WIPO published a report in 1999 titled “The management of Internet names and addresses: Intellectual property issues”.
 - Recommended ICANN to adopt a policy called the Uniform Domain Name Dispute Resolution Policy (UDRP) which includes specific provisions against cyber squatting.
- In 2001, WIPO published a 2nd report “The recognition of rights and the use of names in the Internet domain system”.
 - Addresses conflicts between domain names and identifiers other than trademarks
 - E.g. use of personal or peoples names that have no connection with them.

Intellectual Property Rights

■ Registered Designs:

- Protects the artistic aspect (namely, texture, pattern, shape) of an object instead of the technical features.
- The term of protection.
- The third party is prohibited from making, selling or importing articles bearing a design which is a copy of the protected design, when such acts are undertaken for commercial purposes.
- Legislation (Pak):
 - Design Ordinance 2000
 - Registered Layout-Designs of Integrated Circuits Ordinance, 2000