



IP Fundamentals

NMMU





What is intellectual property (IP)

- Any creation (artistic or scientific) that originates from the intellect of a person
 - e.g. book, drug, logo, software code, jewellery design, machine, new process, diagnostic method, phrase, symbol
- Intellectual property rights are legal rights granted over intellectual property
- Help originators reap the fruit of their creation/ invention commercially
- Provides monopoly to the originator



Intellectual Property vs. Tangible Property

- Owning IP is very similar to owning a house in many respects

Rights conferred by owning a house	Rights conferred by owning IP
Sell it	Sell it
Borrow money using it as security	Borrow money using it as security
Rent it	License it



Value of IP system to society?

- To stimulate innovation for the benefit of society as a whole
 - Monopoly is just a by-product of this system
- IP kills innovation / artistic expression
 - But innovation is risky, expensive and time-consuming, and once public may be easy to copy
 - Monopoly is usually for a limited duration
- Benefits to society:
 - The technologies come to the public domain and the world can enjoy or benefit from these creations / inventions;
 - Reduce effort on re-inventing the wheel and enhance quick technological developments



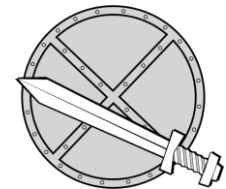
Value of IP to originator / inventor

- Prevents others from copying
- Acts as an asset to increase the overall valuation of an organisation
- Improves likelihood of outside investment
- Potential for licensing revenues
- Gives power to negotiate cross-licences on favourable terms
- Recognition / brand image



IP strategies

- IP as a legal fortress
 - Protects your valuable assets (patent, trade mark, trade secret) from being used by your competitors
- IP as a sword and shield
 - Offensive strategy – sue competitors
 - Defensive strategy – counter-sue competitors
- IP as a money-making tool
 - Licensing, merchandising





Different types of IP rights

- Common types of IP include:
 - patents
 - copyright
 - trade marks
 - registered designs
 - plant breeders' rights
 - trade secrets / know-how / confidential information
 - geographical indications (*champagne*)



Holistic approach to IP

- Single product can involve
 - Patents
 - Trade marks
 - Copyright
 - Registered designs
 - Trade secrets / know-how
 - ...





Patents

- Protects inventions / ideas
 - New (worldwide)
 - Inventive (not obvious)
- Monopoly in exchange for disclosure
 - 20 years
- Territorial





Registered designs



iPhone 5 Mockup
by Patrick Eckert
@eckspeck
eckspeck.tumblr.com



Registered designs

- Protects shape / appearance of products
 - New
 - Original / not commonplace
- 10 years – functional designs
- 15 years – aesthetic designs
- Territorial





Trade marks





Trade marks

- Protect brands and product identity
- Sign capable of being represented graphically
- Able to distinguish



- Indefinite term of protection
 - provided renewed every 10 years
- Territorial



Trade marks

- No relationship with company and domain names
- Use of TM or [®] symbol
- Can lose brand if you don't protect it





Copyright

- Protects artistic expression
- Original and in material or digital form (no copyright for ideas)
- No registration required ©
- Not territorial
- Lifetime generally 50 years from...
 - Public disclosure
 - Death of author
 - Broadcast



Copyright

- Prevents copying of “works”

- Literary works



- Musical works



- Artistic works



- Cinema films



- Sound recordings



- Broadcasts



- Signals



- Published editions

©2013

- Computer programs



- Actual copying required

- Reverse engineering is allowed





Copyright ownership

- Don't assume you own the copyright
- Owner
 - the author / first creator of the work
- Except:
 - Employers own the copyright in employee works
 - People who commission the making of films, paintings or sound recording own the copyright
 - Person exercising control over creation of computer program
- Always have the copyright assigned to you by a contractor / developer



Trade secrets / know-how

- Protects valuable confidential information
- Indefinite term of protection
- Requires secrecy
- No protection if becomes public or competitor discovers it independently





Plant breeders' rights

- PBRs for new varieties of plants which are
 - New
 - Distinct
 - Uniform
 - Stable
- Duration
 - 25 years for vines and trees
 - 20 years for all others





IP is not the goal

- IP is a business tool
 - IP is a means to add value to your business
 - IP is a part of your business strategy
 - Regularly check that these are aligned





Thank you

- Questions?

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