

IPRs and International Trade/Relations

Dr. Keerti Pendyal (Mahindra University)

Dr. Marri Channa Reddy Human Resource Development Institute of Telangana

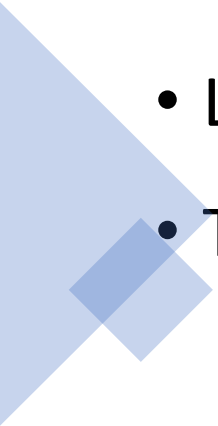


Intellectual Property Rights

- IPRs are the rights given to persons over the **creations of their minds**.
- IPRs usually give the creator an **exclusive right** over the use of his creation for a **certain period of time**.
- IPRs are **territorial rights**, which means that they are valid only in the jurisdiction where they have been registered or otherwise acquired.

Intellectual Property Rights

- Copyrights
- Patents
- Trademarks
- Geographical indications
- Industrial designs
- Layout-designs of Integrated Circuits
- Trade secrets



© What is Copyright?

Literary works:

Books



Pamphlet



Poems



Articles



Letters



**Tables and
Compilations**



**Computer
Programmes**



Copyright ...

- A right given by the law to the creators of
 - literary
 - dramatic
 - musical and artistic works and
 - producers of cinematograph films and sound recordings.
 - Computer programmes

Scope of Copyright

- To **reproduce** work in any material form
- To issue **copies**
- To make **translation**
- To make any **adaptation**
- Reproduce **two dimensional** drawing in **three dimensional** object

Elements of Copyright

- The work has to be original
- A Work has to be in a tangible form
- It has to be Creative under one of the category mentioned
- It is the expression part not the idea part
- Utility is not a criteria in the work unlike patents

What is a *Patent*?

- Patent is an exclusive monopoly right given by the sovereign to an inventor for an invention
- It is for a limited period of time (20 years)
- To get the Patent the Inventor should disclose the invention fully
- Exclusive monopoly to the inventor means to exclude any one from manufacturing, using or selling the invention during the period of the patent (a negative right!)
- This exclusive right is only in the country(ies) in which the patent is granted.

What is a *Patent*?

- This 20-year period is calculated from the date of filing the patent in the patent office and not from the date of its grant.
- The patent granted to the patentee the right to exclude any one to
 - Making
 - Offer of sale or Selling
 - Use
 - Importing the patented invention without the authorization of the patentee.

What is a *Patent*?

- Patents can be classified as two types: One is the **Process Patent** and the second is the **Product Patents** for any invention.
- To illustrate $a+b+c$ is the process which results in d – then $a+b+c$ is the process patent and ' d ' is the product patent
- If there is another process $a_1+b_1+c_1$ is available to make ' d ' then $a_1+b_1+c_1$ will get a second process patent

What is a *Patent*?

- Most national legislations a patent is granted for the inventor who approaches the patent office and files first or called as first to file principle
- US - **first to invent** till recently and has changed to **first to file** by the America Invents Act of 2011
- The patent granted is subject to the scrutiny by the public through a proceeding called **opposition**
- Apart from that the patent can also be any time challenged during its life in a court of law by interested party which can lead to revocation of the patent if the challenge is successful.

What is not patentable?

- Discoveries are not patentable
- Ideas are not patentable
- Laws of nature
- Prior Art
 - Prior art includes ALL public domain knowledge, including patent and non-patent publications (Traditional Knowledge and Folklore)

Trademarks

- A trademark is a sign or a combination of signs which is used to distinguish the goods or services of one enterprise from those of another.
 - Device, heading,
 - Label, ticket, name, signature,
 - Word, letter, numeral
 - Shape of goods, packaging or
 - Combination of colours or any
 - Combination thereof.
 - Services marks
- New Act - Trade Marks Act, 1999



TOYOTA



WIPRO
Applying Thought



Economics of IPRs

- When Philip Morris bought Kraft, the maker of cheese, the price was **US\$ 12.9 Billion** for the brand names, which was four times Kraft's tangible assets
- In the Life Insurance joint venture between Bajaj Auto and Allianz of Germany, a premium of **Rs. 72 crores** has been paid to Bajaj Auto for using the brand name BAJAJ
- Google acquired Motorola for **\$12.5 billion**. Motorola was later sold by Google to Lenovo. Any idea of the price?
- **\$2.91 billion**. Why the huge difference?
- All said and done, valuing IPRs is not easy – no precise technique to it

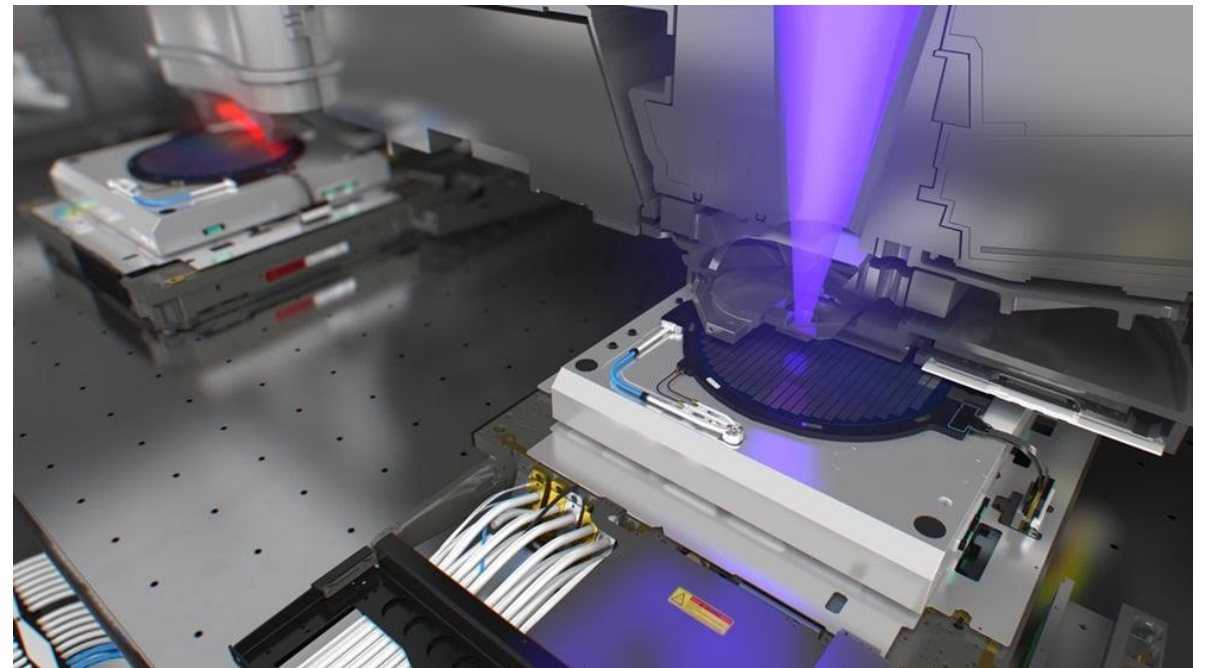
Economics of IPRs

- Softbank acquired ARM in 2016 for **\$31.6 billion** in cash
- ARM does not have a single manufacturing facility in the world. ARM also does not have any physical products it sells
- NVIDIA tried to acquire ARM for \$40 billion in 2020
- Why then did Softbank pay so much for ARM and why was NVIDIA willing to pay so much?
- Apple vs Qualcomm
- Evergreening
- Pepsi vs Potato farmers

IPRs and International Relations



IPRs and International Relations



IPRs and International Relations

- In December 2021, Silex (a Swedish company) and Elmos (a German chip manufacturing company) entered into a deal
- Elmos would sell a chip manufacturing unit to Silex
- The German government intervened and prohibited the sale
- Covid vaccines
- Evergreening