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Intellectual Property Rights Workshop Series

Part 1: IP for managers

Presenter: John Eastwood, Co-Chair of the ECCT IPR Committee

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In this, the first in a five-part IPR workshop series, the presenter gave a brief overview of patents, trademarks, copyrights, trade secrets and domain names.

- Patents are exclusive rights granted in exchange for the public disclosure of an invention. They can be applied for a new invention or a new process or an improvement upon an older invention or process. The invention cannot be obvious to a person ordinarily skilled in the art based on prior art (relevant information available to the public before your patent application was filed).
- It must also be applied for in the countries where you want it protected.
- The timing for the filing of patents is important because patents have limited validity periods.
- The disclosure to the patent offices in your filing(s) must be something that you haven't already told the world about through publication, public exploitation or other means. For example, if a company has already demonstrated its product at a trade show or through a presentation, it cannot later apply for a patent.
- Trademarks are words, designs, symbols that identify products or services as coming from a particular source. However, non-traditional marks have started to get greater registrability and use in the market. These can include colours, shapes, holograms, sounds and motion marks.



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Q&A time

- Trademarks normally must be protected with trademark registrations in the countries where you want protections. These registrations can be renewed.
- Trademarks are organized by “class,” a way to divide up different kinds of products and services. Examples include chemical products, pharmaceutical products, electronic goods, jewelry, clothing, beverages, financial services, telecommunications services, education services or legal services.
- It is important to file to protect trademarks because if not somebody else usually will. This is especially true in countries like China. The case of a PRC company registering the Apple trademark has become notorious given the difficulty that the genuine company had to get rid of the imposter.
- If you’re a writer, artist, film-maker, or musician who is creating a “work” relating to the expression of an idea or information, this is important. In this context, “writer” includes someone who writes software code. It is not just the “right to copy” but it also involves rights to be credited (moral rights), to get money from it (economic rights), to determine who can adapt the work.
- Although copyrights used to be territorial (like patents and trademarks), international agreements have made the protection very international now.

The term is normally life of the creator plus 50 years after the creator’s death, or a shorter period (often 50 years) for anonymous or corporate creations.

- Copyrights protect the expression of an idea, but not the idea itself. Many classic stories have been told for centuries. For example, the story of Romeo and Juliet is usually attributed to Shakespeare but the first known version of the story predated Shakespeare in the form of the 1562 “The Tragical History of Romeus and Juliet,” based on an Italian tale, which was translated into verse by Arthur Brooke. Since then, many versions of the story have been written while musical and dance versions based on the story have also been composed and performed.

- Trade secrets cover a huge range of confidential information that is not widely known or reasonably ascertainable that a business can use to have an advantage with regards to competitors or customers. Classic problems include current and former employees leaking information to competitors and trading counterparts. For this reason it is very important for companies to have procedures in place to protect their trade secrets.
- There are multiple permutations of internet domain names and it would be virtually impossible and very expensive to register every possible one. Nor is it necessary (a company only needs to control a limited number of domain names for their business). There are a number of nefarious companies that offer (usually very expensive) services to register names. Most of these service providers are opportunists seeking to make a profit on what is either unnecessary or can be done very cheaply and easily without them.
- Moreover, Taiwan and nearly all other countries also have effective dispute-resolution systems for the efficient handling of cybersquatting (companies that register names with the sole intention of selling them on to legitimate businesses for a profit). It is therefore not necessary to engage the services of so-called professional domain name administrators.



The event was the first in a five-part IPR workshop series