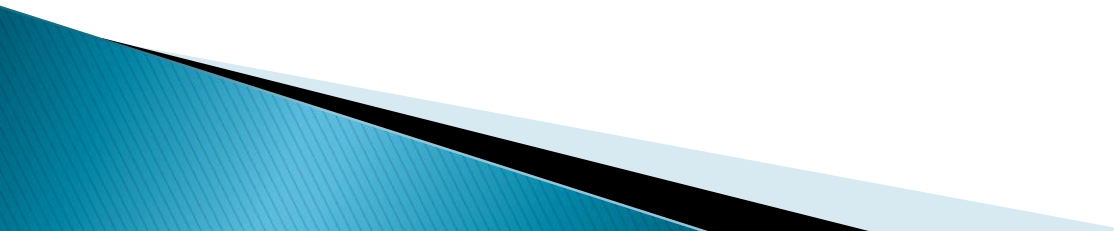


Types of IPR

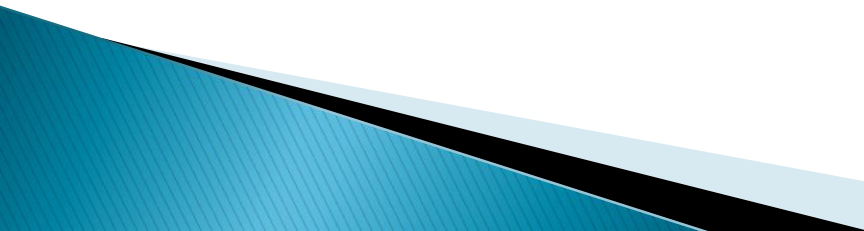
- ▶ Copyright
- ▶ Patents
- ▶ Industrial Designs
- ▶ Mark [trade, service, collective], trade names
- ▶ Unfair practices [concurrence deloyale]

NB: Different types of IPR – protect different things + the scope of protection is different.
e.g patent: absolute protection ; copyright: relative protection

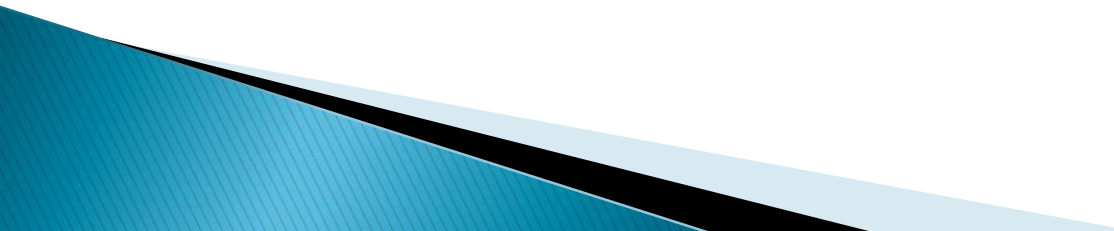
Copyright

- ▶ protects original works of authorship e.g. music, plays [dramatic works], literary works, computer programs, databases
 - ▶ Copyright arises automatically on certain conditions being present. – no formality is required.
 - ▶ Copyright protects the form of expression rather than the ideas themselves.
- 

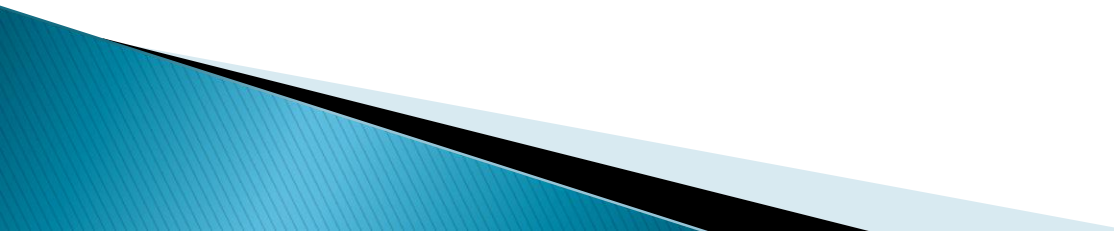
Copyright

- ▶ Conditions for protection:
 - ▶ Irrespective of the quality of the work [Copyright does not pass judgment over the standard of the work.]and the purpose for which the work may have been created, it will be afforded copyright protection if it is–
 - (a) an original work; and
 - (b) written down, recorded, fixed or otherwise reduced to any material form.
- 

Copyright

- ▶ Literary works are works that afford information or instruction, capable of conveying an intelligible meaning – not necessary that the work be understood by the general public, it is sufficient that it is understood by a limited group with special knowledge.
 - ▶ Artistic work: how artistic should the work be?
 - ▶ Duration: life +50 years
- 

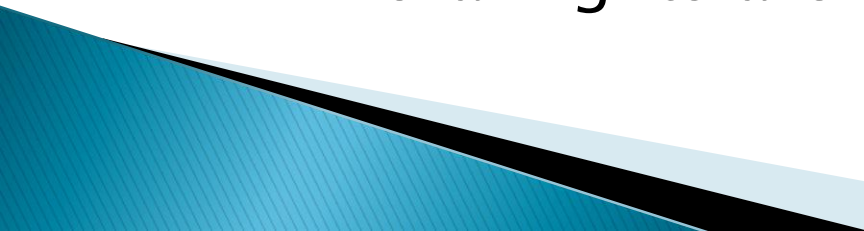
Copyright

- ▶ Original Work: The word “original” does not mean that the work must be the expression of original or inventive thought.
 - ▶ Copyright is not concerned with the originality of ideas, but with the expression of thought.
 - ▶ The originality which is required relates to the expression of the thought.
- 

Copyright – original work

- ▶ If independent skill, labour and judgment is applied in the creation of a work, it will suggest a new work attracting copyright even if an existing work has been used as a reference point.
- ▶ BUT pure copying, even if it involves considerable skill and labour will not satisfy the test of originality.
- ▶ *No man is entitled to avail himself of the previous labours of another for the purposes of conveying to the public the same info, although he may append additional info to that already published.*

Copyright – Moral Rights

- ▶ Paternity right: right to claim authorship of the work / right to be identified as the author of the work.
 - ▶ Right to remain anonymous
 - ▶ Right to paternity : object to any distortion, mutilation or other alteration of his work, where such an act is, or would be, prejudicial to his honour or reputation.
 - ▶ NB: Moral rights are unassignable.
- 

Copyright – Economic Rights

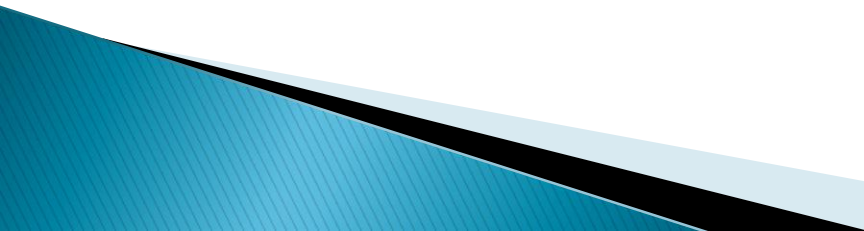
The copyright owner of a work shall, in relation to the whole or a substantial part of the work, have the exclusive right to carry out or authorise any of the following acts–

- (a) reproduction of the work;
- (b) distribution to the public of the original and each copy of the work by sale, rental or otherwise;
- (c) public performance of the work;
- (d) communication of the work to the public;
- (e) broadcasting the work;
- (f) importation of copies of the work, even where the imported copies were made with the authorisation of the author or other owner of the copyright;
- (g) translation of the work; or
- (h) adaptation, arrangement or other transformation of the work;

Copyright – Infringement

- ▶ Exclude access & control use
- ▶ 3 types of infringements:
 - Primary
 - Secondary: dealing with infringed copies of the work
 - By authorisation
- ▶ Reproduction of the work
 - Has there been copying?
 - Has a substantial part been copied?

Copyright – Infringement

- ▶ Infringement by distribution:
 - Sale (of unauthorised copies)
 - As regards authorised copies: exhaustion of right: first sale doctrine.
 - Rental
 - ▶ Infringement by means of importation
 - ▶ Infringement by means of authorisation
- 

Copyright – Infringement

- ▶ All infringements are criminal offences:
- ▶ Penalty:
 - on a first conviction, be liable to a fine not exceeding 300,000 rupees and to imprisonment for a term not exceeding 2 years.
 - on a second or subsequent offence be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 8 years.
- ▶ Court can also order the forfeiture of any apparatus, article or thing which is the subject matter of the offence or is used in connection with the commission of the offence