


Introduction on Intellectual Property to Engineers and Technologists
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Lecture – 03
Theories of IP

Good morning to all of you. In class number 1, I have given you some emphasis on say Basics of Intellectual Property Rights.

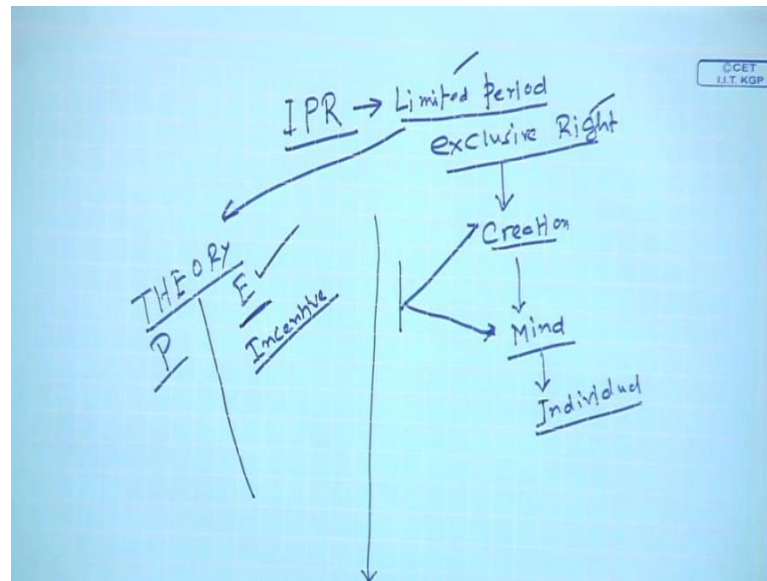
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THEORIES BEHIND INTELLECTUAL PROPERTY RIGHT

PHILOSOPHICAL	ECONOMICAL
✓ LABOUR THEORY: "FRUIT OF LABOUR SHOULD BE REWARDED"	➤ INCENTIVE THEORY
✓ UTILITY THEORY: "PROTECTION OF UTILITARIAN WORKS"	➤ REWARD THEORY
✓ PERSONALITY THEORY: "EXPRESSION IN THE FORM OF DRAWING, PAINTING, POEM REFLECTS CREATOR'S PERSONALITY THAT DESERVE PROTECTION"	➤ INVESTMENT PROTECTION THEORY
✓ SOCIAL-PLANNING THEORY: GOODS TO FOSTER THE ACHIEVEMENT OF A JUST AND ATTRACTIVE CULTURE	➤ PROSPECT THEORY
	➤ PUBLIC DISSEMINATION
	➤ MAXIMUM SOCIAL WELFARE
	➤ REDUCTION OF SEARCH COST

Now class number 2, I have given some emphasis on law, property rights, and all sorts of elements. Again today I will concentrate on various theoretic behind intellectual property rights but now you have knowledge about that that is intellectual property rights means I put it out IPR means ultimately a limited period exclusive right.

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So, IPR means limited period exclusive right on who are on your creation, so creation on your creation that is coming from how you may consider from your mind. So, that we can consider that creation of mind have enjoying the exclusive right in the form of IPR; creation of mind, mind created getting some exclusivity I am putting that in the form of IPR. So, now so exclusive right is coming there favor exclusive right is coming from the property rights you referred and what is property you also I referred that property perceive a relationship between a material object and individual you may consider individual or you sometime you call a person which person include a legal person and a individual or legal entity.

So, that way well exclusive rights of a person will be the more appropriate word and respect of IPR or sometime we call say individual because individual is the creators in respect of IPR. So, say IPR we are now concentrating IPR is per say limited period exclusive right over the creation of mind means mind is ultimately individuals minds or individuals mind; individuals visual minds. So, individual minds creation exclusivity power limited period is coming in the form of IPR.

So, now knowing that facts some time we told that theory may emerge after the creation or development of something. Some cases theory already based on the theory we are getting some product out of that. So, in respect of a intellectual property rights or property right system we may thought about that both cases, both the thing let us say

initially theory, theory is giving the justifications or already product has come up now peoples are trying to establish different theory for justification of that product or object.

So, that way that will some time we call theory, theory just likes a theory as your technologists and scientist if I ask you what is the theory behind let us say movement of earth around the sun or let us say movement of moon around the sun then you are taking about the gravitational part.

So, they are already theory is there the gravitational then or you may think of different ways also why have to think different way let us already before that establishment of that gravitational theory there also there is a movement, there was a movement of earth around the sun because let us say earth and sun created long back before the theory have been created. So, what is coming up there was a existence of movement before the theory have been established. Similarly let us say I told you intellectual property right systems as may be 600 BC for a 400 BC also peoples where practicing these form of systems, but that time philosopher economist have not thought about this sorts of thick systems.

So, ultimately that practiced that have been practicing over the years then ultimately philosopher and economist who have been trying to justify the existence of these type of system whatever I told you that the movement of earth, over movement of earth around the suns, so people are trying to justify that by means of the theory similarly let say what are the theoretical justification we may prescribed for intellectual property rights systems.

Now they are just like gravitational law or gravitational part has come up in the form of let us to some mathematical equations and say here the intellectual property means I told you that by virtue of its origin it have been characteristic over public goods, information goods by virtue of to get the benefit out of that we are create establishing property rights over those creation of minds, so now philosopher and economist have been trying to fill the gap for intellectual property right systems means why limited period exclusive right have been provided over creation of minds. So, they have been framing different theory for that. So, I will still about what are the majored theory say philosopher and economist have been developing over the year in respect of intellectual property right systems. So, now, I have divided the theory in respect of philosophical aspects and in respect of economical aspects - philosophical aspect let us say P economical aspect E.

So, we have I have develop or demarcated the theory in to two aspects because some time we called law have being means let us say it have a social and eco social and economical deals with social and economical aspect because law try to put society in orders. Law, ultimately may created for the economic applyment of the society because ultimately the caustics, and the causticness, randomness of the society and what are societies that what is the benefits out of that there lies the role of law perceive, so now, why that intellectual rights in the form of a limited period exclusive right.

So, now what are the different philosopher or economist have been prescribing the different theory that one by one will learned today. Let us starts with philosophical aspects, philosophical aspect in that immediately coming about the theory call labor theory - john law is the professor of that this theory. So, what is proposition? It is proposition that fruit of labor should be rewarded. So, what is mean of that? That you if somebody fruits some sorts of labor to ultimately create something then is fruit of labor should be rewarded. So, now, that labor means not only physical labor may be intellectual labors also.

So, let us say Mr. X has or Mr. Tom I given in the first law mister tom has put is labor in the form of intellectual format, intellectual labor for creation of those equations, formula, design, logo, so that fruit of is labor intellectual labor should be rewarded the reward system here is limited period exclusive right. So, he is justifying intellectual property right in the form of fruit of intellectual labor. Sometime in a tangible object we would have different way just like say as mister somebody is collecting lots of stone in a particular area. So, he is putting some sorts of labor for accumulating or collecting the stone in a particular area.

So, if I take the help of John Locke's labor law whether we can thought about some sorts of rights over those stone and two over to that person who is collecting the stones. So, denominately he is getting some reward you may consider it was a daily wages or daily wages he is collecting those stone based on that consideration he is getting form that particular construction company, but here we are not thinking about that things tangible things, we are thinking about intangible things. So, let us say justification of the Locke's theory is lies on that fact that intellectual labor of Mr. X. Intellectual labor of Mr. Anandavana Chakravarthi for creation of violating bacteria intellectual labors of some Bill Gates or others required to be rewarded.

So, that way fruit of labor should be rewarded that is the slogan or that is the philosophy behind the labor theory. So, from labor theory we are going about another theory that is applicable just like labor theories are applicable for tangible property and intangible property also similarly intangible theory is also applicable for tangible and also intangible things. So, what is utility theory? So, it is a required protection of some utility protection of something which have some utility in respect of intellectual right systems what we can say - required protection of utilitarian works.

What is main thing about protection? Protection means that I told you protection means limited period exclusive rights, protection is coming in the form of limited period exclusive right. So, these justification justifying why limited period exclusive right have been provided over e m c x or that formula or that design because if I take this the help of this theory he is telling all those having some sorts of utilities. So, as those things have being some utility or for that reason we required some sorts of protection over that utilitarian work, if I do not give protection over the utilitarian work that person who is creating those work he will not be interested or further creations and ultimately people may not get the advantage of these advantage of his further creations and society will be deployed up further creation of that persons.

So, something liberties of utilitarian work utilitarian work may come up in the form of painting utilitarian, utilitarian work may come with the form of new design of engine, utilitarian work may come up in the form of some formula for utilitarian come up in the form of the some process. So, you required protection of all those kind kinds of utilitarian works, so there lies the justification of utility theory in respect of intellectual property rights. Mr. Austin is the proposer of this theory, so definitely we can apply these theory in respect of intellectual property right systems because all I referred e m c x they have some sorts of utility may be based on the utility he is created that thing or in the day one it has not having utility, but it will have some utility in near futures because of heavy information goods characteristics. So, it required protection, so ultimately utility theory justifies that.

Then the Hegel and Kent - are proposer of the theory called personality theory, so what is that? If I consider let Mr. X has created or draw a picture of let us say rose and similarly Mr. Y has also create a picture of rose. So, now, definitely the creation of Mr. X and creation of Mr. Y will be different at least with respect to some aspects. So, what I want

to say here that with reference to creation somebody's personality is involved. So, possibility involved in that creation justifies protection of that creation because the personality involved in that creation for that region we have to protect that creation because possibility and person embedded within that creation so you may refer to that of expression in the form of a drawing, painting, poem, reflect creator's possibility that desired protection.

Although, this is applicable with reference to that types of intangible or creation where the personalities embedded in the form of creation of minds, so there say we can apply these personality theory referred later on I referred, this is mostly applicable with reference to copy rights and when the form of a copy rights or may be industrial designs copy rights. I will refer to these things based on that you may that I will later on teach you that moral right justification in respect to copy rights, because in some body's painting if you see that in that painting some personality personhood is attached on that painting, at personhood is attached on that painting.

So, that we required protection of that personhood protection of that personhood, so that we have to protect the creation of that persons painting to protect the personhood of that person. So, there lies the justification of personality theories or personality theories. Sometime we refer is (Refer Time: 18:20) theory that is coming also supplementary to that personality theory. Then come another theory called social planning theory, what is telling about that intellectual property or information we can consider that those are goods to foster, the fosters goods to foster the achievement of a just and attractive cultures.

So, social planning has that information intellectual property we can consider in the goods for say to for fostering, foster the achievement of a just and attractive cultures. So, social planning is justifying that for culture just an attractive culture we required to give some sorts of protection over those kinds of creations through there lies the role of exclusive right in the form of limited periods, for the just and attractive cultures. So, that way social planning also just refined the intellectual property right systems.

So, I referred the major philosophical theories in brief that justifying the intellectual property right systems so you may analyze those theories in details as to for if somebody's more interested about the philosophical aspects of this source of thing you may analyze those theory in details. Now, we are coming back to the economical aspects.

I told you law is for the social, societal, social economical prospective and intellectual property is fully based on economics because I told you public goods or information goods the concept of economics. So, now, definitely I told you again another problem is limited period instead of natural lights means perpetual lights or natural lights. So, sometime peoples are can doing research for the intellectual property rights or natural rights intellectual property rights, the natural rights is a perpetual lights then what will the problem with reference to the society they were analyzing that aspects.

So, we are presuming that intellectual property rights why we have to create a limited period. So, there lies how can I carve the say monopolistic at issued of the creators or owners over that information goods sometime we referred for the intellectual property rights is sub say impure public goods. So, on that premises let us discussed about the various economical theories behind intellectual property rights I start with the theory call incentive theory, I referred they are an incentive theory.

So, already Labor Locke's say if I now link with the Locke's theory utility theory they are telling that fruit of labor should be rewarded. Now economists are trying to create the reward telling that reward mechanism they are trying to create the reward mechanism though. So, they are telling reward may come up in the form of some incentive. So, what do you mean by that? Some creator created something if I give some sorts of incentive to that creator then he will be more attracted to create further. So, we have to keep some sorts of incentive, we means we have that institution - institution with coming in the form of let us say if I take one should the society or if I consider a Panchayat, if I considered a municipality, but here we are thinking about the government because this government is framing some rules we are considering that in the form of statutory rules. So, we have forming that.

We have to; government has to design some incentive. So, here the incentive has emerged in the form a limited period exclusive right. So, now, incentive theory justified the intellectual property right system because that if I give some source of incentive to the creator then he will be more attracted to create something. So, incentive theory justified the, so intellectual property rights systems. Then it is also linked with incentive theory the reward - reward is coming to the will make consider supplementary to that, reward is coming I have to give some reward to the creator, reward is coming in the form of limited period exclusive right, reward is coming in the form of some incentive, what I

have incentive I will create, that is the government can thought about. Within that say academic premises, I can thought about how can I give some incentive to my students or researcher so that they will be attracted to create further intellectual property within the premises of academic institution or within the premises of my laboratory.

So, there lies the as incentive and reward justification of the incentive and reward theory intellectual property right system they told OK, these type if I give some sorts of incentive in the form of a limited period social right to the creator or inventors then they will be ultimately attracted to create furthers. So, they are ultimately incentive or reward theory justified intellectual property right system in the form of a limited period exclusive rights. Now sometime we call its intellectual property rights as investment protection investment protection law, intellectual property rights instead of intellectual property right we may consider as investment protection law.

Let us analyze that a little bit. So, now, you know in respect of any kinds of invention or creation we required some sorts of investment in the form of research and development. So, now investment invest why a company or an institution will be interested to invest over something which having the characteristics of public good or information. So, for protection of the investment we required to frame some sorts of rules regulation that have been coming up in the form of law. So, what we are justifying, we have telling about intellectual property law. So, investment protection law means to protect the investment of a - if a persons, persons means may be a company or individual we required to frame some sorts of law, so there lying the role of investment protection law.

Some time we call that research and development cost we have referred as some cost. So, to protect to ultimately recap the some cost we required some sorts of say reward or an incentive that have been coming in the form of a limited period exclusive rights. So, to protect the investment we ultimately have to frame some sorts of framework that is coming up in the form of intellectual property rights. Then prospect theory, intellectual property rights ultimately generate prospects over something, so there lies the justification of the prospect theory in respect of intellectual property rights. Intellectual property rights again justified based on public dissemination theories, intellectual property right facilitated just a like patent facilitate dissemination of information embedded in a patent specification that peoples are getting information with reference to

patent specifications and they will ultimately getting the thing in the form of a prior art and when there getting the prior art they will ultimately start research.

So, this ultimately facilitate wasteful just like say duplication of research. So, makes minimization or just like say wasteful resource utilization just like a if some resource, I getting the information regarding some invention then why I will again do further R and D on the same invention. So, ultimately I will stop thinking about on that then I will create I will thing about something else. So, then ultimately then we can say that public dissemination theory of intellectual rights then created for say next imagination of maximum utilization of the wealth embedded in the information's that have been coming by means of public dissemination or dissementation.

It ultimately generate maximum social welfare because of dissementation because of incentive both as maximum social welfare justifies the intellectual property right systems, because of some economists may some economists may not ultimately may accept this proposition, but some economists may referred that maximum social welfare may be generated if I create intellectual property right systems such an way. Sometime we call intellectual property right systems I told you that wasteful utilization of or resources, sometime we call intellectual property right system say justified just like trademark justified because based on the reduction of search cost search cost, so there economists again coming up - how can I minimize the cost, maximize the creation of wealth. So, that also cost, cost reduction, creation of wealth, benefit of the society in the form of incentive or you are that being justifying the intellectual property right system in the form of limited period exclusive right to the creators.

So, now let us summarize the theoretical justification intellectual property rights. So, intellectual rights justified based on philosophical aspects, based on economical aspects, we can link the thereon say philosophical aspect economical aspect just like a utility theory and labor theory, they altering about the reward; economical theory is telling on the incentive and reward. Now, the institution is creating the law they are creating that reward or incentive mechanism and there the reward is incentive mechanisms they created for maximum social welfare in the form of a limited period exclusive rights.

So, I think now you have learned little bit let say as postmortem means let us say theory behind intellectual property rights in respect of economy and philosophy. So, although

this is a vast area, we have prior to cover this within say half an hour. So, we will further discuss those thing based on interactive mode.

Thank you.