Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) and Nepalese Context

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Intellectual Property
What it is?

• Creation of Mind
  ➢ Artistic or Copyright: Books, Movies, Paintings, Music, Photographs, Software etc

➢ Commercial – Industrial Property: Patents, Industrial design, Trade mark, Trade secret etc.
Why IP Protection?

- To promote creative work
- To provide incentive to creator/owner/right holder
- Motivate right holders and others for further creation
- Global demand
- International trade
- Consumer welfare
Rational of IP Protection

• Financial
• Economic growth
• Social (consumer protection, public health, Moral.)
• International obligation (commitments)
• Promote creative work (scientific, technological, innovative and other creation of mind.)
Benefits of IP Protection

• US example:
  72% more value added per employee
  2/3rd of value of Large business is from intangible assets

• Example of Developing World
  India, China, Japan, South Korea, Vietnam, Malaysia
Basic Principles

- Promote International Trade
- Reduce Distortions and Impediments
- Standard Provision of Intellectual Property
- Avoid differences in National Legal System
- Settlement of Disputes
- Rules to control Counterfeit
Recognizes

• IP as Private Right
• Flexibility to LDC’s
• Multilateral Procedures to reduce tension
• Relationship between WTO and WIPO
Provisions

• Members shall implement the provision
• But not obliged if national law not contravene
• National treatment
• MFN treatment
Terms of Protection

- Copyright – 50 years from publication
- Trademarks – 7 years and renewable indefinitely
- Industrial design – 10 years
- Patent – 20 years from filing date
- Layout design – 10 years from filing date
Intellectual Property

• Copyright and Related risks
• Trademarks
• Geographical Indications
• Industrial Designs
• Patents
• Integrated Circuits/ Layout Design
Enforcement of IP

- General Obligation
- Civil and Administrative Procedures
- Compensate the losses
- Boarder measures
Other Provisions

• Acquisition and Maintenance
• Dispute Settlement
• Transitional Arrangement – one year from WTO agreement force
• Review and Amendment
• Security Exceptions
LDC

- Apply TRIPS provision - 1 to 10 years
- May accord extension
- Developed countries to promote technology transfer
Institutional Arrangement

• Council for TRIPS
• International Co-operation
Present Scenario of Nepal
Status of Nepal

• Concept recognized
• Value of land and other tangible assets vs. IPR
• Join WTO, WIPO and other treaties
• Patent, Design and Trademark Act, 1965
• Copyright Act, 2002 for artistic and literary works
• Enforcement Status

➢ Institutions

Department of Industries/ Office of Copyright Registrar
Status of Nepal (...continued)

- Long History Poor performance
- No effective promotion/no specific policy
- 30000 trademark, 72 design, 67 patent
- No use/Under use/misuse
- No attorneys/No examiners
- Poor institutional capacity
- Comprehensive industrial property act in process
What needs to be done?

- Improve Legal Base (pressurize for modern law)
- Create Information system
- Legal Counsel
- Enforcement Forum
- Cost Sharing
- Social responsibility
Who are Responsible?

• Regulatory Bodies (DOI/OCR)
• Enforcement agencies (Police, Customs and Tax Authority, Public prosecutor)
• Right Holders
• Civil Societies
• Consumer societies
• Lawyers
• Judiciary
IP Protection for Survival

- 21st century – Century of Science, Technology, Invention and Innovation
- Globalization
- Rule based Trade under WTO Umbrella
- Economic Growth, Social Justice
- Consumer Protection
- Base for future
Thank You All