

# **UNCTAD Ad-Hoc Expert Meeting on NTM Classification**

## **(4) Intellectual Property**

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# Purpose

- Start a broad conceptual discussion on how to develop a taxonomy for intellectual property
- Can we classify IP according to how it affects trade?
  - What categories?
  - What data is available?
    - What data are we looking for?
      - » IP legislation
      - » Economic data on effect of IP on trade
- Does it make sense to distinguish products vs services?

# Overview of some IP Rights

- **Patents:** to prevent others from making, using, etc an invention
  - Scope of protection: product / process
- **Trademarks:** to prevent others from using identical or similar signs for goods / services that are identical or similar to protected goods / services where such use creates consumer confusion
- **Copyright:** to prevent others from copying / making available to the public etc. protected works
- **Trade secrets:** to prevent protected information from being disclosed to, acquired by, or used by others in a manner contrary to honest commercial practices

# The IP-trade interface

- IP rights are territorial
- Look at cross-border activities, not purely domestic use
- Measures to protect IP may have an impact on trade: domestic rules that importer needs to comply with
  - We look at any impact, neutral approach
    - Trade-enabling / encouraging
    - Trade-preventing / inhibiting



# The IP-trade interface

- **Some IPRs protect directly the product, while others do not**
  - Patents: the protected product or the product resulting from a protected process
  - Copyright: the protected work
  - Trademarks: not the product but its identifier
- **Different IP categories - different degrees of exclusivity**
  - Patents: comprehensive protection from reproduction
  - Copyright: defense of independent creation
  - Trade secrets: defense of honesty





# The IP-trade interface

- **IPRs may encompass right to import**
  - Exhaustion of rights? International, regional, national regimes
- **Other national differences in**
  - Eligible subject matter
  - Criteria for protection
  - Limitations & exceptions
  - IP enforcement
- **TRIPS: only minimum standards**
- **Further harmonization attempts**
  - Multilateral (e.g. WIPO)
  - Regional (e.g. EAC TRIPS Policy on flexibilities)
  - Bilateral (FTAs)



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