

MUNI
LAW

Law of property & intellectual property law

Associated professor Pavel Koukal, Ph.D.
Faculty of Law, Masaryk University

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Things (Objects) in a Legal Sense

- Private (civil) law, Civil Code (Act. No. 89/2012 Coll.)
- Private rights
 - Personal rights – related to the person
 - Property rights – bound to the thing (objects in legal sense)
- *Things (objects) in a legal sense*
 - Legal definition – section 489 of Act No 89/2012 Coll., the Civil code
 - Distinction: true (real) thing x thing in a legal sense
 - Division of things (objects) in a legal sense
 - Movables x immovables
 - Tangible x intangible



Characteristics of absolute property rights

- Absolut effects
- Exhaustive list of rights – *numerus clausus*
- Publicity
- Priority
- Transferability

Sources of Law

- Comparative insight
 - case law x statutory law
- Constitutional protection – Art. 11 Charter of Fundamental Rights and Freedoms, Art. 1 Protocol European Convention on Human Rights
 - *Balan v. Moldova* (19247/03)
 - *Anheuser Busch Inc. v. Portugal* (73049/01)
- National source of private law: Civil code
- Sources of intellectual property law
 - Copyright act, Trademark act, Law on protection of Industrial designs

Law of Property

Possession

- Possession = actual control of a thing or right (Sec. 987 Civil Code)
- Principal features
 - *corporalis possessio* = effective control
 - *animus possidendi* = the intention to hold
- Obtaining a possession
 - one-sidedly
 - two-sidedly
- Termination of the possession (Sec. 1009 Civil Code)
- Protection of the possession
 - retaining protection (Sec. 1003 Civil Code)
 - recovering protection (Sec. 1006 Civil Code)



Right of Ownership



- Right of ownership (Sec. 1012 Civil Code)
 - *ius possidendi* = right to possess property
 - *ius utendi et fruendi* = right to use and to enjoy (to receive a proceeds from) property
 - *ius disponendi* = right to dispose of (to sell) property
 - *ius abutendi, ius dereliquendi* = right to destroy or abandon
- Acquisition of the ownership
 - originally
 - derivatively
- Protection of the ownership
 - action for the recovery of the property (*rei vindicatio*) (Sec. 1040 Civil Code)
 - action for injunctive relief (*actio negatoria*) (Sec. 1042 Civil Code)

Joint Ownership

- Joint ownership = right of ownership belonging to more than one person
(Sec. 1115 ff. Civil Code)
- Forms of co-ownership
 - divided
 - undivided (joint property of spouses)
- Co-ownership share = degree of participation in the common thing
- Acquisition and protection = the same as of right of ownership
- Termination of joint ownership
 - by an agreement
 - upon court decision

In rem Rights to the Property of Others

- = rights of the beneficiary to another's property
- Right of *superficies* = right to build a building (Sec. 1240 Civil Code)
- Easements (Sec. 1257 Civil Code)
 - Servitudes
 - Real burdens
- Pledge (Sec. 1309 Civil Code)



Intellectual Property Law

General Overview

- Intellectual property = results created by human intellectual or economic activity
- Characteristics of intellectual property assets
 - Immaterial nature
 - Ubiquity = present anywhere and at any time
 - Vs. legal principle of territoriality of intellectual property protection
 - Non-rivalry
- Intellectual Property
 - Copyright (author's right) – research publications, software, literary works, movies etc.
 - Industrial property rights – patented inventions, trademark, industrial designs, designations of origin
- World intellectual Property organization (WIPO), EUIPO, EPO, WTO

Copyright

- Act. No. 121/2000 Coll., on Copyright and Related Rights and on Amendments to Certain Acts (Copyright Act)
- Copyright = protection of author's work (books, software, photos, dramatical works etc.)
- Protection arises from the moment of creation of the work
 - author - only a natural person
- Duration: life of the author+70 years
- Copyright
 - Moral rights
 - Economic rights
- Collecting societies (collective management organizations)



Patent Protection

- Act. No. 527/2000 Coll., on Inventions and Rationalization Proposals
- Patent = right of an patent owner to exclude others from using their invention
- Requirements for patentability
 - Novelty
 - Non-obviousness (inventive step)
 - Industrial applicability
- (Non)Patentable inventions
- Procedure - The Industrial Property Office
 - patent application + description
 - fee payment
 - publication
- Duration of the patent protection – 20 years





Trademarks

- Act. No. 441/2003 Coll., on Trade Marks and on Amendments to Act No. 6/2002 Coll., on Courts, Judges, Presidents and the State Administration of Courts and on Amendment to Some Other Acts (Act on Courts and Judges)
- Trademark = sign with a distinctive character designating a certain products or services
- Rights of a trademark owner
- Requirements for trademark protection
 - Distinctiveness
 - Registrability in Trademarks Register
- Procedure
 - application
 - fee payment

Industrial Designs

- Act. No. 207/2000 Coll., on the Protection of Industrial Designs
- Industrial designs = protects an aesthetical appearance of a product
- Requirements for registration
 - Novelty
 - Individuality = must not give the same impression
- Procedure
 - The Industrial Property office
 - application form
 - fee payment
- Protection period – 5 years, may be extended up to 25 years
- EU unregistered industrial designs



Designation of Origin, Geographical Designations

- Act. No. 452/2001 Coll., on the Protection of Designations of Origin and Geographical Indications and on the Amendment to the Act on Consumer Protection
- Designation of origin = protects the name of the product that must be prepared, processed and produced in certain geographical region
- Geographical indications = protects the names of product that is at least prepared or processed or produced in certain geographical region
- Procedure
 - The Industrial Property office
 - Group of people
 - application
 - fee payment
- Protection period - unlimited



Thank you for your attention.