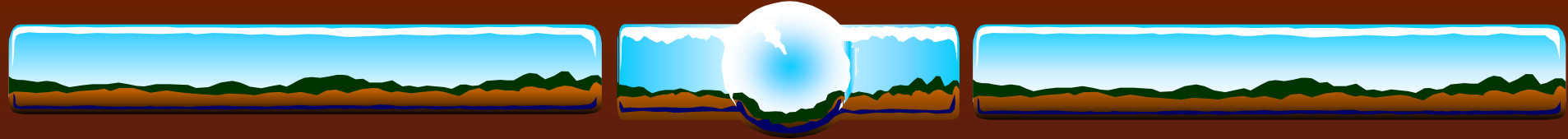




# Copyright in Computer Programs – the Preliminary Information

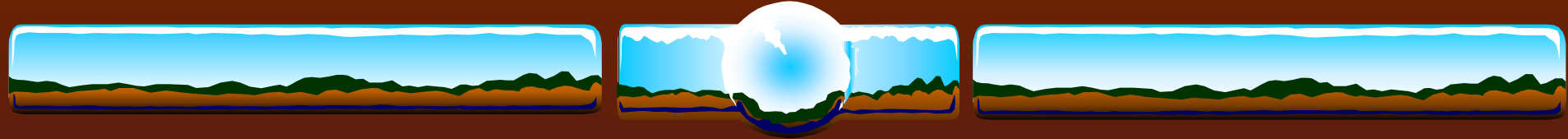
Presentation at  
The National University of Juridical  
Sciences  
Calcutta

June 7, 2002



# This discussion is divided into three small modules

- ❖ A simple test case of plagiarism
- ❖ Copyright in Computer programs
- ❖ Some useful procedural tips



## Is this a straight forward example of copyright violation ?

- ❖ How does this amount to copyright infringement
  - ❖ Substantial taking
  - ❖ Unaltered copying
  - ❖ The plagiarist has not made extensive alterations
  - ❖ The author has put in efforts to create the work
  - ❖ The plagiarist did not put in efforts to create the work
  - ❖ The plagiarist has taken advantage of the author's work
  - ❖ The character of the works in question are same
  - ❖ There is direct connection
  - ❖ There is direct copying
  - ❖ Conscious copying.



## Computer Programs

Computer program means a set of instructions expressed in words, codes, schemes or any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result

[Defines the Copyright Act]

Computer includes any electronic or similar device having information processing capabilities

[Defines the Copyright Act]



# Computer program

## General Comments

- ❖ The definition of computer program in the Copyright Act is broad and not definite.
- ❖ From the patents angle a software often offers a technical solution to an identified technical problem.
- ❖ To get the desired technical result, a programmer designs a source code that is in human readable form.
- ❖ The source code provides inputs for a Compiler program to devise the object code which is in machine readable form.
- ❖ Mostly people use the expressions ‘software’ and ‘computer program’ interchangeably. Computer Software is a composite of all execution files, the user documentations and set-ups. A program on the other hand is a specific set of codes configured to give an identified result by a predefined function.



# Literary work includes computer program

- ❖ Literary work includes computer programs, tables and compilations including computer databases

Copyright subsists in original literary works

The owner of copyright in a computer program shall have all rights to reproduce, issue copies, perform, make film or sound recording, translation or adaptation of the work

Plus

- to sell
- give on commercial rental
- offer for sale
- offer for commercial rental any copy of the computer program



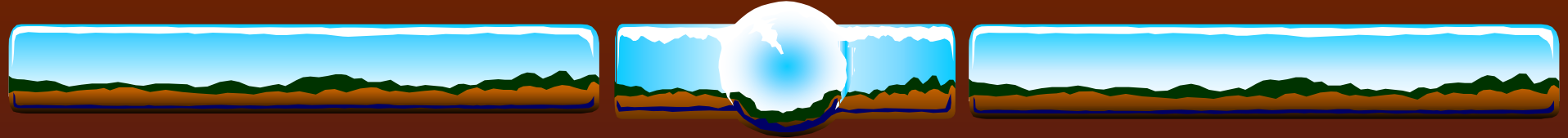
## Is copyright the right form of IP protection for software ?

- ❖ If not why
- ❖ Functional elements of software cannot be protected under copyright
- ❖ Underlying software for business methods exhibit high levels of functionality
- ❖ Patent protection has the flexibility of addressing the functionality of preferred embodiment
- ❖ The claims will address ‘a means configured to perform certain function’



## Some Useful tips

- ❖ How to prepare an application for registration of copyright
- ❖ Form IV
- ❖ NOC
- ❖ 2 Copies of the work – if it is IS A a
- ❖ Copyright Notice – Certificate of posting
- ❖ Fee
- ❖ Power of Attorney



THANK YOU