



Indian Perspective

Intellectual Property Rights

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Introduction to Intellectual Property

- Intellectual Property refers to creation of mind i.e. inventions, industrial designs for article, literary & artistic work, symbols etc. used in commerce.
- Two categories: Industrial property & Copyright.
- Industrial property: Trademarks, Patents etc.
- Copyright covers Artistic works, Literary works etc..

What Are Intellectual Property Rights ?

- Rights which can be used for protecting different aspects of an inventive work for multiple protection.
- Outlined in Article 27 of the Universal Declaration of Human Rights.
- IPR are largely territorial rights except copyright, which is global in nature.
- IPR can be assigned, gifted, sold and licensed like any other property.

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- Intellectual property rights as a collective term includes the following independent IP rights:
 - Patents
 - Copyrights
 - Trademarks
 - Registered (industrial) design
 - Geographical indications, and
 - Protection of undisclosed information

Patents

- An exclusive right granted by a country to the owner of an invention to make, use, manufacture and market the invention
- The patent right is territorial in nature.
- Patents provide incentives to individuals by recognizing their creativity & these incentives encourage innovation.
- India is a member-state of World Intellectual Property Organisation (WIPO), Paris Convention, Patent Cooperation Treaty and Budapest Treaty.

Patents In India

- The Patents Act, 1970 (No. 39 of 1970) as amended by the Patents (Amendment) Act, 2005.
- Patent Offices, under the Department of Industrial Policy & Promotion, Ministry of Commerce & Industry.
- Patent Offices are located at Kolkata, Mumbai, Chennai and Delhi to deal with the applications for patents.
- Patent Information System (PIS) & Intellectual Property Training Institute (IPTI) located at Nagpur.

Trademarks

- A distinctive sign that provides to the owner of the mark by ensuring the exclusive right to use it to identify goods or services.
- Well-known, Associated trademarks, Service marks, Certification Trademarks, Collective Marks.
- Term of Registered Trademark: 10 years and Renewable.
- To register a trademark: appropriate national or regional trademark office. WIPO administers an international registration system for trademarks.

Industrial Designs

- The ornamental or aesthetic aspects of an article which may consist of 3D or 2D features, such as shape or surface, patterns, lines or color.
- It makes an article attractive and appealing; hence, they add to the commercial value of a product and increase its marketability.
- Any technical features of the article not protected by it.

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- Applicants can file a single international application either with WIPO or the national or regional office of a country party to the treaty.
- The design should be new or original, not previously published or used in any country before Registration.
- Total term of a registered design is 10 years + 5 years Extended Period.

Geographical Indication

- A sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin.
- Registration of a GI: 10 years & renewable.
- The Geographical Indication of Goods (Registration and Protection) Act came into being in 2000.
- Imprisonment for a term between 6 months to 3 years and a fine between 50000 rupees to 2 lakh rupees in Act.

Law Applicable In India

- Geographical Indication of Goods (Registration and Protection) Act 1999.



Copyrights

- **Copyright** is a legal concept, enacted by most governments, that grants the creator of an original work exclusive rights to its use and distribution.
- A right, which is available for creating an original literary or dramatic or musical or artistic work.
- In India, The Copyright Act, 1957 as amended in 1983, 1984, 1992, 1994 and 1999 is available.
- Registration can be done at the Office of the Registrar of Copyrights in New Delhi.
- Protection for the expression of an idea and not for the idea itself.

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- The owner may assign to any person the copyright.
- Giving owner, incentives in the form of recognition and fair economic reward increases their activity.
- The work is open for public inspection once the copyright is registered.
- A provision of 'fair use' in the law, which allows copyrighted work to be used for teaching and research and development.

Case Studies

- Bangalore Aug 10, 2003: Banashankari police arrested three software engineers for illegally copying software from a company they were working for.
- Chennai, February 2000: Pirated software worth Rs.1.11 crore (US\$ 253,200) was seized by the Chennai police. A total of 6 employees were arrested which included the Managing Director of one outlet and proprietors of each of the outlets.

Facts

- In India, small and medium scale Industries are the ones who come out with maximum(90%) innovations.
- B.E students who do projects in their respective discipline, can register their projects under IPR if its really innovative.
- As soon as the duration of the protection through IPR is over, it becomes a public domain.
- Many companies use this IPR as a weapon to compete with the other players in the market.

Facts Continued...

- IPR is given to a product, only when its used for commercial purpose.
- These are some of the companies with their patents :-

| <u>COMPANY</u> | | <u>NO. OF PATENTS</u> |
|-----------------------|---|-----------------------|
| • Toyota | - | 99,999+ |
| • GM | - | 11,000 |
| • Honda | - | 97,000+ |
| • Renault | - | 23,000+ |
| • Daimler Benz | - | 7,000+ |
| • Land Rover | - | 2,100+ |
| • Volkswagen AG | - | 16,000+ |
| • Porsche AG | - | 12,000+ |
| • General Electric/GE | - | 25,553 |
| • SONY | - | 20,873 |
| • Ford/Ford Global | - | 8,888 |
| • IBM | - | 99,999+ |

CONCLUSION

- Intellectual property rights reward creativity and human endeavor, which fuel the progress of humankind.
- Understanding the country's IP Rights and following the best practices can drastically reduce the risk of losing the company's intellectual property.
- Indian government has initiated various steps towards Intellectual Properties Rights Protection.