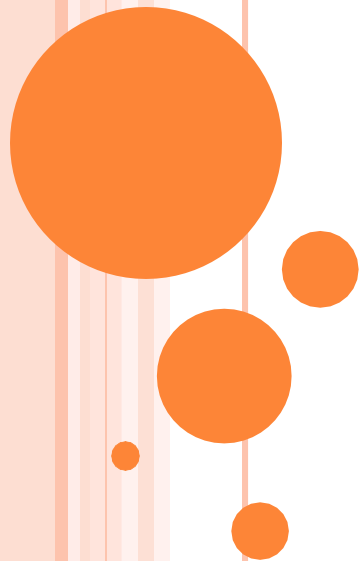


IPR- IMPLICATIONS FOR INDIA, WIPO, GATT,

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WTO AND TRIPS



# IPR (INTELLECTUAL PROPERTY RIGHTS)

- When someone possess an 'intellect', which can be used to invent something for the benefit of masses, then the invention becomes his property, for which he can possess all the rights to use it the way he likes.
- There are various types of intellectual properties that are intangible in nature: **patents, trademark, copyright** and **trade secrets**.
- Intellectual property is just like any other form of property a person can possess in the form of **movable and immovable** assets.



- **Invention** and **creativity** are two major aspects that give benefits and help in the economic development of the nation.
- Intellectual property is an indicator of the economic growth of the country and needs to be protected in order to prevent the trans-boundary movement of novel inventions.
- It implies a grant from the sovereign power, securing the invention for a limited period of time from making, using and selling by others.
- The central concept behind '**patent law**' is the protection of intellectual property, without which anyone can have free access to copy new and innovative processes, treatments, formulas and secrets from the original inventor.

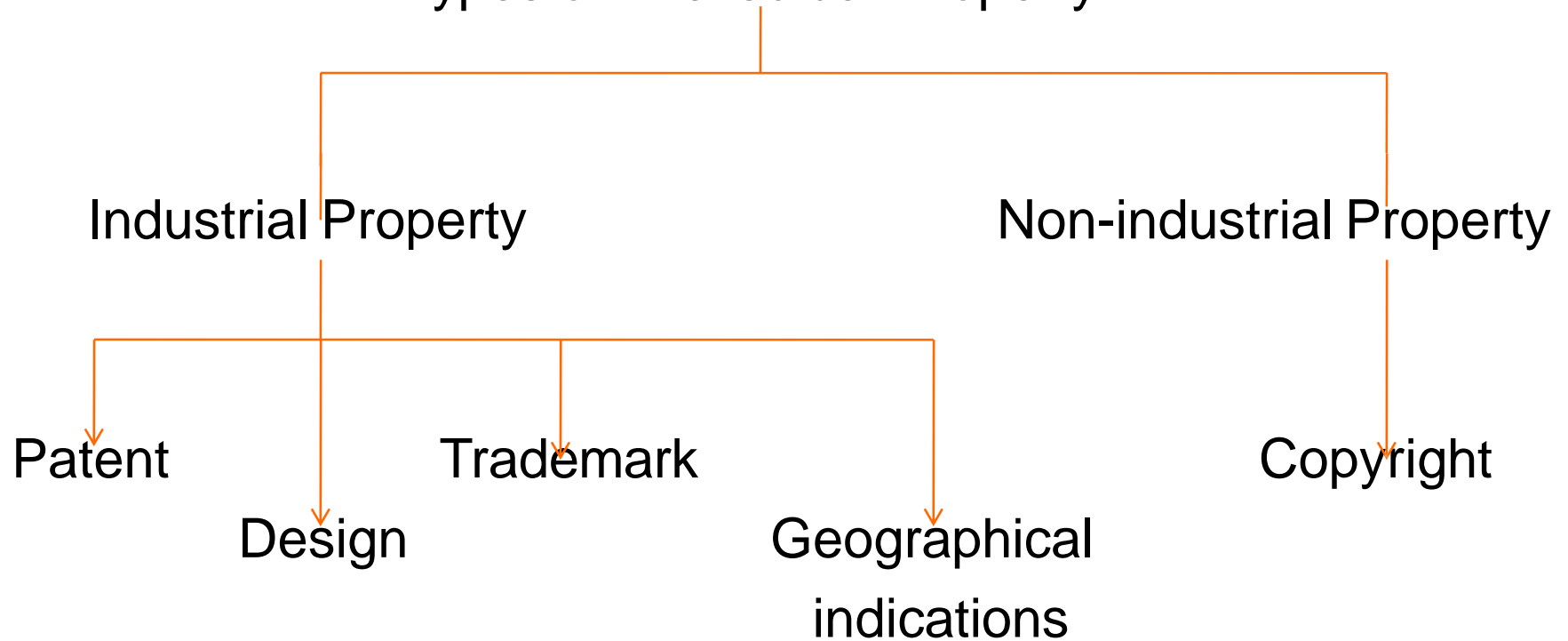


- The most significant feature of an invention is that it must be **useful, novel** and **unobvious**.
- It is a contract between an inventor and the government where the government grants a limited monopoly right to the inventor excluding others from using, selling or manufacturing that particular invention.
- By using this, special abstract innate gift creations and innovations that are beneficial to mankind can be designed in order to safeguard the misuse of such inventions and protect the rights of the inventor.



# FORMS OF IPR

Types of Intellectual Property



## WIPO (WORLD INTELLECTUAL PROPERTY ORGANIZATION)

- WIPO is a specialized agency of the United Nations which is dedicated to ensuring that the rights of creators and owners of intellectual property are protected worldwide.
- It is responsible for the administration of various multilateral treaties dealing with the legal and administrative aspects of intellectual property.
- The roots of this organization can be traced back to 1833 with the birth of Paris Convention for the protection of industrial property.
- It was the first major international treaty formed to help the inventors of one country to obtain protection in other countries for their creation or invention.

- The Paris Convention was signed in 1833 for the first time by 11 countries and entered into force in 1834.
  
- The important features of the Paris Convention are:
  - National Treatment
  - Parallel importation
  - Right of priority
  - Independence of patents
  - Protection against false indication and unfair competition.
  
- However, the main objective of the convention is to give protection for obtaining, maintaining and enforcing the industrial property of the member nations.



- WIPO seeks to:
  - Provide services for international application for industrial property rights.
  - Exchange intellectual property information among member countries.
  - Provide legal and technical assistance to developing and other countries
  - Resolve the private disputes on intellectual property and harmonizes the intellectual property (IP) laws and procedures.
- WIPO was established by the convention in 14 July 1967, which entered into force in 1970.
- WIPO undertakes development cooperation for developing countries through advice, training and furnishing of documents.



- A similar agreement on cooperation between WIPO and WTO came into force on 1 January 1996.
  
- The agreement provides cooperation in the following areas:
  - Technical knowledge
  - Notification of and access to national laws and regulation
  - Translation of national laws
  - Implementation of procedures for the protection of national emblems.
  
- The agreement between WIPO and WTO was concluded in December 1995.
  
- WIPO has promoted the interaction among different stakeholder at the national level to include, for example- agriculture, health, science and technology, etc.



# GATT (GENERAL AGREEMENT ON

## TARIFFS AND TRADE)

- GATT was signed in 1947, and came into force on 1 January 1948 signed by 23 states.
- It was amended in 1966 and lasted until 1993 when it was replaced by the WTO (World Trade Organization) in 1995.
- It is one of the important agencies of the United Nations, which provides better and wider protection for the private patent holders of the developed nations than the Paris Convention.
- GATT was the outcome of the failure of negotiating governments to create the International Trade Organization (ITO).
- It is a multilateral agreement regulating trade among about 150 countries.



- The purpose of the GATT was explained as the ‘substantial reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis’.
- Under the GATT, 8 rounds of negotiations took place to liberalize world trade.
- The last round was the Uruguay round which began in 1986 and ended on 15 December, 1993.
- The other 7 rounds held by GATT are as follows:
  - **First round (Geneva round)**- started in April 1947 and lasted for 7 months with the participation of 23 countries (achieve 45,000 reductions in bilateral tariffs).
  - **Second round**- Took place in 1949 in Annency, France with the participation of 13 countries (5000 tariff concessions).



- **Third round-** Took place in 1950 in Torquay, England which lasted for 8 months with the participation of 38 countries (8700 reductions in bilateral tariffs).
- **Fourth round-** Took place in 1955 in Geneva and lasted until May 1956 with the participation of 26 countries (\$2.5 billion tariff reduction).
- **Fifth round-** Took place in Geneva during 1960-1962 with the participation of 26 countries (\$4.9 billion tariff concessions of world trade).
- **Sixth round (Kennedy round)-** Took place from 1964-1967 with the participation of 62 countries (tariff reduction of \$40 billion of world trade). It also covered the subject 'anti-dumping'.
- **Seventh round-** Took place in Tokyo from 1973-1979 with the participation of 102 countries (tariff reductions worth more than \$300 billion). It covered the subjects like tariff, non-tariff measures and 'framework' agreements.



# WTO (WORLD TRADE ORGANIZATION)

- WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT).
- In 1995 WTO was established, which replaced the GATT. There were 3 rounds under WTO.
  - Seattle Round (1999)
  - Doha Round (2001)
  - Cancun Round (2003)
- WTO intends to supervise and liberalize international trade and officially commenced on 1 January 1995.
- It had 157 members (till 2012) of which 117 are developing countries.
- The headquarters of WTO is at Geneva, Switzerland.
- Its activities are supported by a secretariat of 700 staffs, led by the WTO Director General.



- There are 3 official languages of WTO: English, French and Spanish.
- WTO's principle rule book for trade in goods is GATT.
- It includes 30,000 pages consisting of 30 agreements and separate commitments (schedules) made by individual members in specific areas such as lower custom duty rates and services market-opening.
  
- **Benefits of WTO:**
  - System helps in promoting peace
  - Helps in dispute settlement
  - Makes rules that makes life easier
  - Conducts free trade that cuts the costs of living
  - Provides more choice of products and qualities
  - Income that is due is raised
  - Governments are shielded from lobbying
  - System encourages good government



## o Activities of WTO:

- Negotiation to reduce or eradicate hindrances in trade and agreeing on rules that govern the conduct of internal trade.
- Administrating and monitoring the application of WTO trade agreement rules in goods, trade in services, IPR.
- Reviewing the trade related policies of WTO members as well as ensuring transparency in regional and bilateral trade agreement.
- Settling disputes among its members regarding interpretation and application of the trade agreement.
- Educating public about WTO, its mission and its activities.
- Conducting economic research.



- Assisting the accession of 20 non-member countries.
- Building capacity of developing country government officials in international trade matters.
- Assisting developing countries in trade policy issues, through technical assistance and training programmes.
- Cooperating with other international organization.
- Providing detailed information on biotechnology, genetically modified (GM) food and their business.
- Dealing with the ethical issues in business.
- Helping in smooth and easy conduction of trade at international levels.



## o WTO Treaties:

- General Agreement on Tariffs and Trade (GATT)
- General Agreement on Trade and Services (GATS)
- Agreement on Technical Barriers to Trade (TBT)
- Agreement on Government Procurement (AGP)
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)
- Agreement on Trade-Related Investment Measures (STRIMs)
- Agreement on Agriculture



# TRIPS (TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS AGREEMENT)

- The TRIPs Agreement came into effect on 1 January 1995.
- It provides standards for the full range of intellectual property rights and also the enforcement of those standards both internally and through legal and administrative actions.
- The general timetable for implementing the TRIPs agreement is 1 year for industrialised countries; 5 years for developing countries and countries shifting from centrally planned economics; 10 years for least developed countries.



- The agreement covers 5 broad issues:
  - Application of basic principles of the trading system and other international intellectual property agreements.
  - Methods used for the adequate protection of intellectual property rights.
  - Enforcement of those rights sufficiently and adequately in their own territories.
  - Settling of disputes on intellectual property rights between members of the WTO.
  - Special transitional arrangements during the period when the new system is being introduced.



## o The TRIPs Agreement has 3 basic features:

- **Standards-** The agreement sets out the minimum standards of protection that has to be provided by each member country.

The main TRIPs standards, relating to pharmaceuticals, that countries must include in their patent law are:

- ✓ Availability of patents for both pharmaceutical products and processes inventions that are new, involve an inventive step and are capable of industrial application.
- ✓ Protection of the product directly obtained using a patented process.



- ✓ Availability of procedures at national level to enable patent owners to protect their rights against infringement.
- **Enforcement:** It deals with the internal methods or procedures for the enforcement of IPR.
- **Dispute settlement:** The agreement makes disputes between WTO members in respect of TRIPs obligations subject to the WTO's dispute settlement procedures.



## o The basic principles of TRIPs are:

- It makes it compulsory for the member countries to provide patents for products and processes in all fields of technology, subject to the tests of novelty, inventiveness and industrial use.
- It mandates patenting of 'micro-organisms', microbiological and non-biological processes.
- The members are allowed to make only limited exclusions from patentability.
- It also gives option to the states for protecting new plant varieties through patents or through the effective *sui generis* system.
- It ensures that the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation for the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare.



# REFERENCE

## S

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