

INTELLECTUAL PROPERTY RIGHT (IPR)

“Know Your Rights”

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Overview

- ❖ Historical Background
- ❖ Meaning
- ❖ Forms of IPR
 - Primary Right
 - Sui Generis Right



WIPO



- ❖ WIPO (World Intellectual Property Organization) was established by the WIPO Convention in 1967
- ❖ The WIPO is a **specialized agency** of the United Nations.
- ❖ It **promote the protection** of IP throughout the world.
- ❖ Its headquarters are in **Geneva, Switzerland**

History of IPR In India

- Act of Protection of Invention- 1856
- Patents and Design Protection Act- 1872
- Indian Patent Act- 1970
- Indian Patent Act goes under amendments in 2002, 2005 and finally last in 2006- Patent rule (May, 2006)
- Indian Patent and Design Act (1911)- protect the design.
- Indian Trade and Merchandise Act (25 Nov., 1959)- Amendment of Trademark Protection.
- Indian Copyright Act (1957)- Amended in 1999.

Types of Property

Immovable	Movable
❖ Fixed types of properties	❖ Can be shifted easily
❖ E.g. Land, Building, garden etc.	❖ E.g. Jewelry, furniture, animals, farm machines etc.
❖ Protected by land of law	❖ Protected by public law

What is "Intellectual Property"?

- ❖ **Intellectual Property (IP):** The product/ process/ idea like any creations of human mind which can be used on commercial scale for benefit of human kind.
- ❖ Like tangible property, their creation has a value and, as with all property, it needs to be protected.
- **Intellectual Property comprises 2 distinct forms:**
 - * Literary & Artistic Works
 - * Industrial Property

Main features of IP

- ❖ Measured in term of new idea, process, product, invention and innovation developed by a person.
- ❖ Require a lot of intellectual inputs.
- ❖ Requires considerable amount of funds and others resources to develop new products / process.
- ❖ Can be protected by IPR to minimize the loss of inventor.

What is meant by IPRs?



- ❖ Intellectual Property Rights (IPR) gives them this protection, as well as helping them exploit and control their IP.
- ❖ "The exclusive right granted by State, to prevent others from using, manufacturing, distributing - inventions, processes, applications, new and original designs, trademarks, new plant varieties, data bases and artistic and literary works".
- ❖ Such a person is known as 'rights owner' or 'rights holder'.

Forms of IPR

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graph TD; A[Forms of IPR] --> B[Primary Right]; A --> C[Sui Generis Right - Refers to things of their own kind or things with unique characteristics]; B --> B1[1. Copyrights]; B --> B2[2. Patents]; B --> B3[3. Trademarks]; B --> B4[4. Industrial Design Rights]; B --> B5[5. Utility Models]; B --> B6[6. Geographical Indication]; B --> B7[7. Trade Secret]; B --> B8[8. Related Rights]; B --> B9[9. Trade Name]; B --> B10[10. Domain Name]; C --> C1[1. Database Rights]; C --> C2[2. Mask Works]; C --> C3[3. Plant Breeders Right]; C --> C4[4. Farmers Right]; C --> C5[5. Moral Rights]; C --> C6[6. Supplementary Protection Certificate]; C --> C7[7. Indigenous Intellectual Property];
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Primary Right

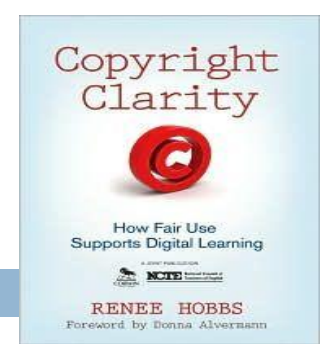
1. Copyrights
2. Patents
3. Trademarks
4. Industrial Design Rights
5. Utility Models
6. Geographical Indication
7. Trade Secret
8. Related Rights
9. Trade Name
10. Domain Name

Sui Generis Right-

Refers to things of their own kind or things with unique characteristics

1. Database Rights
2. Mask Works
3. Plant Breeders Right
4. Farmers Right
5. Moral Rights
6. Supplementary Protection Certificate
7. Indigenous Intellectual Property

Copyrights



Copyright refers to a document which grants legal right to an authors or creator to publish and sell literary or musical or any artistic work.

- Protection for a specific duration
- Applicable in all countries
- Copyright holder has the rights to authorize others to use the protected work
- Without written permission information can't be reproduced. However the information or idea can be used by any one.
- There is no requirement for *novelty or uniqueness* as there is in patent law.
- Copyright law protects the expression of an idea. Not the idea itself.

What is covered by copyright?

Literary



Films



Dramatic



Musical



Artistic



Sound Recording



What is not covered by copyright?

- Ideas
- Facts
- Recipes
- Works lacking originality (e.g. The phone book)
- Names, titles or short phrases



Patents

- A patent describes an invention for which the inventor claims the exclusive right.
- The first patent was granted on July 31, 1790 to **Samuel Hopkins** for a **method of producing potash (potassium carbonate)**.
- **Patents are granted for**
 - ✓ (1) An invention (including a product)
 - ✓ (2) Innovation/ improvement in an invention
 - ✓ (3) The process product of an invention and
 - ✓ (4) A concept



INVENTION PATENABLE IF.....

- ✓ Novelty
- ✓ Inventiveness (Not obvious)
- ✓ Industrial Application and Usefulness
- ✓ Patentability
- ✓ Disclosure

Limitations of patent

1. Limitations of time- 15-20 years from date of award
2. Limitations of space- Valid only in the country of its award

Types of Patents

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- **Utility Patent:** Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful E.g.: (functional) toys, coatings, tools, machines, good
- **Plant Patent:** Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated spores, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state.
- **Design Patent:** Whoever invents any new, original, and ornamental design for an article of manufacture may obtain a patent. E.g: (non-functional) a decoration, apparel, jewellery

Fees For Filing Patent

- The Government fee for filing a patent application in India is Rs.750/- for individuals and Rs.3,000/- for legal entities.
- No fee for 1st and 2nd year
- Renewal fee, on yearly basis, is required to be paid for 3rd to 20th for keeping the patent in force.
- Patent lapses if renewal fee is not paid within the prescribed period.

Patent Holders In INDIA

- The list of **top 10 patents** holders in India comprises only **pharmaceutical and bio-tech companies**.
- In India, **184** patents are held by the Council of Scientific and Industrial Research (CSIR), followed by 'Ranbaxy'
- While the top 10 patents holders across the world are IT companies, in India, no IT firm has patents.


Youngest Patent-holder on wheelchair



- ❖ JAIPUR: Drawing inspiration from scientist Stephen Hawking, a wheelchair-bound nine-year-old boy here has invented a game of six-player circular chess. The boy, **Hridayeshwar Singh Bhati** has got the game's design patented in his name.

What Does a Patent look Like?

Headquarter of Indian
Patent Office is at
KOLKATA




**Certificate
of Grant
of Patent**


COPY

Patent Number: GB2399473
Proprietor(s): Nicholas P Le Feuvre
Inventor(s): Nicholas P Le Feuvre

This is to Certify that, in accordance with the Patents Act 1977,
a Patent has been granted to the proprietor(s) for an invention entitled
"**Loudspeaker with low distortion precise imaging and deep bass**"
disclosed in an application filed **8 March 2004**.

Dated 19 October 2005




Ron Marchant
Comptroller General of Patents,
Designs and Trade Marks
UNITED KINGDOM PATENT OFFICE

The attention of the proprietor(s) is drawn to the important notes overleaf.

Trademarks

□ **Trademark:**

➤ A symbol, logo, word, sound, color, design, or other device that is used to identify a business or a product in commerce.

➤ **Different Symbols are :**

TM Intent to use application filed for product

SM Intent to use application filed for services

® Registered trademark

➤ **Valid** for 10 years from the date of application which may be renewed for further period of 10 years.

Trade Marks



Name

Logotype

Symbol

Slogan

Shape

Color



Trademarks & Service Marks

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Trade Secrets

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- A trade secret consists of
 - ▣ a formula, device, idea, process, pattern, or compilation of information that gives the owner a competitive advantage in the market place,
 - ▣ a novel idea that is not common knowledge and is kept in a confidential state.
- A trade secret is **not protected** by federal law and can only be protected through employment contracts and/or maintaining tight security
- Recipes, ingredients, codes, manufacturing costs. E.g.-
Formulation of Coca-Cola
- Not applicable to books, equipments, plant varieties, design which are openly used

GEOGRAPHICAL INDICATIONS



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- Geographical indication is an indication originating from a definite geographical territory and used to identify agricultural, natural or manufactured goods.
- The manufactured goods should be produced or processed or prepared in that territory. It should have a special quality or reputation or other characteristics. (e.g. Gadwal / Pochampalli/ Kanchipuram silk sarees, Banarasi sarees, Nirmal paintings, Banginapalli /Alphonso Mango, **Darjeeling Tea**, Kolhapuri Chappal, Solapur Chaddar, Tirupati Laddu, Nagpur Orange, Bikaneri bhujia).
- GIs when registered confers legal protection in India through the Geographical Indications of Goods (Registration & Protection) Act of 1999, prevents unauthorised use of registered GI.



Sui-Generic Right in brief.....

Types of Sui generic right	Definition or brief description
1. Database Rights	A 'database right' is an IPR given to computer database
2. Mask Works	It is a two or three dimensional layout of an integrated circuit (IC or chip)
3. Plant Breeders Right	Right granted to breeder of a new variety of plant.
4. Farmers Right	The legal rights provide to farmers to save, use, sow, replant, exchange, share or sell his farm products.
5. Moral Rights	It is a special extension to copyright that give the originator of a copyrighted work rights over its use.
6. Supplementary Protection Certificate	It is patent like IPR that is available for medicinal and plant protection products.
7. Indigenous Intellectual Property	The knowledge, innovation and practices of indigenous people and local communities.

Plant Breeder Right

- **Plant breeders' rights** (PBR), also known as **plant variety rights** (PVR), are rights granted to the breeder of a new variety of plant that give the breeder exclusive control over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (cut flowers, fruit, foliage) of a new variety for a number of years.
- In order to qualify for these exclusive rights, a variety must be **novel, distinct, uniform and stable**.
- The breeder must also give the variety an acceptable "denomination", which becomes its generic name and must be used by anyone who markets the variety.
- Typically, plant variety rights are granted by national offices, after examination. Seed is submitted to the plant variety office, who grow it for one or more seasons, to check that it is distinct, stable, and uniform.

- If these tests are passed, exclusive rights are granted for a specified period (**typically 20/25 years (or 25/30 years, for trees and vines)**). Annual renewal fees are required to maintain the rights.
- There is also a **breeders' exemption** (research exemption in the 1991 Act) that allows breeders to use protected varieties as sources of initial variation to create new varieties of plants (1978 Act), or for other experimental purposes (1991 Act).
- PBR system generally allow farmers to use the materials of a protected variety on their farm for planting- **Farmer's Privilege**
- Farmers may store the production in their own bins for their own use as seed, but this does not necessarily extend to brown-bag sales of seed.

Farmers' Rights (Sec 39)

- The legal rights provide to farmers to save, use, sow, replant, exchange, share or sell his farm produce including seeds of a variety protected under Plant Variety Protection Act refer to Farmers Right.
- Has the same privilege with respect to a breeder of a variety
- A farmers' variety shall be entitled for registration if a declaration has been made that the initial variety has been lawfully obtained
- The farmer as such **cannot sell branded seeds** of a protected variety
- A farmer **can claim damages** if the seed of the protected variety does not give the yield as stated by the breeder.



Protection of Plant Varieties and Farmer's Right Act (PPVFR), 2001

World Trade Organization (WTO)- 1995

Any Questions.....

