

INTRODUCTION TO INTELLECTUAL PROPERTY RIGHTS



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History of IPR

- IPR initially started in North Italy during the Renaissance era.
- In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. The copyright dates back to 1440 A.D.
- when Johannes Gutenberg invented the printing press with replaceable/moveable wooden or metal letters.
- Late in the 19th century, a number of countries felt the necessity of laying down laws regulating IPR. Globally, two conventions constituting the basis for IPR system worldwide had been signed;
- Paris Convention for the Protection of Industrial Property (1883) Berne Convention for the Protection of Literary and Artistic Works (1886).

World Intellectual Property Day

April 26

World Intellectual Property Day 2012 *Visionary Innovators*

Your favorite visionary innovators



Bob Dylan



Leonardo da Vinci



Johannes Gutenberg



Jacques-Yves Cousteau



Larry Page and Sergey Brin

Source: Number of «likes» on World IP Day Facebook Page

How many countries reported events?



About World IP Day

IP Day offers an exciting chance each year to join with others around the globe, to highlight, discuss and demonstrate how the IP system contributes to the flourishing of music and the arts and to driving the technological innovation that helps shape our world.

April 26

WIPO's birthday (1970)
World IP Day since 2000

www.wipo.int/ipday

What is Intellectual Property?

- Intellectual property is an intangible creation of the human mind, usually expressed or translated into a tangible form that is assigned certain rights of property. Examples of intellectual property include an author's copyright on a book or article, a distinctive logo design representing a soft drink company and its products, unique design elements of a web site, or a patent on the process to manufacture chewing gum.

Intellectual Property Rights



patent



copyright

trademark



Intellectual
Property

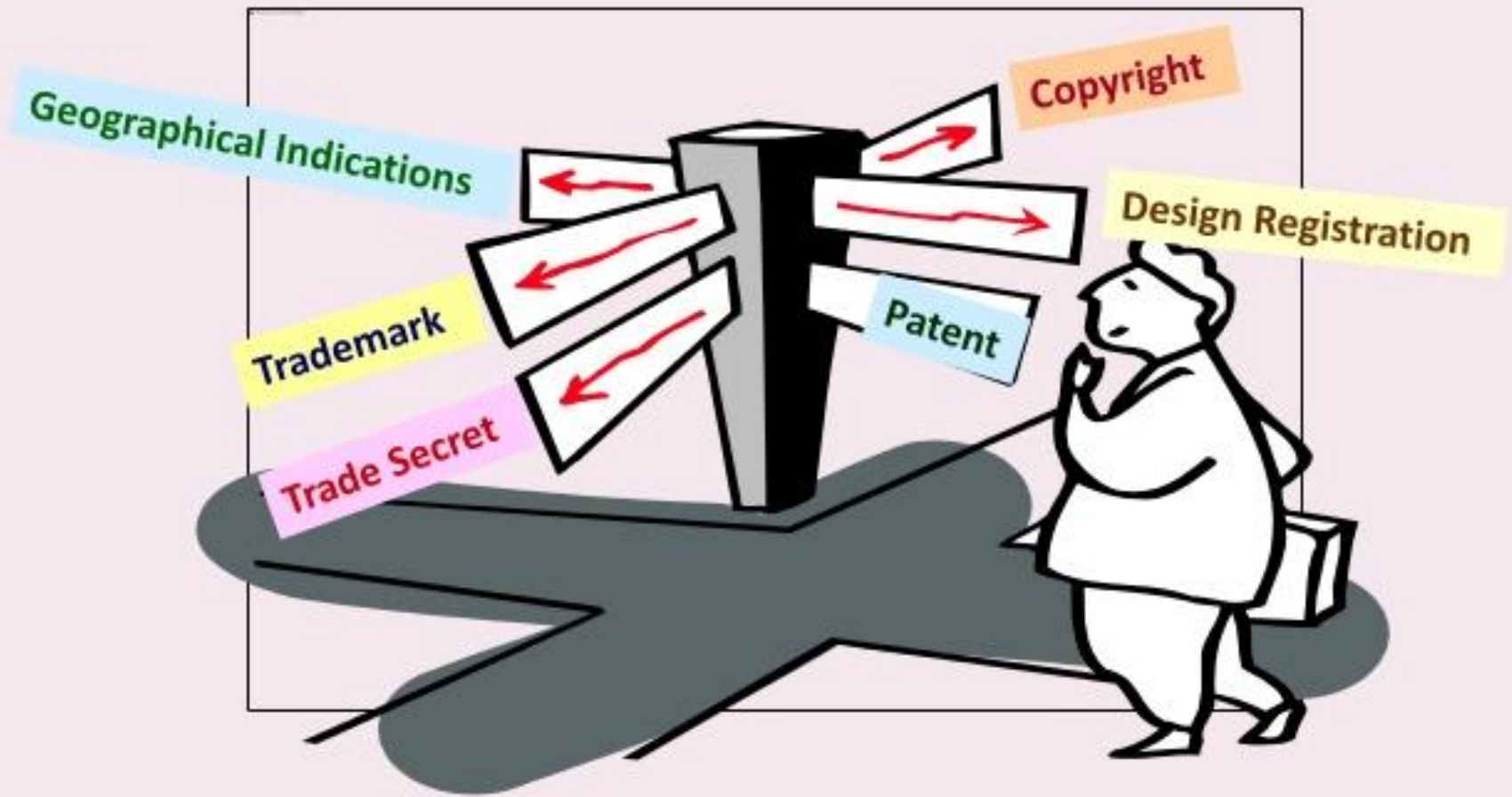


trade
secret

design
protection



I have an innovation How do I protect it in the market ???



Types of IPRs

Intellectual Property



Industrial Property

Copyrights and related rights

Industrial Designs

Patents

Trademarks
Service marks

Trade Secrets

Geographical Indications

Layout Designs of
Semi Conductor ICs

Plant varieties &
Farmer's rights

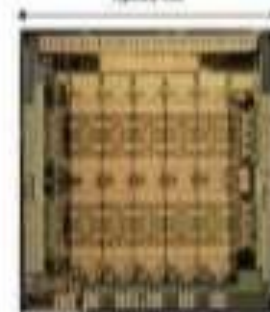


Coca-Cola




i'm lovin' it[®]


TM
orange[™]



Patents

Definition:

- A patent describes an invention for which the inventor claims the exclusive right.



INVENTION PATENABLE IF.....

- ✓NEW (Novel)
- ✓USEFUL
- ✓NOT OBVIOUS
- ✓PERTAINS TO PATENTABLE SUBJECT MATTER

Patentable Subject Matter

Invention

- Relates To A Process Or Product Or Both
- Involves An Inventive Step
- Be Capable Of Industrial Application
- A Machine

Life & Duration

- Term of the patent is 20 years from the date of filing for all types of inventions.
- Priority date- first to file
- The date of patent is the date of filing the application for patent.
- The term of the patent is counted from this date.

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.

Is A Patent Granted In One Country Enforceable In Other Countries?

- No, there is nothing like a global patent or a world patent. Patent rights are essentially territorial in nature
- Granting a patent in one country of the Union does not force other countries to grant the patent for the same invention.
- The refusal of the patent in one country does not mean that it will be terminated in all the countries

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, 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?



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.

Trademark

1. It is covered under the Act called the Trade Marks Act, 1999.
2. The Act came into effect on September 15, 2003. It replaced the Trade and Merchandise Marks Act, 1958.
3. It extends to the whole of India.
4. It shall come into force on such date as the Central Government may publish, by notification in the Official Gazette

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

Registration Procedure

- Application for search.
- Application for registration.
- Examination of trademark.
- Advertisement of trademark.
- Filing of opposition.
- Certificate issued.

DURATION & FEES OF TRADEMARK

- Trademark is ***valid*** for 10 years from the date of application which may be renewed for further period of 10 years on payment of prescribed fees.
- Service mark Rights are reserved exclusively for owners for 17 year & it can also be renewed.
- The Govt. fees is Rs. 2,500 for each class of goods or services.

Applicability Of Trademark

- A trademark is a sign **Used on**, or in connection with the marketing of goods or services.
- “**Used on**” the goods means that it may appear not only on the goods themselves but on the **container or wrapper** in which the goods are when they are sold.

Correct use:

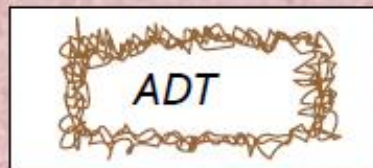
Raymond Textile is India's leading producer of worsted suiting fabric with over 60% market share.

'Raymond Textile' is India's leading producer of worsted suiting fabric with over 60% market share.

Correct use:



Incorrect use:



Trademarks



Name



Logotype



Symbol



Slogan



Shape



Color



TYPES OF TRADEMARK

• PRODUCT TRADEMARKS

- EG: VAIO, MAGGIE, ETC

• SERVICE TRADEMARKS

- EG: AXIS BANK, DHL EXPRESS, ETC

• CERTIFICATION TRADEMARKS

- EG: CE, AGMARG, WOOLMARK, ISI, ETC

• COLLECTIVE TRADEMARKS

- EG: DOCTORS, CA, KHADI CRAFT, FIFA, NB

• UNRELATED TRADEMARKS

- EG: APPLE, BLACKBERRY, PAPERBOAT)

• WELL KNOWN TRADEMARKS

- E: PEPSI, SAMSUNG



CE



FIFA
For the Game. For the World.

TRADEMARKS: CANNOT BE REGISTERED

- NOT DISTINGUISHABLE
- CUSTOMARY IN THE CURRENT LANGUAGE
- DECEIVING OR TO CAUSE CONFUSION
- RELIGIOUS SENTIMENTS
- SCANDALOUS OR OBSCENE MATTER
- EMBLEMS AND NAMES
- LACKS EVERYTHING AND ONLY DIFFERENTIATING FACTOR BEING SHAPE
- ELEMENT NAME
- GENERIC TERM



FEW COMMON WORDS YOU USE ON A DAILY BASIS THAT ARE TRADEMARKED

VASELINE (UNILEVER)

GENERIC NAME: PETROLEUM JELLY

XEROX (XEROX CORP)

GENERIC NAME: PHOTOCOPY

BUBBLE WRAP (SEALED AIR CORPORATION)

GENERIC NAME: INFLATED CUSHIONING

BAND AID (JOHNSON & JOHNSON)

GENERIC NAME: ADHESIVE BANDAGE

KEROSENE (ABRAHAM GESNER)

COMBUSTIBLE HYDROCARBON LIQUID

ESCALATOR (OTIS)

MOVING STAIRCASE



WHAT CAN BE PROTECTED THROUGH A TRADEMARK ?

➤ WORD

- ADOBE SYSTEMS
- KAWASAKI JETSKI



➤ SLOGAN-

- 'JUST DO IT'
- 'I'M LOVIN' IT'



➤ NAME

- FORD
- AXE



➤ SYMBOL/IMAGE/GRAPHIC/DESIGN

- LOGO – NIKE SWOOSH LOGO, GOOGLE, KFC, SAMSUNG, UNILEVER



➤ **DEVICE**

• SHAPE

- MICKEY MOUSE EARS



• FLAVOUR

- MC DONALD'S



• COLOUR

- CANARY YELLOW POST ITS
- CADBURYS PURPLE
- BARBIE PIN

Barbie[™]



• DOMAIN NAME

- AMAZON.COM
- PEPPERFRY.COM

amazon.com[™]
and you're done.[™]

INDUSTRIAL DESIGN

- THE DESIGNS ACT, 1911
- DESIGNS ACT, 2000 AND THE DESIGNS RULES, 2001
- CREATIVE ACTIVITY
- VISUAL APPEARANCE OF A PRODUCT
- 2D OR 3D OR BOTH
- MADE BY AN INDUSTRIAL PROCESS



THE DESIGN ACT 2000

➤ TO PROTECT THE DESIGN FUNCTION IN INDUSTRY

PRODUCTION

➤ PROMOTES INNOVATION

➤ DESIGN RIGHTS ARE GRANTED ON A COUNTRY-BY-

COUNTRY BASIS

➤ "FIRST TO FILE" SYSTEM

CLASSIFICATION OF DESIGN

- LOCARNO CLASSIFICATION

- BASED ON THE FUNCTION OF THE GOODS

- CLASSES DIVIDED INTO FURTHER SUBCLASSES

- EG. CLASS 03

Sub Class 03-01: Trunks, Suitcases, Briefcases



Sub Class 03-03: Sunshades, Walking Sticks ..



Sub Class 03—04: Fans



WHERE TO FILE FOR INDUSTRIAL DESIGN ?

- HEAD OFFICE AT KOLKATA
- BRANCH OFFICES AT DELHI, MUMBAI AND CHENNAI

WHAT CAN BE REGISTERED ?

- ORIGINAL DESIGN
- DESIGN WHICH IS NOT NEW AS SUCH BUT ORIGINAL AND NEW IN APPLICATION
- NOT REGISTERED IN ANY OTHER COUNTRY

WHAT CANNOT BE REGISTERED ?

- COPIED DESIGN
- SIMILAR TO A DESIGN WHICH ALREADY EXIST
- MANUFACTURING PROCESS
- IDEAS
- OBSCENE MATTER
- FUNCTIONAL FEATURES OF AN ARTICLE

WHO CAN APPLY ?

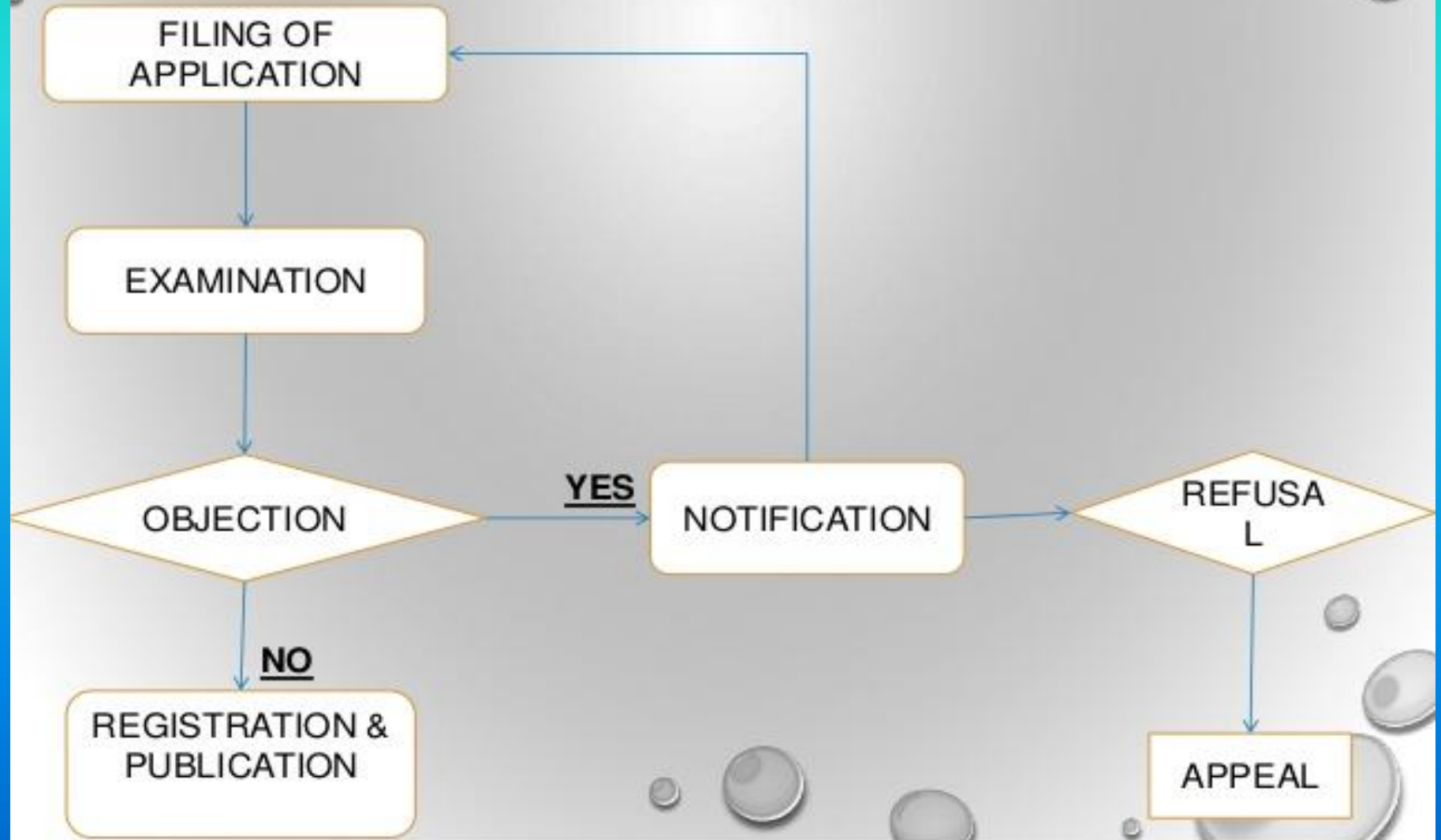
- ANY PERSON , ASSIGNEE ,LEGAL REPRESENTATIVE OF PROPRIETOR

- PROPRIETOR OF THE DESIGN
 - USUALLY WHO HAS CREATED THE DESIGN
 - 2 OR MORE PEOPLE WORKED TOGETHER TO CREATE
 - NOT HIRED UNDER CONTRACT
 - NOT AN EMPLOYEE WHO CREATED A DESIGN AS PART OF EMPLOYMENT

STEPS FOR REGISTRATION

- FINDING OUT WHETHER THE DESIGN ALREADY EXISTS
- PREPARING A REPRESENTATION OF THE DESIGN
- IDENTIFYING THE CLASS OF DESIGN
- PROVIDING A STATEMENT OF NOVELTY
- INCLUDING A DISCLAIMER
- DETERMINING THE FEE TO BE PAID
- ENSURING ALL ENCLOSURES ARE ATTACHED
- PROVIDING FULL DETAILS

PROCEDURE FOR DESIGN FILLING



Copyright

- The **Indian Copyright Act, 1957** governs the system of copyrights in India.
[Amended in 1982, 1984, 1992, 1994 & 1999]
- **Meaning** : It is a right which Grants protection to the unique expression of Ideas.

Original

- The term original in the copyright law means that the work *originated* with the author.
- 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



Registration Procedure



- Register a copyright by completing a simple application form, along with the appropriate fee
- Need not send a copy of your work,
- It may appear with the same title, but if each work has been created independently, each will have its own copyright protection.

Duration of Copyright



Copyright lasts for the-

- Author's lifetime + 50 years from the end of the calendar year in which the author dies,
- 50 years for films and sound recordings,
- 25 years for typographical arrangements of a published edition,
- Copyright protection always expires on December 31 of the last calendar year of protection.

What is “Fair Use”?

- Gives permission to use copyrighted materials if certain criteria are met
- Protects freedom of speech
- Promotes public benefits like education.



How much can I use?

- Photos and images - up to 5 works from one author; up to 10% or 15 works, whichever is less, from a collection
- Database information - up to 10% or 2500 fields or cell entries, whichever is less

THANK YOU

