

# UNIT IV

## PROTECTING THE INTELLECTUAL PROPERTY

- Introduction to intellectual property
- Types of IP
- Patents
- Trademarks
- Copyright and related rights
- Industrial design
- Traditional knowledge
- Geographical indications
- Protection of new GMOs

# INTRODUCTION

- A Right that is had by a person or by a company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition, at least for a specific period of time.
- “It is a term referring to a number of distinct types of creations of the mind for which property rights are recognized.”
- **Intellectual property (IP) refers to the legal rights that protect the creations of the mind, such as inventions, literary and artistic works, and symbols, names, and logos used in commerce. IP rights are granted by governments and can be enforced through the legal system.**

# TYPES OF IP



PATENTS



TRADEMARK



COPYRIGHTS



TRADESECRETS



INDUSTRIAL  
DESIGN

# PATENTS

- A patent is a legal right granted to an inventor or assignee for a limited period of time, typically 20 years from the date of filing, in exchange for publicly disclosing the invention.
- Patents are a type of intellectual property (IP) that provides exclusive rights to make, use, and sell an invention or innovation.
- The patent system is designed to encourage innovation by protecting the intellectual property rights of inventors and creators, while also promoting the development and dissemination of new technologies and products.



# OBJECTIVES OF PATENT

- To provide protection of creativity of creators.
- To promote the creativity of new creators.
- To accelerate the technological and industrial development of the countries.
- To provide the exclusive right to invention and affords protection against unauthorized use of invention by third parties.
- Understand the meaning of specifications.
- To encourage inventions by promoting their protection and utilization

# PATENTABLE INVENTIONS

- Any artistic creation.
- Mathematical methods.
- Business schemes.
- Anything against universal law.
- Inventions injurious to public health.
- Discovery of scientific principles or the formulation of an abstract theory.
- Substance obtained by a mere admixture of properties of the components.
- A method of agriculture or horticulture.
- Any process for the medicinal, surgical, curative, prophylactic or other treatment of human beings and animals and plants to render them free of diseases.

# TYPES OF PATENT

- Utility patents: Cover new and useful processes, machines, compositions of matter, or improvements to these.
- Design patents: Cover new, original, and ornamental designs for manufactured articles.
- Plant patents: Cover new and distinct plant varieties that are asexually reproduced.
- Reissue patents: Correct errors in existing utility, design, or plant patents.
- Continuation patents: Claim priority to a previously filed patent application.
- Divisional patents: Require separate filing for an invention that can be divided.

# ROLE OF PATENTS

## Protecting Intellectual Property:

Patents provide a legal framework for protecting intellectual property rights, allowing inventors to prevent others from making, using, or selling their inventions without permission.

## Encouraging Innovation:

By providing a financial incentive and a sense of security, patents encourage inventors to continue innovating and developing new technologies and products.

## Promoting Competition:

Patents promote competition by allowing multiple companies to develop and market different products or services based on the same underlying technology.



- Fostering Collaboration

Patents facilitate collaboration between companies and research institutions by providing a framework for licensing agreements and technology transfers.

## Driving Economic Growth

Patents contribute to economic growth by creating new industries, jobs, and revenue streams.



# TRADEMARKS

- Trademark is a brand or logo which represents your business.
- A visual symbol like **a word signature, name, device, label, numerals or combination of colours used by owner of the trademark for goods or services** or other articles of commerce to distinguish it from other similar goods or services originating from different businesses.
- A trademark can be a word, symbol, logo, brand name, wrapper, packaging labels etc. used by manufacturers to identify their own products. It is used to distinguish the owners' products or services from those of its competitors.

**EXAMPLE-** coca cola and Pepsi are two trademarks from same industry (beverages) which distinctly identifies source or origin of the goods as well as an indication of quality.



- Any person which can be individual, company, or legal entity claiming to be owner of the trademark can apply.
- The application for trademark can be filed within few days and you can start using “TM” symbol. And the time required for trademark registry to complete formalities is 8 to 24 months.
- You may use the ® (Registered symbol) next to your trademark once your trademark is registered and registration certificate is issued. Once registered a trademark is valid for 10 years from the date of filing, which can be renewed time to time.

# FUNCTIONS

- It identifies the service or product and its source
- It guarantees its quality
- Advertisement of service of product

# TYPES

- A name (including personal or surname of the applicant or predecessor in business or the signature of the person)
  - alphanumeric or Letters or numerals or any combination thereof.
- Image, symbol, monograms, letters etc.
  - Sound marks in audio format

# IN INDIA ....

- Trademarks in India are registered by the Controller General of Patents Designs and Trademarks, Ministry of Commerce and Industry, Government of India.
- Trademarks are registered under the Trademark Act, 1999 and provide the trademark owner the right to sue for damages when infringements of trademarks occur.

# COPYRIGHT

- It is a legal term used to describe the rights that creators have over their literary and artistic works
- As a creator has right to enjoy financial and other benefits associated as per the law over the creation.



# COPYRIGHT USE TO PROTECT

- Literary work – novels, poems, plays, reference works, newspaper, articles.
- Computer programs.
- Films, musical composition, choreography.
- Artistic works – paintings, drawing, photographs and sculpture.
- Architecture.
- Advertisements, maps and technical drawing

# IT PROTECTS...

- It protects the right of the author.
- (Creator of intellectual property)
- He/she also called the first owner of copyright.
- In case of employment – employer is the first owner of these rights.

# Copyright V/S Trademark V/S Patent

| Copyright                                                                                                                                              | Trademark                                                                                                              | Patent                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Automatically granted to the author of their original, creative or intellectual work.                                                                  | Brand element – distinguishes your goods and services from those of your competitors and other traders.                | Obtaining protection for new inventions that are new, original and useful.                |
| <b>Work:</b> Books, lectures, dramatic and musical work, cinematography, drawings, paintings, architecture, sculpture, photographs, maps, plans etc... | <b>Mark:</b> Word mark, logo or slogan, shapes and unconventional marks (Color, Sound, Gesture, Animation, Holograms). | <b>Work:</b> Novel or original has an inventive step and has some industrial application. |

| Copyright                                                                                                                                           | Trademark                                                                                                                                                     | Patent                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <b>Right:</b> To distribute copies or phonorecords of the work to the public by sale or other transfer of ownership or by rental, lease or lending. | <b>Right:</b> To use the mark and prevent anyone from using it without permission. Right to license, assign and sell the mark in return of some compensation. | <b>Right:</b> Exclusive authority over the patented invention, right to exclude others and exploit the patent and earn from it. |
| Registration is not mandatory.                                                                                                                      | Applied separately in every country.                                                                                                                          | Separate patent required to be filled.                                                                                          |
| <b>Validity:</b> Lifetime of the author and 60 years after author death. Owner has protection in most countries.                                    | <b>Validity:</b> 10 years. Renewed every 10 years.                                                                                                            | <b>Validity:</b> 20 years later goes to public domain. It is territorial right – effective only within the territory.           |

# INDUSTRIAL DESIGN

- Industrial design is that aspect of a useful article which is ornamental or aesthetic.
- It may consist of 3-dimensional features such as shape or surface of the article, or 2-dimensional features such as patterns, lines or color.
- Industrial designs are applied to a wide variety of products of industry or handicraft; from watches, jewellery, fashion and other luxury items, to industrial and medical implements; from house ware, furniture and electrical appliances to vehicle and architectural structures; from practical goods and textile designs to leisure items, such as toys and pet accessories. Eg:- Shapes or forms of chairs, telephones, cars, computers, TV, watches, camera etc,.

- India, designs of any product are protected by 2 legal rights;
- 1. Registered designs
- 2. Artistic copyright
- Registered designs is a monopoly for a design (for eg a tread pattern) when applied to an Article (for eg a tyre) and is granted under the laws of a country the Registered designs is filed in. it protects the way a product looks.
- Artistic copyright is a right subsists in a number of different kinds of works such as literary, dramatic, musical or artistic works, sound recording and cinematograph films.

# LAW OF INDUSTRIAL DESIGNS

- Industrial design regime is governed by the Designs Act, 2000 in India (came into force on 11-05-2001), the design Rules, 2001 and the Designs (Amendment) Rules, 2008.
- The duration of the registration of a design is initially 10 years from the date of registration. This period may be extended for a period 5 years, on an application made to the Controller before the expiry of the said ten years.

# TRADITIONAL KNOWLEDGE

Traditional knowledge is knowledge that derives from, or is rooted in the traditional way of life of aboriginal people.

It is the accumulated knowledge and understanding of the human place in relation to the universe.

It refers to the knowledge, innovations and practices of indigenous and local communities around the world.

- Developed from experience gained over the centuries and adapted to the local culture and environment.
- Traditional knowledge is transmitted orally from generation to generation.



# TRADITIONAL ECOLOGICAL KNOWLEDGE

- It is the environmental knowledge that has been gathered by aboriginal peoples who have lived in and observed a particular area for generations.
- They are the systems of experiential knowledge gained by continual observation and transmitted among members of a community

# Traditional environmental knowledge

- It is a body of knowledge and beliefs transmitted through oral traditions and first hand observation.
- The quantity and quality of TEK varies among community members, depending upon gender, age, social status, intellectual capability and profession.
- The use of the word “traditional” in these definitions is often seen as problematic

# INDIGENOUS KNOWLEDGE

- It includes facts, concepts, theories about the characteristics which describe the objects, events, behaviours and interconnections that comprise both the animate and inanimate environments of Indigenous peoples.
- Even though Indigenous knowledge is not quantitative in nature, it does not mean that it is not precise.

# GEOGRAPHICAL INDICATIONS

- A geographical indication (GI) is a name or sign used on certain products which corresponds to a specific geographical location or origin (e.g. a town, region, or country)
- Examples: Basmati rice, Swiss watches etc

# TYPES OF GI

- Protected designations of origin (PDO):
- Characteristics resulting solely from the terrain and abilities of producers in the region of production with which they are associated. (require all stages of the food production process to be carried out in the area concerned) “Huile d’olive de Nyons” and “Shetland lamb”

## Protected geographic indications (PGI):

- Characteristic or reputation associating them with a given area, and at least one stage in the production process must be carried out in that area, while the raw materials used in production may come from another region • “Arancia Rossa di Sicilia”

## **Why GI is to be protected ?**

- Denote quality and origin of products
- • Good reputation for the product
- • Preventing the product from generic products
- • Protecting the domestic market from competitors

## **Advantages of GI**

- Legal protection and preventing from unauthorized use
- Benefits for farmers and local producers
  - Boost the rural development
- Reduces unfair practices of trade • Preserving local culture and resources
  - Provides complete information to consumers

# Protection of new GMOS

- Intellectual property rights (IPRs) protect genetically modified organisms (GMOs) by granting the original researcher or company exclusive rights to use them.
- These rights can be in the form of patents, copyrights, trade secrets, breeder's rights, or geographical indications.

- To be eligible for a patent, a GM crop must meet the following criteria:
- Novelty: The crop must have a new genetic composition
- Non-obviousness: The crop must not be an obvious development for those with expertise in the field
- Utility: The crop must have a practical application



- IPRs for GM crops balance the need to encourage scientific advancement with the potential for agricultural resources to be monopolized.
- India has its own laws for regulating GM technologies and crops, including the Protection of Plant Varieties and Farmers' Rights Act (PPV&FR Act) of 2001. The PPV&FR Act protects specific varieties of plants by awarding them to commercial growers, breeders, and seed companies.

# IPR IN INDIA

- Patents Act, 1970: Amended in 2005
  - Trade Marks Act, 1999: Along with allied rules
  - Copyright Act, 1957
  - Designs Act, 2000: Along with rules, 2001
  - Geographical Indications of Goods (Registration and Protection) Act, 1999
  - Protection of Plant Varieties and Farmers' Rights Act, 2001: Along with rules and regulations
  - Semiconductor Integrated Circuits Layout-Design Act, 2000: Along with rules, 2001
  - Information Technology Act, 2000
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- These acts provide legal protection and remedies to owners of IPRs against infringement, misuse, or theft.
  - The Intellectual Property Act of 2014 was introduced to modernize the law and encourage innovation and economic growth.