

## **Module 5**

### **Syllabus**

**Industrial Designs:** Eligibility Criteria. Acts and Laws to Govern Industrial Designs. Design Rights. Enforcement of Design Rights. Non-Protectable Industrial Designs India. Protection Term. Procedure for Registration of Industrial Designs: Prior Art Search. Application for Registration. Duration of the Registration of a Design. Importance of Design Registration. Cancellation of the Registered Design. Application Forms. Classification of Industrial Designs. Designs Registration Trend in India. International Treaties. Famous Case Law: Apple Inc. vs. Samsung Electronics Co.

**Geographical Indications:** Acts, Laws and Rules Pertaining to GI. Ownership of GI. Rights Granted to the Holders. Registered GI in India. Identification of Registered GI. Classes of GI. Non- Registerable GI. Protection of GI. Collective or Certification Marks. Enforcement of GI Rights. Procedure for GI Registration Documents Required for GI Registration. GI Ecosystem in India.

**Case Studies on Patents.** Case study of Curcuma (Turmeric) Patent, Case study of Neem Patent, Case study of Basmati patent. **IP Organizations In India. Schemes and Programmes**

## **5.1 INDUSTRIAL DESIGNS**

**Definition:** It is defined as the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article.

The Design may be of any dimension i.e. one or two or three dimensional or a combination of these. In addition, it may be created by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and is judged solely by the eye.

### **5.1.1 ELIGIBILITY CRITERIA**

- The Design for which the protection is being sought must be **novel or original** i.e., should not be disclosed to the public by prior publication or by prior use or in any other way.
- The Design should be **significantly distinguishable** from the already registered Designs existing in the public domain.

### **5.1.2 ACTS AND LAWS TO GOVERN INDUSTRIAL DESIGNS**

In India, Industrial Designs are governed under 'The Designs Act', 2000 (<http://www.ipindia.nic.in/acts-designs.htm>) and 'Design Rules', 2001 (<http://www.ipindia.nic.in/rules-designs.htm>), which have been amended from time to time in 2008, 2013, 2014 and 2019.

The Design should include the following characteristics:

- It should be novel and original.
- It should be applicable to a functional article.
- It should be visible on a finished article.
- There should be no prior publication or disclosure of the Design.

Some of the famous Industrial Designs are mentioned below:

- **Coca-Cola Bottle** - The contoured-shaped glass bottle of the Coca-Cola Company is marvelled as a master showpiece in the field of industrial design. It was designed in 1915.
- **Piaggio Vespa** - Piaggio is an Italian company famous for manufacturing Vespa scooters. These scooters are sold worldwide since 1940s. The structural design of the scooter is pleasing to the eyes. This two-wheeler has a painted steel body concealing the engine, driver's feet rest comfortably on a flat floorboard, the front vertical portion comprising of a handle, breaks and speedometer has ample space for hands' grip and also provides protection from incoming wind air.
- **iPhone** - It is a highly popular mobile phone manufactured by American company Apple Inc. The sleek, handy and rectangular body is pleasing to the eyes. The corners are round and smooth. The features, such as on/off and speech volume, are easy to

operate.

- **Mini Cooper** - Mini Cooper is an automobile car manufactured by the British Motor Corporation in the later part of the 20th century. It is a small size car. Its shape has been designed in a unique manner so as to provide plenty of space (nearly 80%) for passenger seating and luggage storage.
- **Rocking Wheel Chair** - It is a sleek, circular-shaped chair which provides smooth rocking motion. There is a provision for a headlight in the upper part of the chair.
- **Juicy Salif** - It is a citrus juice squeezer and considered an iconic structural design. The alumina-based body has been moulded in the shape of a fish called as a squid

### 5.1.3 DESIGN RIGHTS

- The design registration also confers a **monopolistic right** to the Proprietor by which he can legally exclude others *from reproducing, manufacturing, selling, or dealing* in the said registered design without his prior consent.
- The design registration is particularly useful for entities where the **shape of the product** has aesthetic value and the entity wishes to have exclusivity over the said novel and original design applied to its product(s) or article(s).

### 5.1.4 ENFORCEMENT OF DESIGN RIGHTS.

- Once the applicant has been conferred with the rights over a specific design, he has the right to sue the person (natural/entity) if the pirated products of his registered design are being used.
- He can file the infringement case in the court (not lower than District Court) in order to stop such exploitation and for claiming any damage to which the registered proprietor is legally entitled.
- The court will ensure first that the design of the said product is registered under the Designs Act, 2000.
- If the Design is found not registered under the Act, there will not be legal action against the infringer. If the infringer is found guilty of piracy or infringement, the court can ask him to pay the damage (₹ 50,000/-) in respect of infringement of one registered Design.

### 5.1.5 NON-PROTECTABLE INDUSTRIAL DESIGNS INDIA

- Any Industrial Design which is against public moral values.
- Industrial Designs including flags, emblems or signs of any country.
- Industrial Designs of integrated circuits.
- Any design describing the process of making of an article.

- Industrial Designs of – books, calendars, certificates, forms and other documents, dressmaking patterns, greeting cards, leaflets, maps and plan cards, postcards, stamps, medals.
- The artistic work defined under Section 2(c) of the Copyright Act, 1957 is not a subject matter for registration for Industrial Designs, such as:  
Paintings, sculptures, drawings including a diagram, map, chart or plan. Photographs and work of architecture. Any other work related to artistic craftsmanship.
- Industrial Designs does not include any Trademark (The Designs Act, 2000).

### **5.1.6 PROTECTION TERM.**

The outer Shape or Design of a product makes it more appealing and acts as the value- adding factor to the product. Therefore, there is a need to protect one's creation from being used by third parties without consent from the original creator. The registered Designs are protected for 10 years in India and can be extended by 5 years after making a renewal application.

### **5.1.7 PROCEDURE FOR REGISTRATION OF INDUSTRIAL DESIGNS**

#### **a) Prior Art Search**

Before filing an application for registration of Industrial Designs, it is prudent to ensure that the same or similar Design has not been registered earlier. This search can be carried out using various search engines, such as:

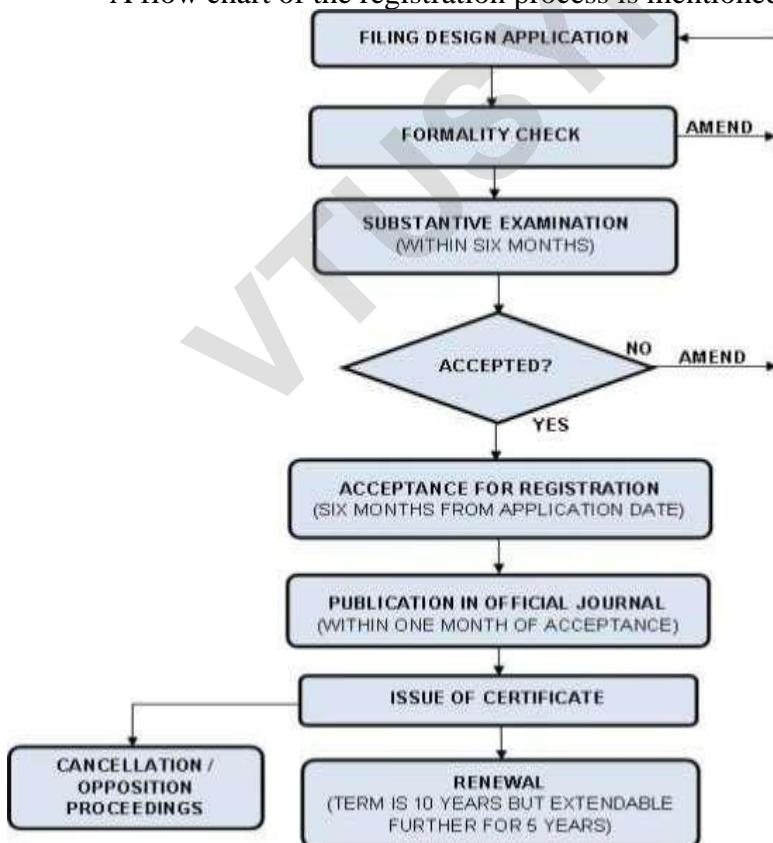
- Design Search Utility (CGPDTM) (<https://ipindiaservices.gov.in/designsearch/>).
- Global Design Database (WIPO) (<https://www3.wipo.int/designdb/en/index.jsp>).
- Hague Express Database (WIPO) (<https://www3.wipo.int/designdb/hague/en/#>).
- Design View (EUIPO) (<https://www.tmdn.org/tmdsviewweb/> welcome#/dsview).

#### **b) Application for Registration**

- Once the applicant is satisfied that his design is novel and significantly distinguishable from other designs, he can proceed with filing an application for design registration.
- The application for registration of design can be filed by an individual, small entity, institution, organization and industry.
- The application may be filed through a professional patent agent or legal practitioner. If the applicant is not a resident of India, an agent residing in India has to be employed for this purpose.
- The applicant submits the registration application at the design office deputy controller of Patents & Designs, Patent Office, Intellectual Property Office Building, CP-2 Sector

V, Salt Lake City, Kolkata- 700091.

- After the application has been filed, an officer (examiner) analyses the application for qualifying the minimum standards laid down for eligibility criteria for registration.
- In case of any query, the same is sent to the applicant and he is supposed to respond within 6 months from the objection raised. Once the objections are removed, the application is accepted for registration. The particulars of the application, along with the representation of the article, are published in the Official Journal of Patent Office (<http://www.ipindia.nic.in/journal-patents.htm>). If no objection is received from the public, the Design is registered.
- After the registration of the Design, the applicant becomes the proprietor of the Design and is conferred with the exclusive right to apply that Design to the article belonging to the class in which it is registered.
- The applicant puts up a request for issuance of a certificate of registration (for an Industrial Design).
- A flow chart of the registration process is mentioned below:



**Figure 5.1 : Flowchart for the process of Design**

registration.

#### **5.1.8 DURATION OF THE REGISTRATION OF A DESIGN**

- Initially, the Design registration is valid for ten years from the date of registration. In the case wherein the priority date has been claimed, the duration of the registration is counted from the priority date.
- The period of registration may be extended further for five years. An application has to be made in Form-3 accompanied by prescribed fees to the Controller General before the expiry of the said initial period of ten years

#### **5.1.9 IMPORTANCE OF DESIGN REGISTRATION**

- Registration of design ensures the exclusive rights of the applicant on the design. The owner can prevent the registered design products from piracy and imitation.
- This helps the owner to boost the sale of the products and establish goodwill in the market.

#### **5.1.10 CANCELLATION OF THE REGISTERED DESIGN**

The registration of a design may be cancelled at any time. The petition has to be filed in Form-8 with prescribed fee to the Controller of Designs.

The application can be made on the following grounds:

- Design has already been registered.
- Design has been published in India or elsewhere before the date of registration.
- Design is not novel and original.

It is not a design under Clause (d) of Section 2.

#### **5.1.11 APPLICATION FORMS**

There are a total of 24 forms pertaining to Industrial Designs. A list of important forms is mentioned below.

**Table 2.10: List of important form related to Industrial Designs.**

S. No	Name of the Form	Form No.	Fee (₹)		
			Natural Person	Small Entity	Large Entity
1.	Application for registration of Design.	Form-1	1,000	2,000	4,000
2.	Application for the Restoration of Design.	Form-4	1,000	2,000	4,000
3.	Application for renewal of Design.	Form-3	2,000	4,000	8,000
4.	Petition for cancellation for registration of a Design.	Form-8	1,500	3,000	6,000
5.	Notice of intended exhibition or publication of unregistered Design.	Form-9	500	1,000	2,000

6.	Application for entry of name of proprietor or part proprietor in the Register.	Form-11	500	1,000	2,000
7.	Request for correction of clerical error.	Form-14	500	1,000	2,000
8.	Request for certified copy.	Form-15	500	1,000	2,000
9.	Application for rectification of Register.	Form-17	500	1,000	2,000
10.	Notice of opposition.	Form-19	100	200	400

### 5.1.12 CLASSIFICATION OF INDUSTRIAL DESIGNS

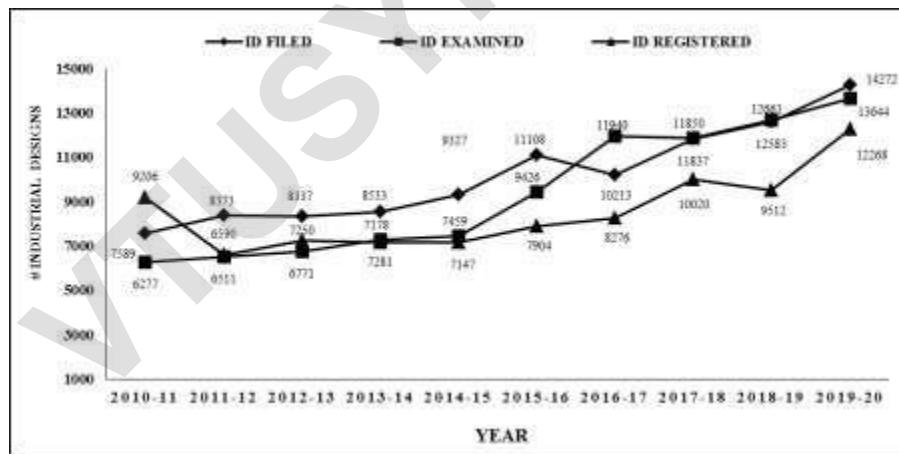
- Designs are registered in different classes as per the Locarno Agreement, 1968;[https://www.wipo.int/classifications/locarno/loc\\_pub/en/fr/](https://www.wipo.int/classifications/locarno/loc_pub/en/fr/).
- It is used to classify goods for the registration of Industrial Designs as well as for Designsearches.

The classification comprises a list of classes and subclasses with a list of goods that constitute Industrial Designs.

- There are 32 classes and 237 subclasses that can be searched in two languages i.e. English and French.
- For example, Class 1 includes foodstuff for human beings, foodstuffs for animals and dietetic foods excluding packages because they are classified under Class 9 (Bottles, Flasks, Pots, Carboys, Demijohns, and Pressurized Containers). Class 32 classifies the Design of graphic symbols and logos, surface patterns, ornamentation.

### 5.1.13 Designs Registration Trend in India

- Figure 2.11 represents the statistics for Industrial Designs (filed, examined and registered) for the period 2010-20. During this period, an increase of 88%, 117% and 33% was observed in the parameters of Designs filed, examined and registered, respectively.
- In all three parameters, the graph depicts a similar pattern (more or less) with the highest numbers observed in 2019-20 for Designs filed (12,268), examined (13,644) and registered (14,272).



**Figure 5.2: Industrial Designs profile (India) for the period 2010-20.**

### 5.1.14 INTERNATIONAL TREATIES

The WIPO has put in place two important treaties (international) dealing with the smooth functioning of various aspects of Industrial Designs:

#### Hague Agreement for international registration (1925)

(<https://www.wipo.int/treaties/en/registration/hague/>)

#### Locarno Agreement (1968) for international classification

(<https://www.wipo.int/treaties/en/classification/locarno/>)

### 5.1.15 FAMOUS CASE LAW

#### *Apple Inc. vs. Samsung Electronics Co.*

In 2011, Apple Inc. filed a case against Samsung Electronics Co. in the United States District Court for the Northern District of California for infringing their Designs and Utility Patents of the user interface like screen app grid and tap to zoom. As evidence, Apple Inc. submitted the side-by-side image comparison of the iPhone 3GS and the i9000 Galaxy S to demonstrate the alleged similarities in both models. However, later it was found that the images were tempered by the Apple Company to match the dimensions and features of the controversial Designs. So, the counsel for Samsung Electronics blamed Apple of submitting false and misleading evidence to the court and the company countersued the Apple Company in Seoul, South Korea; Tokyo, Japan; and Mannheim Germany, United States District Court for the District of Delaware, and with the United States International Trade Commission (ITC) in Washington D.C. The proceedings continued for the 7 years in various courts. In June 2018 both companies reached for a settlement and Samsung was ordered to pay \$539 million to Apple Inc. for infringing on its patents.

### **5.2 GEOGRAPHICAL INDICATIONS:**

- In every country, there are certain regions famous for their traditional knowledge/heritage in various sectors, such as agriculture, food products, textiles, etc.
- People from far-off places used to travel to buy these products. For example, Christopher Columbus sailed from Spain to import world-famous spices from India.
- British people travelled to Arabian countries to import Arabian horses for siring fast running horses for commercial gains.
- Similarly, China silk and Dhaka Muslin have been in great demand from times immemorial.
- The reputation of these products was built upon and painstakingly maintained by the experts/masters of respective geographical locations. The know-how of these reputed products was passed onto future generations. With the passage of time, a specific link between the goods produced and geographical location evolved, resulting in the growth of Geographical Indications (GI).

**Definition:** A GI is defined as a sign which can be used on products belonging to a particular geographical location/region and possesses qualities or a reputation associated with that region. In GI, there is a strong link between the product and its original place of production.

#### **5.2.1 ACTS, LAWS AND RULES PERTAINING TO GI.**

In India, GI was introduced in 2003 and is governed under the Geographical Indications of

Goods (Registration & Protection) Act, 1999 and the Geographical Indications of Goods (Registration & Protection) Rules, 2002.

### 5.2.2 OWNERSHIP OF GI

The ownership/holders of GI (registered) can be of the producers, as a group/association/cooperative society or association or in certain cases, government.

### 5.2.3 RIGHTS GRANTED TO THE HOLDERS

- **Right to grant the license to others** - The holder has the right to gift, sell, transfer/grant a license, mortgage or enter into any other arrangement for consideration regarding their product. A license or assignment must be given in written and registered with the Registrar of GI, for it to be valid and legitimate.
- **Right to sue** - The holder of GI has the right to use and take legal action against a person who uses the product without his consent.
- **Right to exploit** - The holder of GI can authorize users with exclusive right to use goods for which the GI is registered.

**Right to get reliefs** - Registered proprietors and authorized users have the right to obtain relief concerning the violation of such GI products.

### 5.2.4 REGISTERED GI IN INDIA

GI products registered in India belong to various domains, including handicrafts, agriculture, foodstuffs, alcoholic beverages, etc

Historical Context : The first GI tag was granted in 2004 to Darjeeling Tea, and the latest were Kashmir Saffron and Manipur Black Rice (Chakhao) in May 2020. Total GI Registrations : As of May 2020, a total of 370 GI have been registered in India. Distribution by Category:

- Handicrafts: 58%
- Agriculture: 30%
- Other categories: foodstuffs, manufacturing, natural goods, etc.

Regional Distribution in Handicrafts : In the Handicraft category, Tamil Nadu holds the maximum number (21) of GIs, followed by Uttar Pradesh (20) and Karnataka (19).

International countries, such as Thailand, France, Portugal, Italy, Mexico, Peru, and the United Kingdom, have also filed GI in India, e.g., Champagne (wine) of France and Scotch Whisky of the United Kingdom.

**Table 2.11: List of popular GIs registered in India.**

GI	Type	State
Darjeeling Tea	Agriculture	West Bengal
Mysore Silk	Handicraft	Karnataka
Kashmir Pashmina	Handicraft	Jammu & Kashmir
Banaras Brocades and Sarees	Handicraft	Uttar Pradesh
Naga Mircha	Agriculture	Nagaland
Tirupathi Laddu	Foodstuff	Andhra Pradesh
Phulkari	Handicraft	Punjab, Haryana, Rajasthan
Basmati	Agriculture	India

### 5.2.5 IDENTIFICATION OF REGISTERED GI

- Registered GI products are granted a tag, which is printed on the registered products. The tag confirms the genuineness of the product in terms of its production (by set standards) and location of production. Non-registered GI products cannot use/exploit this tag.
- GI tags represent the place of origin (of the product) along with cultural and/or historical identity e.g. Darjeeling Tea, Mysore Silk, Tirupathi Laddu, etc.
- In India, GI tags are issued by the **Geographical Indication Registry** under the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry.
- The head of GI registry is at Geographical Indications Registry Intellectual Property Office Building, Industrial Estate, G.S.T Road, Guindy, Chennai - 600032.
- GI registered products can be grown/produced in any part of the world using standards laid down by the GI Registry.
- However, these products cannot be labelled as GI as they are not produced/manufactured in a specific geographical location, as mentioned in the official records maintained by the GI Office of GI. For example, plants of Darjeeling Tea can be grown in any part of India. But the tea leaves of these plants cannot be sold under the brand name of Darjeeling Tea, as the concerned plants were not grown in the soil and climate of the Darjeeling area

### 5.2.6 CLASSES OF GI

- GI certified goods are classified under 34 different classes, such as :
- **Class 1** is for chemicals used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
- **Class 33** is for alcoholic beverages (except beers) and

- **Class 34** is related to tobacco, smokers' articles, matches.  
More details can be extracted from the official website of CGPDTM Office (<http://www.ipindia.nic.in/writereaddata/images/pdf/classificationof-goods.pdf>).

### 5.2.7 NON-REGISTERABLE GI

For GI registration, the indications must fall within the scope of section 2(1) (e) of GI Act, 1999. Being so, it has to also satisfy the provisions of Section 9, which prohibits registration of a GI mentioned below:

- The use of which would be likely to deceive or cause confusion.
- The use of which would be contrary to any law.
- Which comprises or contains scandalous or obscene matter.
- Which comprises or contains any matter likely to hurt the sentiments of society.
- Religious susceptibilities of any class or section of the citizens of India. Which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin or which have fallen into disuse in that country.

### 5.2.8 PROTECTION OF GI

- The IP rights to GI are enforced by the court of law of the concerned country.
- The GI registration of a product has certain **advantages**.
  - It enables to identify pirated/non-genuine stuff, provides more commercial value to the product, and also strengthens the case if it reaches the judicial courts.
- The two common methods of protecting a GI are:
- **Sui generis systems** (i.e. special regimes of protection) and under certification or collective mark systems. Many countries, including India, protect GI by using the sui generis system. This decision was taken after the **TRIPS agreement** (1995) and an option was given to the countries to choose either TRIPS standards or the sui generis system. This was decided by considering the fact that every country has different legislation and geographical structures & resources. Therefore, this system is not uniform in all countries and varies according to the jurisdiction and legislation of the particular country

### 5.2.9 COLLECTIVE OR CERTIFICATION MARKS

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Certification marks aim to certify the products comply with specific quality standards irrespective of their origin. These standards include permitted materials and manufacturing methods. Therefore, the purpose of certification marks is to distinguish certified goods from non-certified ones. Collective marks are owned by associations ensuring compliance with the agreed standards. Collective marks signify that a good or service originates from a member of a particular association.

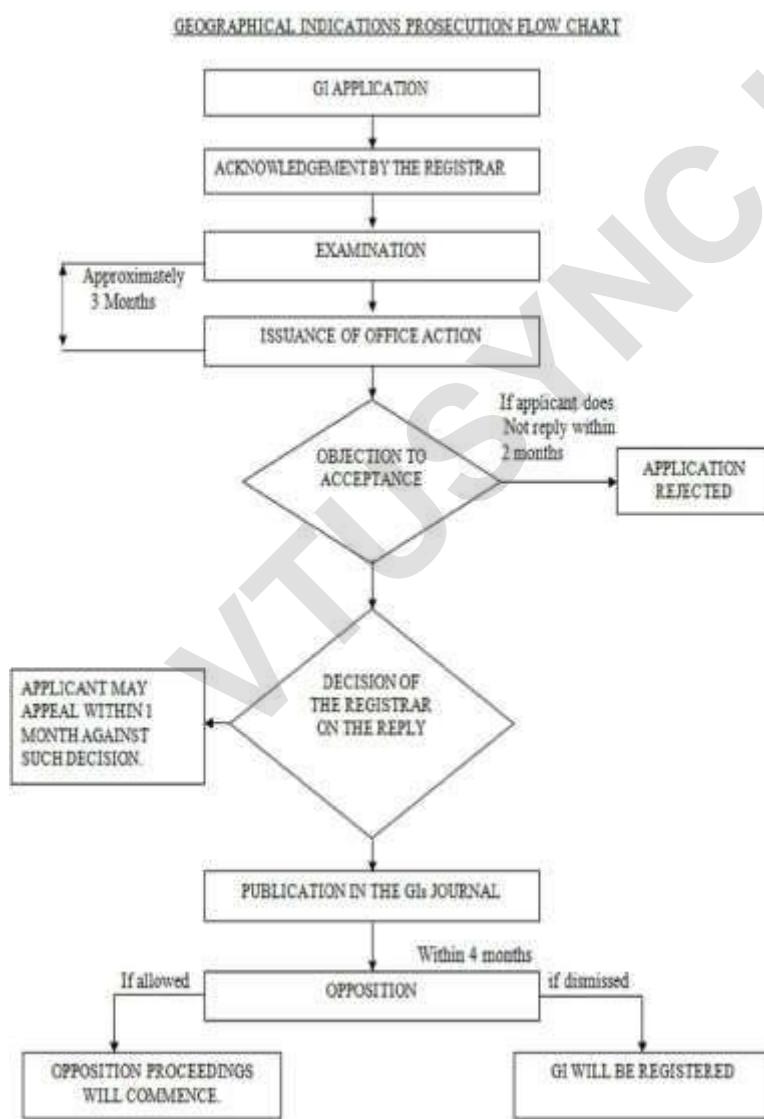
### **5. 2.10 ENFORCEMENT OF GI RIGHTS**

The rights to GI protection are typically enforced by the court of law. The sanctions provided could be civil (injunctions restraining or prohibiting unlawful acts, actions for damages, etc.), criminal, or administrative

### **5.2.11 PROCEDURE FOR GI REGISTRATION**

- Prior to filing an application for registering GI, it is prudent to search whether the concerned GI is already protected or not. This can be done by using search engines created by WIPO (<https://www.wipo.int/ipdl/en/search/lisbon/search-struct.jsp>)
- The registered GI of any country can be searched by accessing the website of the respective country (<https://www.wipo.int/directory/en/urls.jsp>).
- Once the prior search for registered GI is done, the applicant has to file an application.
- The application for GI can be forwarded by an individual or an organization or authority of people established under Indian law.
- The application in a prescribed format is submitted to the Registrar, Geographical Indications along with the prescribed fee
- In the application, the applicant needs to mention the interest of the producers of the concerned product. The application should be duly signed by the applicant or his agent with all the details about the GI that how its standard will be maintained.
- The submission of three certified copies of the map of the region where the GI belongs is mandatory. Once the application is filed at GI Registry, the Examiner will scrutinize the application for any deficiencies or similarities
- If the examiner finds any discrepancy, he will communicate the same to the applicant, which is to be replied within one month of the communication of the discrepancy.
- Once the examiner is satisfied with the response/s, he files an examination report and hands over the same to the Registrar. Once again, the application is scrutinized.

- If need be, the applicant is asked to clear any doubts/objections within two months of the communication otherwise, the application will be rejected. After getting a green signal from the Registrar, the application is published in the official Geographical Indication Journal (<http://www.ipindia.nic.in/journal-gi.htm>) for seeking any objections to the claims mentioned in the application.
- The objections have to be filed within four months of the publication. If no opposition is received, the GI gets registered by allotting the filing date as the registration date. Initially, GI is registered for ten years but is renewable on the payment of the fee.
- The below flow chart shows the process of registration



**Figure 5.3 : Flowchart for the process of GI registration.**

#### 5.2.12. Documents Required for GI Registration

- Details about the applicant 's name, address and particulars.
- Application form GI-1A.
- Statement about the designated goods being protected under GI.
- Class of goods.
- Affidavit to establish the claim of genuinely representing the
  - Interest of the producers.
  - Characteristics of GI.
  - The special human skill required (if any).

### 5.2.13 GI ecosystem in India

- India is among the geographically and traditionally rich countries. The scope of generating GI products in India is enormous. These products can contribute to the economic development of a particular region or society.

However, till June 2021, a total of 370 GI has been registered in India, which is much below its potential.

- Figure 2.13 represents the statistics for GI (filed, and registered) for the period 2010-20. Maximum number (148) of GI were filed in 2011-12 whereas, minimum number (17) was observed in 2015-16. Not much change in the number of GI registrations was observed during the period 2010-20.
- Each year the number hovered around in the twenties, with maximum registrations (34) seen in 2016-17.

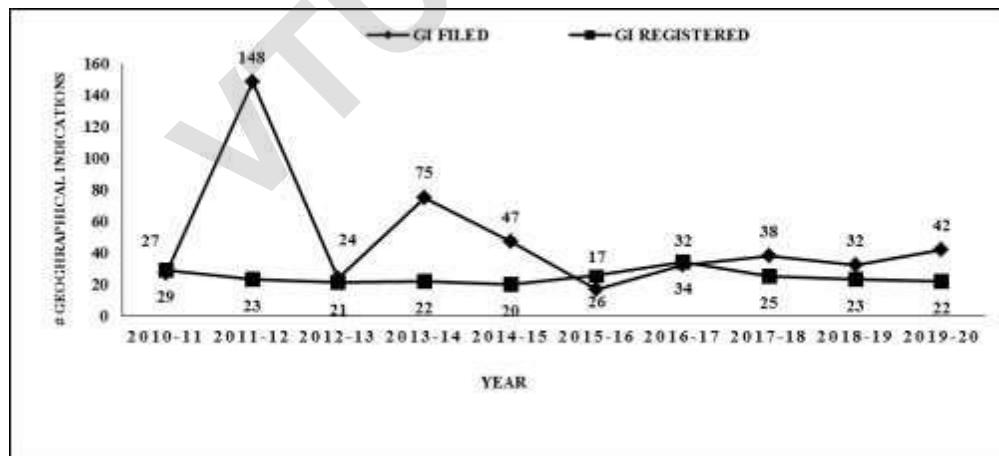


Figure 2.13: GI profile (India) for the period 2010-20

#### Case Studies on Patents.

##### Case study of Curcuma (Turmeric) Patent,

Turmeric Patent Case Turmeric Plant: Turmeric, scientifically known as Cucurma, is a prominent

Geographical Indication (GI) in India. Turmeric(*Curcuma longa*) is a flowering plant from the ginger family, originating from rhizomes plants. It is used as a spice in Indian cooking and has medicinal and cosmetic uses, traditionally known for its wound-healing and anti-parasitic properties. Turmeric Patent Battle: The Turmeric Case is one of the most publicized cases involves the patenting of the wound healing properties of turmeric (*Curcuma longa*) by two scientists of Indian origin in the United States in 1994. Turmeric powder, specifically for wound healing, was patented in the US by the University of Mississippi Medical Center. Although existing knowledge is not patentable, and the essential criterion of novelty should disqualify it as an invention, the patent was granted due to a failure by the Patent Office to identify the existing knowledge. This case sparked considerable discussion and debate in India as the knowledge was available in ancient Ayurvedic texts. The Council of Scientific and Industrial Research (CSIR) , New Delhi challenged the patent's grant before the US Patent and Trademark Office (USPTO) and a re-examination application was filed with US Patent Office claiming the use of turmeric powder was no novel invention and the medicinal use existed since ages. All the supporting evidence of ancient Sanskrit were presented. Later, the US Patent Office revoked this patent stating the patent were obvious and agreeing the use of turmeric having been known in India for centuries

### **Neem Patent Case**

Neem : Another instance involves the medicinal plant Neem (*Azadirachta indica*), whose properties were well known in India but not as recognized in the US and Europe. Neem extracts are used in agriculture for pest and fungal control, and neem oil has medicinal properties. It has been used traditionally to treat various diseases, and neem twigs are used as toothbrushes.

**Neem Patent Battle:** In 1994, the European Patent Office (EPO) granted a patent to the US corporation W.R. Grace Company and the US Department of Agriculture for a "method for controlling fungi on plants by the aid of hydrophobic extracted neem oil." This patent was opposed by various non-governmental organizations and Indian farmers, providing evidence of neem's traditional use. The European Patent Office later revoked the patent in 2000, stating it lacked inventive steps.

### **Basmati Patent Case**

Basmati Rice : Basmati rice is an aromatic variety grown in India and Pakistan. It has a long history in the region, with farmers conserving distinct varieties for centuries. Basmati Patent Battle: An American company 'RiceTec' was granted US Patent on 'basmati rice lines and grains'. The patent includes basmati and basmati-like rice. The company also claimed that it's the novel innovation of them creating such rice. Which also caused crisis between India and United States. The Indians claimed that the innovation they are claiming are false, India threateningly took the matter to WTO as violation of TRIPS. Later, RiceTec withdrew the claims of the patent. This controversy highlighted issues related to traditional knowledge. These case studies underscore the importance of protecting traditional knowledge from misappropriation through patents. These cases also emphasize the need for a balanced approach that respects both traditional practices and modern innovations.

### **IP Organizations In India- Schemes and Pro grammes**

In India, the key organizations engaged in IP affairs are mentioned below. Department for

Promotion of Industry and Internal Trade (DPIIT), New Delhi DPIIT, formerly known as the

S.No.	Type of IP Governing Body
1	Patents, Copyrights, Industrial Designs, Trademarks, Geographical Indications, Semiconductor Integrated Circuits Layout-Design, Department for Promotion of Industry and Internal Trade, New Delhi
2	Traditional Knowledge Digital Library Governed by CSIR & Ministry of AYUSH*
3	Plant Variety Protection Governed by Ministry of Agriculture and Farmers Welfare, New Delhi
4	Biological Diversity Protection Governed by Ministry of Environment, Forest and Climate Change, New Delhi
5	Trade Secrets No specific body governs Trade Secrets. Protected under various statutes like Indian Contract Act, 1872 Copyright Act, 1957 Information Technology Act, 2000, etc

Department of Industrial Policy and Promotion (DIPP), operates under the Ministry of Commerce and Industry, Government of India. It is the apex body for intellectual property (IP) in India and was established in 1995. DPIIT plays a crucial role in regulating and administering the industrial sector. The major categories of intellectual properties governed and administered by DPIIT are listed in Table 5.1.

## DPIIT and Office of the Controller General of Patents, Designs, and Trade Marks (CG PDTM)

DPIIT has established a dedicated and robust Office of the Controller General of Patents, Designs, and Trade Marks (CGPDTM). This office is responsible for formulating and implementing policies, rules, and regulations related to Intellectual Property Rights (IPR). In addition to its core responsibilities, DPIIT undertakes various IPR-related activities, including:

- Modernization and strengthening of the Intellectual Property Office.
- Strengthening of physical infrastructure.
- Enhancement of human resources.
- Expansion of physical infrastructure in Delhi, Mumbai, Kolkata, and Chennai.

- IT up-gradation. ^ Development of software required for International Searching Authority (ISA)/International Preliminary Examining Authority (IPEA) and Madrid Protocol.
- Subscription to non-patent literature required for Patent Cooperation Treaty (PCT) minimum documentation.
- Digitization of records.
- Sensitization and awareness programs.
- Establishment of the electronic library.
- Furniture and office equipment for the modernized environment in IP offices.

DPIIT actively engages in collaborations with the World Intellectual Property Organization (WIPO) and other apex industry organizations to promote and strengthen the Intellectual Property (IP) ecosystem. These collaborative efforts aim to foster innovation, protect intellectual property rights, and contribute to the overall development of the IP landscape. In addition to collaboration, DPIIT plays a significant role in providing valuable inputs on various issues related to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS agreement). This involvement underscores India's commitment to contributing to global discussions on intellectual property matters and ensuring alignment with international standards. Through these collaborative initiatives and informed contributions, DPIIT strives to enhance the effectiveness and coherence of intellectual property frameworks, both at the national and international levels.

### **Intellectual Property Appellate Board (IPAB) and Recent Changes**

In response to the increasing importance of Intellectual Property Rights (IPR) worldwide, the Indian government established the Intellectual Property Appellate Board (IPAB) in 2003. IPAB, operating under DPIIT, aimed to address the rising number of disputes related to IPR.

Originally, IPAB handled appeals against decisions made by the Registrars of Trademarks and Geographical Indications, and the Controller of Patents. The Copyright Office also had a dedicated board under IPAB for determining rates, royalties, licensing, and assessment of compensation.

In 2017, the Copyright Board and Plant Varieties Protection Appellate Tribunal were merged with IPAB, operating according to their respective Acts and Rules.

However, recent amendments in the Tribunal Reforms Ordinance led to the abolishment of various Boards/Appellate Tribunals, including IPAB, as of April 4, 2021. Chief Justice D.N. Patel directed the creation of a dedicated Intellectual Property Division (IPD) within High Courts to handle all IPR-related matters, preventing conflicting decisions and reducing the burden on the judicial system.

All pending IPAB cases (around 3000) were transferred to IPD. Delhi High Court is in the process of formulating comprehensive rules for IPD, including the creation of specific rules for patent disputes, following the model of IPDs in other countries like the UK, Japan, Malaysia, Thailand, and China.

This decision is considered a landmark in the history of IPRs in India, streamlining procedures and avoiding multiplicity of proceedings.

## Intellectual Property Initiatives in India

### Intellectual Property Office (IPO) India

The IPO India, under the Department for Promotion of Industry and Internal Trade (DPIIT), is the primary government agency responsible for the administration and regulation of intellectual property rights in the country. It oversees the grant and registration of patents, trademarks, designs, and geographical indications.

### National Intellectual Property Rights (IPR) Policy

The National IPR Policy, launched in 2016 by the Government of India, aims to foster innovation, promote creativity, and enhance access to intellectual property protection. The policy focuses on creating awareness, strengthening enforcement mechanisms, and facilitating the commercialization of IP.

### Patent Information Centers (PICs)

The IPO India has established Patent Information Centers across the country to provide information and support on patents and the patenting process.

### Technology and Innovation Support Centers (TISCs)

TISCs, set up in collaboration with the World Intellectual Property Organization (WIPO), provide patent related information and services, fostering innovation and technology transfer.

### R&D and IP Facilitation

Various government departments and agencies offer schemes and programs to encourage research and development (R&D) with a focus on intellectual property. These initiatives often include funding support and incentives for innovation.

### Start-up India and Make in India

The Start-up India initiative and the Make in India campaign encourage entrepreneurship and innovation. They provide support for startups, including facilitation of IP protection and fast-tracking of patent applications.

### IP Awareness and Training Programs

The IPO India conducts awareness and training programs to educate stakeholders about intellectual property rights, their importance, and the process of obtaining protection.

### Innovations in Science Pursuit for Inspired Research (INSPIRE)

INSPIRE is a program under the Department of Science and Technology that aims to attract talent to the study of science at an early age. It also promotes research and innovation among students.

## **Question Bank**

- 1) Explain the process of Industrial design registration.
- 2) Explain the famous case law between Apple Inc Vs Samsung Electronics Co.related with Industrial Design rights.
- 3) Briefly explain the overview of Industrial Design (ID). Summarize the Non-Protectable Industrial Designs in India.
- 4) Discuss the Design registration procedure by using a flowchart.
- 5) Describe the enforcement of Industrial Design Rights.
- 6) Explain the classification of Industrial Designs and design registration trends in India.
- 7) Explain registered Geographical Indications (GI) in India with the tabulate of examples.
- 8) Which Specific acts, laws and rules govern geographical indications in India? Give some examples of well known geographical indications registered in India.
- 9) How would you describe the overall ecosystem and significance of geographical indications in India?
- 10) Explain the Identification of Registered Geographical Indications (GI) items. What are the common methods used to project GI in India.
- 11) Using a flowchart, explain the process of GI registration.
- 12) Define Geographical Indications (GI) with an example. What are the rights granted to GI holders?
- 13) Summarize the IPR-related activities the Department for Promotion of Industry and Internal Trade (DPIIT) undertakes.

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