

Unit-IV

INTELLECTUAL PROPERTY RIGHTS (IPR)

Nature of Intellectual Property: Patents, Designs, Trademarks and Copyright **Process of Patenting and Development:** Technological research, innovation, patenting, development. **Role of WIPO and WTO in IPR establishments,** Right of Property, Common rules of IPR practices, Types and Features of IPR Agreement, Functions of UNESCO in IPR maintenance.

8-Hours

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4.1. Intellectual property

Intellectual Property (IP) is a category of property created by the human intellect (mind) in the fields of the arts, literature, science, and trade. Because IP is a novel creation of the mind, it is intangible (i.e. invisible and indivisible) in nature and differs from tangible property, such as land, house, gold, and car, with which we are quite familiar.

Intellectual Property Rights are the privileges granted to creators and inventors (of IP) in compliance with the laws. These rights are given to the creator/inventor in exchange for revealing the process of creation/invention in the public domain. The inventor is conferred with a special right to use, sell, distribute, offer for sale and restricting others from using the invention without his prior permission. The aforementioned rights do not apply to the physical object (e.g. book or computer or mobile phone) in which the creation may be embodied but attributed to the intellectual creativity.

What is Intellectual Property (IP)?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names, images, and logos, used in commerce. It's an asset that can be protected through various legal mechanisms.

Why is IP Important?

IP rights are crucial for several reasons:

- **Incentivizing Innovation:** They encourage creativity and innovation by providing exclusive rights to creators and inventors.
- **Economic Growth:** IP-intensive industries contribute significantly to economic growth and job creation.
- **Protecting Investments:** IP rights safeguard the investments made in research and development.
- **Fair Compensation:** They enable creators to receive fair compensation for their work.

Types of Intellectual Property

Intellectual Property is a broad category encompassing various intangible creations of the human mind. It is divided into two primary branches:

1. **Copyright and Related Rights:** This branch safeguards original creative expressions in fields like literature, art, music, and software. It protects works such as books, poems, songs, paintings, sculptures, films, and computer programs.
2. **Industrial Property Rights:** This branch focuses on protecting inventions, brands, and designs used in commerce. It includes:
 - **Patents:** Legal rights granted to inventors for their novel inventions.
 - **Trademarks:** Distinctive signs, logos, or symbols used to identify goods or services.
 - **Industrial Designs:** The ornamental aspects or Aesthetical appeal of a product.
 - **Geographical Indications:** Products linked to a specific geographical origin and quality.

How to protect IP?

To safeguard IP, consider these steps:

1. **Register IP:** Formal registration provides legal proof of ownership.
2. **Use Copyright Notices:** Add © or ® symbols to your work.
3. **Maintain Confidentiality:** Keep your ideas secret until you're ready to disclose them.
4. **License IP:** Grant permission to others to use your work under specific terms.
5. **Take Legal Action:** If the IP is infringed, seek legal advice.

Why should engineers care about IP?

Engineers are at the forefront of innovation. Protecting their IP can:

- ✓ **Secure Future Earnings:** Generate income from inventions and designs.
- ✓ **Advance Technological Progress:** Encourage further innovation and research.
- ✓ **Enhance Reputation:** Maintain credibility as an inventor or innovator.

Understanding and protecting IP, engineers can maximize the value of their work and contribute to a more innovative future.

-: Nutshell :-

Invention is the creation of a new idea or concept.

Innovation is the process of translating an invention into commercial entity or widespread use.

4.1.1 Patent

Definition: Patent is an exclusive right granted for an innovation that generally provides a new way of doing something or offers a new technical solution to a problem.



The exclusive right legally protects the invention from being copied or reproduced by others. In return, the invention must be disclosed in an application in a manner sufficiently clear and complete to enable it to be replicated by a person with an ordinary level of skill in the relevant field.

Eligibility Criteria: Invention must be novel (new; not in the public domain), not obvious to the person (s) skilled in the art and must be of industrial use.

Acts & Laws: In India, Patents are governed by the Patent Act, 1970.

Administration: The administration of matters pertaining to patents is carried out by the Office of CGPDTM, under DPIIT, Ministry of Commerce and Industry, GoI.

Right: A patent owner has the right to decide who may or may not use the patented invention.

Validity: Patent Rights are protected for a period of 20 yrs. In return, the process of the invention must be disclosed in the public domain.

Exceptions: As per Section 47 of the Act, a patent may be used by any person for teaching and research purposes. It will not be considered an infringement.

Items that cannot be patented: According to The Patent Act, 1970, the following items fall under the category of non-patentability criteria: a discovery, scientific theory or mathematical method; a computer program; a presentation of information; a procedure for surgical or therapeutic treatment, or diagnosis, to be practised on humans or animals; Software and business methods; Medical methods; Perpetual motion machines; Inventions which are contrary to Law or Mortality or injurious to public health; and mere arrangement or re-arrangement of known devices.

Additional Information:

- Patents are awarded not only for major scientific breakthrough but also for minor improvements over existing inventions.
- Avoid public disclosure of an invention before patenting: Generally, an invention that has been either published or publicly displayed cannot be patented, as the claimed invention will lose the Novelty criterion.
- A single product may contain several inventions (patents) e.g. the laptop computer, car, and mobile phone contain scores of inventions, working together.
- Prior Art Search (information lying in the public domain before the filing of the patent application) is a critical step prior to the filing of the Patent application.
- There is no such term as 'Universal Patent' or 'World Patent' or 'International Patent' as the patent rights are territorial. If one wishes to seek patent protection in several countries worldwide, it is preferred to file an international patent under the Paris Convention or Patent Cooperation Treaty.

4.1.2 Designs/Industrial Designs

Definition: The word ‘Design’ is defined as the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article. The main object of registration of industrial Designs is to protect and incentivize the original creativity of the originator and encourage others to work towards the art of creativity.

Eligibility Criteria: Design must be novel or original, should not be disclosed to public without registration and should be significantly distinguishable from the already registered Designs existing in the public domain.

Acts and Laws: In India, Industrial Designs are governed under ‘The Designs Act’, 2000 and ‘Design Rules’, 2001 and have been amended from time to time.

Administration: The administration of matters pertaining to Industrial Designs is carried out by the Office of CGPDTM, GoI under DPIIT.

Rights: Registration of Design ensures the exclusive rights of the applicant on the Design. The Design registration 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 owner can prevent the registered Design products from piracy and imitation.

Validity: The registered Designs are protected for 10 years in India and can be extended by 5 years after making a renewal application.

Items which cannot be registered as Industrial Design: Functional Designs which is already known to public, Flags, emblems or signs of any country, and any Industrial Design which is against public moral values.

Additional Information:

- Designs are registered in different classes as per the Locarno Agreement, 1968.

4.1.3 Trademark

Definition: A Trademark (or Trade Mark) is a unique symbol that is capable of identifying as well as differentiating products or services of one organization from those of others. The word 'Mark' stands for a sign, design, phrase, slogan, symbol, name, numeral, devise or a combination of these. Essentially, the Trademark is anything that identifies a brand to a common consumer.

Eligibility Criteria:

Distinctiveness: A trademark must be unique and not resemble existing marks.

Descriptiveness: The trademark should not describe the goods or services. However, descriptive terms may be registered if they acquire a "secondary meaning" (e.g., "Apple" for electronics).

Acts & Laws: In India, Trademarks are governed under The Trademarks Act, 1999 and Trademarks Rules, 2002.

Administration: The administration of matters pertaining to Trademarks is carried out by the Office of CGPDTM, GoI under DPIIT.

Rights:

- Right to exclusive use of the trademark.
- Right to seek legal remedies against infringement.
- Right to register identical trademarks.
- Right to assign the trademark.
- Right to alter the registered trademark.



Validity: In India, a registered Trademark is valid for 10 years. The period can be extended every 10 years, perpetually.

What cannot be registered as Trademarks:

- Marks that cannot distinguish the goods or services of one person from another.
- Descriptive trademarks that directly describe the goods or services.
- Marks that hurt religious sentiments or are obscene.
- Well-known trademarks, even if the goods are not similar.

Additional Information:

➤ **Trademark Symbols:**

- **™:** Unregistered trademark, used for goods.
- **SM:** Unregistered service mark, used for services.
- **@:** Registered trademark, indicating legal protection and ownership.

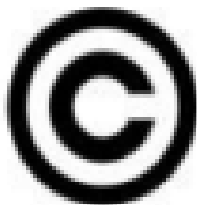
➤ **Trademark Registration:**

Registration is not compulsory, but it provides legal benefits, such as exclusive rights and stronger protection in case of legal disputes. Unregistered trademarks lack legal recourse against infringement.

➤ **Types of Trademarks in India:**

- **Conventional Marks:** Product Mark, Service Mark, Collective Mark, Certification Mark
- **Un-Conventional:** Color Marks, Shape Marks, Smell Marks - Scent for Sandals`. Sound - airtel.
- **Word Marks:** Words, letters numerals or anything written in Standard character
- **Device Mark:** label, sticker, monogram, logo or any geometrical figure other than word mark

4.1.4 Copyright



Definition: Copyright protects the expression of the Idea. It also refers to the legal rights provided by law to the original creator of the work in the fields of literature and computer software. The 'Related Rights' encompasses the author's work in the fields of dramatics, sound recording, film/video recordings, paintings, architecture, etc.

Eligibility Criteria: To qualify for copyright protection, a work must be in a tangible form and created independently by the author. While it may resemble existing works, it must not be identical. The work can be of any quality, quantity, or aesthetic merit and still be eligible for copyright protection.

Acts & Laws: The Copyright Act of 1957 grants authors the rights to reproduce, distribute, adapt, and translate their works. The Office of CGDPDTM, under India's Ministry of Commerce and Industry, is responsible for administering trademark-related matters.

Rights: Copyright law grants authors exclusive rights to their work, including the rights to reproduce, distribute, and adapt it. These rights are categorized as **economic rights** (financial benefits) and **moral rights** (personal rights).

Validity Period: Copyright protection in India typically lasts for **Life time of author + 60 years**. For works like books, plays, music, and art, this period begins the year after the author's death. For films, sound recordings, photographs, and other specific types of works, the 60-year period starts from the date of publication.

Exceptions to Rights: The Copyright Act allows for certain exceptions, known as "fair use," where copyrighted material can be used without permission. This includes personal use, educational purposes, research, and limited copying for specific situations like religious ceremonies.

Items that cannot be registered as Copyrights: Copyright law does not protect ideas, concepts, facts, titles, names, slogans, short phrases, short word combinations, methods, or information. Additionally, certificates are not considered copyrightable subject matter as they typically lack significant creative expression.

Enforcement: Using the copyrighted work without the consent of the copyright owner is termed infringement. The owner can take legal action against the infringement of his rights.

Additional Information:

- **Protected Works:** Copyright protects various creative works, including literary, dramatic, musical, artistic, cinematographic, and sound recordings.
- **Automatic Protection:** Copyright protection arises automatically upon creation of a work, without the need for formal registration.
- **Copyright Symbol:** While using the © symbol or the word "Copyright" is optional, it can serve as a notice to others.
- **Benefits of Registration:** Easier proof of ownership in case of disputes.
- **Limitations:** Copyright does not protect ideas, facts, titles, or short phrases.

4.2 Process of Patenting and Development

What are the key stages involved in the process of patenting an invention?

The journey from a groundbreaking idea to a patented invention involves several key stages:

1. Technological Research and Innovation

- **Idea Generation:** This is the spark that ignites the process. It could stem from personal experiences, market needs, or scientific curiosity.
- **Research and Development (R&D):** In-depth research is conducted to explore the feasibility of the idea. This may involve literature reviews, experiments, prototyping, and testing.
- **Innovation** is the process of developing a new idea or method based on the research findings. It could be a product, process, or improvement of existing technologies.
- The innovation should be **novel**, **non-obvious**, and have an **industrial application** to qualify for patent protection.

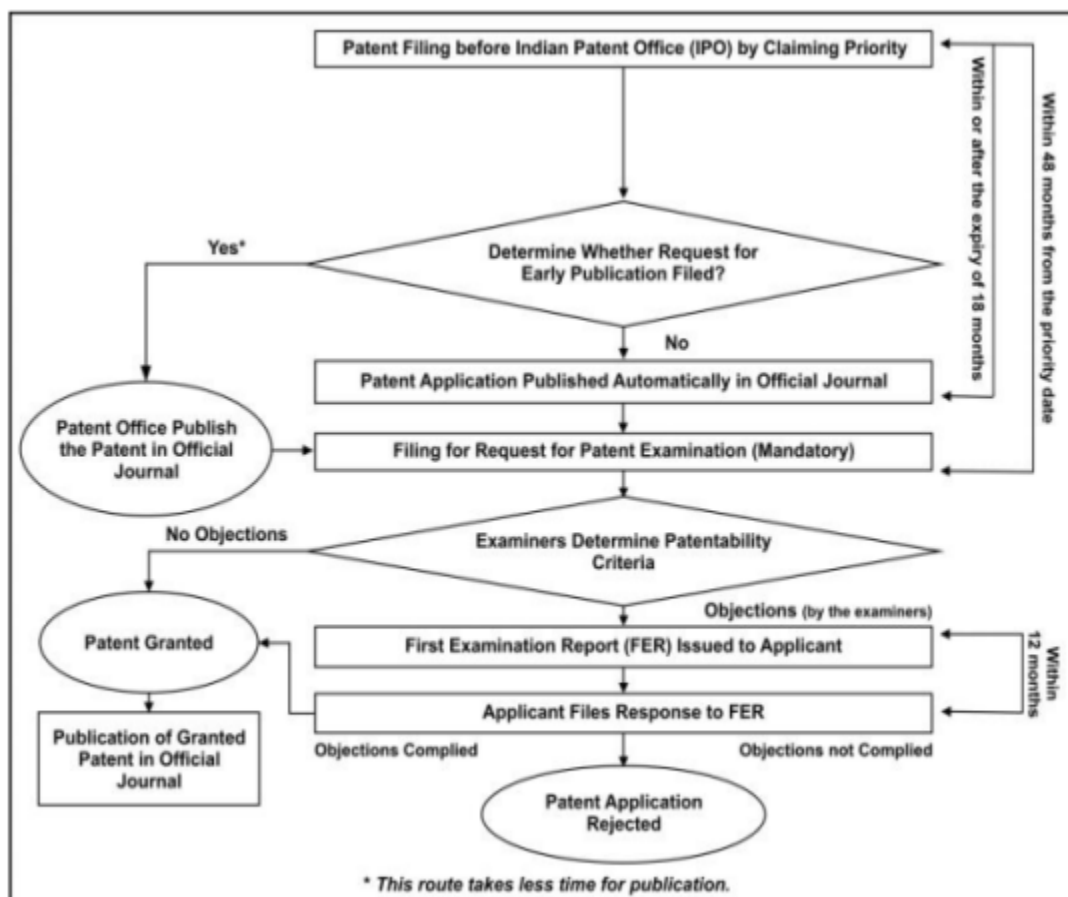
2. Patenting Process

- **Patent Search:** Before filing a patent application, a thorough search is conducted to ensure the invention is novel and non-obvious.
- **Patent Application:** A detailed patent application is drafted, outlining the invention, its technical features, and its potential uses. The application is then filed with the appropriate patent office.
- **Publication:** After a certain period (18 months), the patent application is published in a patent journal, making it publicly accessible.
- **Request for examination:** The applicant should request the patent examiner to examine his application (Form 18 /18A) within 31 months of filing the patent application
- **Patent Examination:** Patent examiners scrutinize the application to determine its patentability. This involves assessing its novelty, inventive step, and industrial applicability.
- **Grant of Patent:** If the patent examiner finds the invention patentable, a patent is granted, conferring exclusive rights to the inventor.

3. Development and Commercialization

- **Product Development:** The patented invention is further developed into a commercial product. This may involve refining the design, manufacturing processes, and testing.
- **Market Launch:** The product is launched in the market, either directly or through licensing agreements with manufacturers.
- **Licensing:** The patent holder may license the technology to other companies to manufacture and sell the product.
- **Royalties:** The patent holder receives royalties from licensees for the use of the patented technology.

In India, the process of grant of a patent is an extensive procedure that may take anywhere 3-4 years or more. The detailed flowchart for the process of filing a patent application is depicted in figure 1.



Source: <https://www.invntree.com/> (slightly modified)

(* 48 months has been reduced to 31 months and 12 months has been reduced to 6 months)

Figure 1 Flowchart for the process of filing a patent application in India

The process of filing a patent application involves several key stages, each crucial for ensuring the invention is properly protected. The stages are as follows:

4.2.1 Prior Art Search

Before diving into the exciting world of patent filings, inventors must navigate a crucial step: **prior art search**. This investigative process ensures that their invention is truly novel and unique.

What is Prior Art?

Prior art refers to any publicly available information about an invention, whether in the form of patents, scientific publications, or even public demonstrations.

Prior art encompasses a wide range of sources, including:

- **Patents:** Official documents granting exclusive rights to an invention.
- **Scientific Literature:** Research papers, articles, and books.
- **Public Disclosures:** Conferences, trade shows, and online platforms.
- **Trade Publications:** Industry journals and magazines.

Why is Prior Art Search Important?

A thorough prior art search offers numerous benefits to inventors:

- **Novelty Assessment:** By identifying existing inventions, inventors can determine the novelty of their own ideas.
- **Patent Validity:** A strong understanding of prior art helps ensure the validity of a patent, reducing the risk of legal challenges.
- **Competitive Landscape:** Analysing prior art provides insights into the competitive landscape and potential market opportunities.
- **Risk Mitigation:** By identifying potential infringement issues, inventors can take steps to protect their intellectual property.

Where to Conduct a Prior Art Search?

A variety of online resources can be used to conduct a comprehensive prior art search:

- **Patent Databases (Free):**
 - Indian Patent Advanced Search System: <https://iprsearch.ipindia.gov.in/>
 - USPTO (United States Patent and Trademark Office): <https://www.uspto.gov/>
 - EPO (European Patent Office): <https://www.epo.org/>
 - WIPO (World Intellectual Property Organization): <https://www.wipo.int/>
- **Scientific Databases:**
 - Google Scholar: <https://scholar.google.com/>
 - Research Gate: <https://www.researchgate.net/>
 - PubMed: <https://pubmed.ncbi.nlm.nih.gov/>
- **Technical Databases:**
 - IEEE Xplore: <https://ieeexplore.ieee.org/>
 - ACM Digital Library: <https://dl.acm.org/>
- **Patent Data bases (Paid):**
 - Pat seer
 - IBM
 - Orbit etc

By diligently conducting a prior art search, inventors can increase their chances of obtaining strong, enforceable patents. It's a crucial step that should not be overlooked.

4.2.2. Choice of Application to be Filed

When an inventor decides to protect their intellectual property, they face a critical decision: whether to file a provisional or a complete patent application. Each type offers distinct advantages and disadvantages, and the choice should be carefully considered based on the specific circumstances of the invention.

Provisional Patent Application/ Specification:

- A provisional patent application is a cost-effective way to establish an early filing date for an invention, allowing inventors to claim priority while still refining their idea.
- The application will generally contain, Field of invention, background, summary and description but Claims and not mandatory
- It offers no full legal protection and serves as a placeholder. To maintain rights, a complete application must be filed within one year.

Complete (Final) Patent Application / Specification:

- A complete patent application offers full legal protection for an invention.
- It includes Field of invention, background, summary, detailed description and claims that define the scope of protection.
- It is more expensive and time-consuming to file. But it provides the strongest intellectual property protection.

Inventors can make informed decisions about the type of patent application that best suits their needs. Consulting with a patent attorney can provide valuable guidance and help navigate the complexities of the patent process.

4.2.3. Patent Application Forms

According to the Patent Act, 1970 (Section 39) and the Patents Rules, 2003 (Rules 7, 54, 135, and subrule (1) of rule 20), a patent application is filed using **Form-1** and **Form-2**.

- **Form-1** collects general information, such as the title of the application, names of the applicants and inventors, and the type of application (e.g., Ordinary, Convention, PCT-NP, Divisional, Patent of Addition, etc.).
- **Form-2** seeks technical details, specifying whether the application is provisional or complete. For a **provisional application**, only the "Description of the Invention" and "Abstract" are required. For a **complete application**, additional information, including the "Claims" and "how the invention is to be performed," must be provided.

The **Claims** are the most critical part of the application, defining the scope of the invention and what is being protected. They specify the boundaries of the invention, outlining what the patent covers and does not cover. Claims can be:

- **Independent Claims** (standalone claims)
- **Dependent Claims** (relying on independent claims).

These claims must be carefully and precisely drafted to ensure proper protection against potential infringement.

4.2.4 Jurisdiction of Filing Patent Application

In India, patent applications must be filed at one of the four regional offices, based on the applicant's residence, domicile, place of business, or the origin of the invention. These offices are categorized into jurisdictions:

1. **Northern Region:** Includes Haryana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh, Uttarakhand, Delhi, Chandigarh, Jammu and Kashmir, and Ladakh.
 - **Patent Office:** IP Office, Plot No. 32, Sector 14, Dwaraka, New Delhi.
2. **Southern Region:** Includes Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana, Pondicherry, and Lakshadweep.
 - **Patent Office:** IP Building, G.S.T. Road, Guindy, Chennai.
3. **Western Region:** Includes Maharashtra, Gujarat, Madhya Pradesh, Goa, Chhattisgarh, and Daman and Diu, Dadra and Nagar Haveli.
 - **Patent Office:** Boudhik Sampada Bhawan, Antop Hill, S. M. Road, Mumbai.
4. **Rest of India:** Covers the remaining states.
 - **Patent Office:** IP Office Building, CP-2 Sector V, Salt Lake City, Kolkata.

For non-resident applicants or those without domicile or a place of business in India, the appropriate office is determined by the applicant's address for service or the place of business of their patent agent in India. In joint applications, all applicants have equal rights and consideration.

4.2.5. Patent Publication

- A patent application remains confidential for 18 months after being filed at the Regional Patent Office.
- After 18 months, the application is published in the **Official Journal of the Patent Office**.
- The purpose of the publication is to inform the public about the invention.
- Publication is a mandatory step in the patent process.
- The publication occurs 18 months from the filing date or the priority date, whichever is earlier.

4.2.6 Pre-grant Opposition

- If anyone objects to the invention claimed in a patent application, they can challenge it by approaching the Controller of Patents within 6 months from the publication date.
- Based on the outcome of the opposition, the patent application may be rejected or proceed to the next step, patent examination.
- While a patent application is usually kept secret for 18 months, this period can be shortened under special circumstances (e.g., if the applicant plans to sell, license the patent, or seek investors).
- To reduce the 18-month period, the applicant must fill Form-9 and submit it to the Controller General.

4.2.7 Patent Examination

- Patent Examination is a crucial step in the patent grant process, where key criteria like novelty and inventive step are reviewed by professionals based on the invention's content.
- A patent application is not automatically examined after publication. The applicant or their representative must request examination by filing Form-18 or 18A within 31 months from the application filing date.
- The examiner may raise queries or doubts, which the inventors need to address.
- Once the examiner is satisfied with the responses, the application is recommended for patent grant.

4.2.8 Grant of a Patent

- After addressing all requirements, objections, and queries raised by the **Patent Examiner** and the public, the patent is granted to the applicant.
- The granted patent is published in the **Official Journal of the Patent Office**.
- The journal is published every **Friday** and includes information on:
 - Patent applications published under **Section 11A**
 - Post-grant publications
 - Patent restorations
 - Notifications
 - List of non-working patents
 - Public notices issued by the Patent Office.

4.2.9. Validity of Patent Protection

- **Patent Protection Duration:** A patent is granted for a limited period, usually 20 years, starting from the filing date of the application.
- **Renewal Requirement:** To maintain the patent, the Patent Renewal Fee must be paid annually, as per **Sec 53, Sec 142 (4) & R 80** of the Indian Patents Act. Failure to pay the renewal fee may lead to the cancellation of the patent.
- **Extension in Some Countries:** In certain countries, patent protection can be extended beyond 20 years to compensate for time spent on administrative procedures before a product can be marketed. This extension helps the patent owner benefit from their rights after the grant.

4.2.10. Post-grant Opposition

- After a patent is granted, it can still be challenged within **one year** from the publication of the grant.
- The challenge can be made through the **Patent Office** or in a **Court of Law**.
- Grounds for invalidating or revoking a patent include:
 - The applicant wrongfully obtained the invention or part of it.
 - The invention was published before the priority date.
 - The invention was publicly known or used before the priority date.

- The invention is obvious and lacks an inventive step.
- The subject of the claim is not patentable as per **Chapter II** of the Patent Act, 1970.
- The invention's details or specifications do not clearly describe the invention.

4.3 World Intellectual Property Organization

World Intellectual Property Organization (WIPO) was established in **1967** through the **WIPO Convention**, which came into force in 1970. It became a specialized agency of the United Nations in **1974**.

Headquarters: Geneva, Switzerland.

Current Membership: 193 member states.

Present Director General: Daren Tang

The WIPO serves the world's innovators and creators, ensuring that their ideas travel safely to the market and improve lives everywhere. Further it is providing services that enable creators, innovators and entrepreneurs to protect and promote their intellectual property (IP) across borders and acting as a forum for addressing cutting-edge IP issues. The IP data and information of WIPOs guide decisionmakers the world over. The impact-driven projects and technical assistance of WIPO ensure IP benefits everyone, everywhere.

4.3.1 Roles of WIPO and WTO in IPR establishments

What are the roles of WIPO in IPR establishments?

WIPO plays a central role in fostering a balanced international intellectual property system that encourages creativity, innovation, and economic growth globally.

- **Standardization and Harmonization:** Facilitates international agreements and treaties, such as the **Patent Cooperation Treaty (PCT)** and the **Madrid System for Trademarks**, which simplify and standardize IP rights across borders.
- **Capacity Building:** Supports developing countries by offering technical assistance, training, and tools to improve their IP frameworks.
- **Global IP Services:** Provides mechanisms for the global protection of patents, trademarks, and designs. Ex PCT filing, Hage
- **Dispute Resolution:** Manages international disputes related to IP through arbitration and mediation services.
- **Policy Development:** Serves as a forum for negotiating new IP standards that balance the interests of rights holders, creators, and the public.

World Trade Organization

Establishment:

The World Trade Organization (WTO) was established on **January 1, 1995**, succeeding the General Agreement on Tariffs and Trade (GATT). It is headquartered in **Geneva, Switzerland**.

Role in Development of the IP Ecosystem:

Through its **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, the WTO integrates IP into the global trade framework.

1. **Harmonization of IP Standards:** TRIPS establishes minimum standards for IP protection across member nations, promoting uniformity and predictability.
2. **Dispute Settlement:** Provides a robust mechanism for resolving IP-related trade disputes between countries.
3. **Facilitating Innovation:** Encourages technology transfer and innovation by linking IP protection with trade and investment.
4. **Support for Developing Nations:** Offers flexibilities in the TRIPS agreement, allowing developing countries to balance IP enforcement with their public health and developmental goals.

Together, WIPO and WTO shape the global IP ecosystem by fostering innovation, protecting the rights of creators, and ensuring a fair and equitable system. WIPO emphasizes capacity building and IP development, while WTO focuses on integrating IP into trade and resolving disputes effectively. Their collaboration ensures that IP systems support global economic growth while addressing developmental challenges

4.3.2 Rights of Property

Intellectual property rights grant creators' exclusive control over their inventions, literary works, trademarks, or designs for a specific period. These rights encourage innovation and economic incentives by ensuring legal protection. These rights are leverages with respect to the national acts and rules of the respective countries. Table 1 shows the rights of four intellectual properties.

Table 1 Rights of Property

| Property | Rights | Act | Rules |
|------------------|--|---|----------------------------|
| Patent | Patent protects any invention | The Patents Act, 1970 ("Patents Act") | The Patent Rules 2003 |
| Design | The features of shape, configuration, pattern, ornaments or composition of lines or colours, applied to any article | The Design Act, 2000 ("Design Act") | The Design rules 2001 |
| Trademark | Trademark provides protection for symbols, colors, shapes, words, etc. representing and relating to a good or a service. | The Trade Marks Act, 1999 ("Trade marks Act") | The Trademark Rules - 2002 |
| Copyright | Copyright provides protection to the expression of an idea rather than the idea itself. | The Copyrights Act, 1957 ("Copyright Act") | The Copyrights rules 2013 |

4.3.3 Common Rules of IPR Practices

In India we have the following acts and rules administrates these rights:

1. Respect for national treatment (equal treatment for foreign and domestic IP owners).
2. Non-discrimination between member states.
3. Adherence to minimum standards for protection as outlined in treaties like TRIPS.
4. Enforcement mechanisms to ensure compliance at national and international levels.

4.3.4 Types and Features of IPR Agreement

The WIPO administers many important agreements, including:

1. **Berne Convention:** The oldest and most important international copyright treaty, adopted in 1886
2. **Paris Convention:** The first major international agreement on protecting industrial property rights, including patents
3. **Patent Cooperation Treaty (PCT):** Establishes an international patent filing system that has become WIPO's largest international IP filing system
4. **Patent Law Treaty:** Provides common requirements for formality matters in national and regional patent offices
5. **Budapest Treaty:** Prescribes deposits of microorganisms at international depositary authorities
6. **WIPO Copyright Treaty (WCT):** An international instrument in the field of copyright
7. **WIPO Performances and Phonograms Treaty (WPPT):** An international instrument in the field of copyright
8. **Hague Agreement** – Designs
9. **Madrid Agreement (Marks)** – Trademarks

What are the key treaties and agreements that India has signed with WIPO?

Below is a list of the key treaties signed by India, along with their respective years:

1. **Berne Convention for the Protection of Literary and Artistic Works**
 - **Year of Accession:** 1928 (revised adherence: 1974)
 - **Purpose:** Protects the rights of authors in literary and artistic works, ensuring copyright protection across member countries.
2. **Nairobi Treaty on the Protection of the Olympic Symbol**
 - **Year of Accession:** 1983
 - **Purpose:** Provides exclusive protection for the Olympic symbol.
3. **Patent Cooperation Treaty (PCT)**
 - **Year of Accession:** 1998
 - **Purpose:** Simplifies the process of filing patent applications internationally through a single application.
4. **Paris Convention for the Protection of Industrial Property**
 - **Year of Accession:** 1998
 - **Purpose:** Provides a framework for the protection of industrial property (patents, trademarks, industrial designs) and ensures equal treatment for nationals of member countries.
5. **Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure**
 - **Year of Accession:** 2001
 - **Purpose:** Recognizes the deposit of microorganisms in authorized institutions for patent purposes.
6. **Madrid Protocol for the International Registration of Marks**
 - **Year of Accession:** 2013
 - **Purpose:** Facilitates the international registration of trademarks through a centralized system.
7. **WIPO Copyright Treaty (WCT)**
 - **Year of Accession:** 2018
 - **Purpose:** Strengthens copyright protection in the digital environment, covering computer programs and databases.

8. WIPO Performances and Phonograms Treaty (WPPT)

- **Year of Accession:** 2018
- **Purpose:** Protects the rights of performers and producers of phonograms in the digital age.

9. Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications

- **Year of Accession:** 2019
- **Purpose:** Strengthens the protection of geographical indications (GIs) internationally.

10. Beijing Treaty on Audiovisual Performances

- **Year of Ratification:** 2020
- **Purpose:** Protects the rights of audiovisual performers in their performances.

India is a member of several treaties and agreements administered by the **World Intellectual Property Organization (WIPO)**, reflecting its commitment to a robust intellectual property rights (IPR) framework. Figure 2 depicts WIPO administered treaties ratified by India.

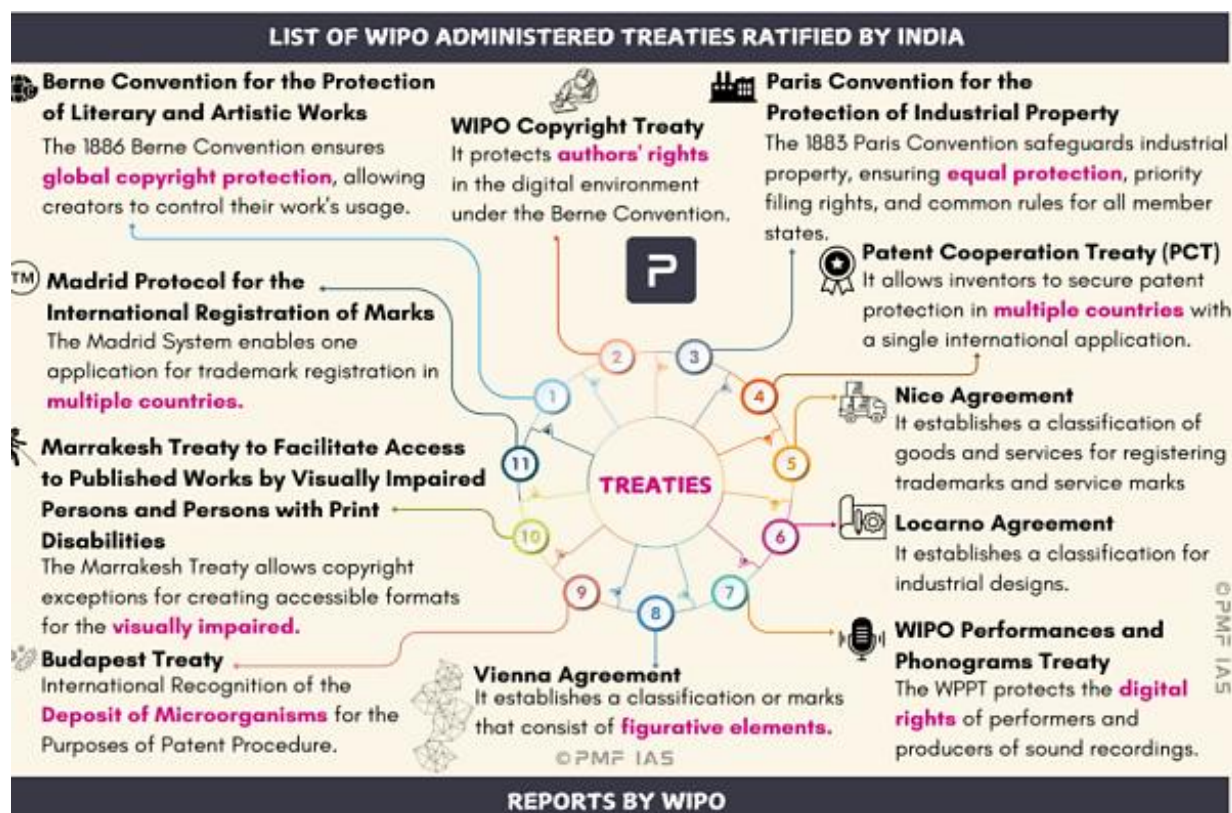


Figure 2 WIPO administered treaties ratified by India

4.3.5 Functions of United Nations Educational, Scientific and Cultural Organization (UNESCO) in IPR Maintenance

1. Promotes the protection of cultural and intellectual heritage globally.
2. Advocates for safeguarding traditional knowledge, folklore, and indigenous practices under IP frameworks.
3. Facilitates international cooperation on copyright and artistic rights, particularly in education, science, and culture.
4. Encourages fair access to educational and cultural resources, balancing copyright with public interest.

UNESCO's efforts complement WIPO and WTO by emphasizing cultural preservation and equitable access in the IPR ecosystem.

Resources

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List of Abbreviations

| S/N | Acronym | Expansion |
|-----|---------|--|
| 1 | ACM | Association for Computing Machinery |
| 2 | CGPDTM | Controller General of Patents, Designs and Trademarks |
| 3 | DPIIT | Department for Promotion of Industry and Internal Trade |
| 4 | EPO | European Patent Office |
| 5 | GATT | General Agreement on Tariffs and Trade |
| 6 | GIs | Geographical Indications |
| 7 | GoI | Government of India |
| 8 | IEEE | Institute of Electrical and Electronics Engineers |
| 9 | IP | Internet Protocol |
| 10 | IPR | Intellectual Property Rights |
| 11 | PCT | Patent Cooperation Treaty |
| 12 | TRIPS | Trade-Related Aspects of Intellectual Property Rights |
| 13 | UNESCO | United Nations Educational, Scientific and Cultural Organization |
| 14 | USPTO | United States Patent and Trademark Office |
| 15 | WCT | WIPO Copyright Treaty |
| 16 | WIPO | World Intellectual Property Organization |
| 17 | WPPT | WIPO Performances and Phonograms Treaty |
| 18 | WTO | World Trade Organization |