

## EIPR Unit-1 Short Notes

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- Entrepreneur
  - One who creates a new business
  - in the face of risk and uncertainty
  - for the purpose of achieving profit and growth
  - by identifying significant opportunities and assembling necessary resources to capitalize on them
- Characteristics of entrepreneur
  - Desire for responsibility
  - Preference for moderate risk
  - Confidence in their ability
  - Desire for immediate feedback
  - High level of energy
  - Future orientation (serial entrepreneurs)
  - Skilled at organizing
  - Value of achievement over money
  - Others
    - High degree of commitment
    - Flexibility
    - Tolerance for ambiguity
    - Tenacity
- Benefits of entrepreneurship
  - Create your own destiny
  - Make a difference
  - Reach your full potential
  - Reap impressive profits
  - Contribute to society and be recognized for your efforts
  - Do what you enjoy and have fun at it
- Drawbacks of entrepreneurship
  - Uncertainty of income
  - Risk of losing entire investment
  - Long hours and hard work
  - Lower quality of life until business gets established
  - High level of stress
  - Complete responsibility
  - Discouragement
- What's feeding the entrepreneurial fire
  - Entrepreneurs as heroes
  - Entrepreneurial education
  - Demographic and economic factors
  - Shift to servicing economy
  - Technological advancements
  - Independent lifestyle
  - E-Commerce and WWW
  - International opportunities
- Cultural diversity of entrepreneurship

- Young
- Women
- Minority
- Immigrant
- Part-time
- Home-based
- Family business
- Copreneurs
- Corporate cast-offs (blacklist)
- Corporate dropouts
- Power of small businesses
  - 99.7% of all businesses in U.S.
  - Employ 51% of nation's private sector workforce
  - Create more jobs than big businesses
  - Are leaders in offering training and advancement opportunities to workers
  - Produce 51% of nation's private GDP
  - 47% of business sales
  - 13X more innovations per employee than large companies
- 10 Deadly mistakes of entrepreneurship
  - Management mistakes
  - Lack of experience
  - Poor financial control
  - Weak marketing effort
  - Failure to develop strategic plan
  - Uncontrolled growth
  - Improper inventory control
  - Incorrect pricing
  - Inability to make the entrepreneurial transition
  - Poor location
- Putting failure into perspective
  - Entrepreneurs are not paralyzed by the prospect of failure
  - Failure is natural part of creative process
  - Learn to fail intelligently
- How to avoid pitfalls
  - Know your business in depth
  - Develop a solid business plan
  - Manage financial resources
  - Understand financial statements
  - Learn to manage people effectively
  - Keep in tune with yourself
- Creativity
  - Ability to develop new ideas
  - Discover new ways of looking at problems and opportunities
  - Thinking new things
- Innovation
  - Ability to apply creative solutions to problems and opportunities
  - Enhance and enrich people's lives
  - Doing new things

- Entrepreneurship
  - Result of disciplined, systematic process of applying creativity+innovation to needs and opportunities in the market place
- Creative thinking
  - Right-brained
    - Divergent reasoning
    - Ability to create multitude of original, diverse ideas
    - Ask if there is a better way
    - Challenge custom, routine, tradition
  - Left-brained
    - Convergent reasoning
    - Ability to evaluate multiple ideas and to choose the best solution
- Barriers to creativity
  - Searching for the one "right" answer
  - Focusing on being logical
  - Blindly following rules
  - Constantly being practical
  - Viewing play as frivolous
  - Becoming overly specialized
  - Avoid ambiguity
  - Fearing looking foolish
  - Believing "I am not creative"
- How to ensure creativity
  - Organizational
    - Embrace diversity
    - Expect creativity
    - Expect and tolerate failure
    - Encourage curiosity
    - Change scenery periodically
    - View problems as challenges
    - Provide creativity training
    - Provide support
    - Develop a procedure for capturing ideas
    - Talk with customers
    - Look for uses for company's product in other markets
    - Reward creativity
    - Model creative behavior
  - Individual
    - Allow yourself to be creative
    - Give your mind fresh input every day
    - Recognize the creative power of mistakes
    - Keep a journal to record thoughts and ideas
    - Listen to other people/customers
    - Keep a toy in office
    - Read books on stimulating creativity
    - Take a class on creativity
    - Talk to a child
    - Take some time off

- Creative Process (7 steps)
  - Preparation
    - Get mind ready for creative thinking
  - Investigation
  - Transformation
    - Viewing both similarities and differences among collected info
    - Convergent and divergent thinking
  - Incubation
    - Allow subconscious to reflect on the collected info
  - Illumination
  - Verification
    - Validate the idea as accurate and useful
  - Implementation
- Techniques for improving creative process
  - Brain storming
    - Keep group small (5-8 members. two pizza rule)
    - Company rank and department affiliation are irrelevant
    - Well defined problem for the group to address, but don't reveal it before time
    - Limit time to 40-60 mins
    - Appoint someone as recorder
    - Throw logic out of the window
    - Encourage all ideas. Even extreme ones
    - Shoot for quantity of ideas over quality
    - Forbid evaluation or criticism during session
  - Mind mapping
    - Start writing/sketching a picture that symbolizes the problem
    - Write down every idea that comes into mind. Connecting each to central picture/word
    - When flow of ideas stops, don't force it
    - Allow mind to rest for some mins, then integrate ideas into mind map
  - Rapid prototyping
    - Three Rs: Rough, Rapid, Right
- Protecting ideas
  - Patent
    - Grant from the Patent and Trademark Office to inventor of a product
    - Exclusive right to make, use, sell invention for 20 years from date of filing
    - Steps
      - Establish patent's novelty
      - Document the device
      - Search existing patents
      - Study search results
      - Submit patent application
      - Prosecute patent application
  - Trademark
    - Distinctive word, symbol, design, name, logo, slogan used to identify the origin of a product or to distinguish it from others. For services, it is servicemark

- Copyright

- Exclusive right that protects creators of original works of authorship such as literary, dramatic, musical, artistic.

## EIPR Unit-2 Short Notes

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### - Patent

- Origin
  - Term "Letter Patent" which means open letters as distinguished from closed letters.
- Meaning
  - Grant of some privilege, property, or authority made by government to one or more individuals
  - Granted by Controller to the inventor for 20 years. Exclusive right to make, use, exercise, vend invention
  - Form of property.
- Objective behind patent law
  - Role: Recognize exclusive right of patentee to gain commercial advantage.
  - Objective: To encourage scientific research, new tech, and industrial progress
- Legislative provisions regulating patents
  - Indian Patents Act, 1970. Amended, 2005
  - Patent Rules, 2003. Amended, 2005 and 2006
- Principles underlying patent law in India. Product/Process must be
  - New
    - No prior publication/use of same or identical invention
    - Must involve innovation or tech which has not been anticipated
    - Subject matter must not have fallen in public domain
  - Non-obvious
    - to a person skilled in the art to which invention relates
  - Useful
    - Don't patent useless things. Must be beneficial to mankind
  - Capable of industrial application
  - Disclosed fully
    - Disclose in complete specification to help users after period of protection expires
    - If not, won't grant patent
    - If granted, validity can be contested by opposing party
- Exceptions (non-patentable despite being new, non-obvious, useful)
  - Injurious to public health or violate public interest
  - New method of agriculture or horticulture
  - Process of treatment of humans, animals, plants
  - New form of known substance which doesn't enhance efficacy
  - Medicinal, surgical, curative, prophylactic, diagnostic, therapeutic
  - Traditional knowledge or its duplication
  - Atomic energy related
- Not Patentable under the act (above ones + these)
  - Frivolous and obviously wrong claims
  - Naturally occurring living/non-living thing
  - Rearrangement of known devices
  - Computer program, algorithms
  - Literary productions
  - Presentation of information

- Procedure for obtaining patent
  - Submission of application
    - by true and first inventor
    - by assignee of true and first inventor
    - by legal representative of deceased person
  - Examination of application
  - Advertisement of acceptance of complete specification
  - Opposition to grant of patent to applicant
  - Hearing of the parties
  - Grant and sealing of patent
- Specification
  - Technical document describing the invention
  - Provisional: Initial description
    - General description, field of application, anticipated results
  - Complete: Full and sufficient detail
    - Titled sufficiently indicating subject matter
    - Full description of invention and operation
    - Best known method of use
    - Claims defining scope of invention
    - Abstract
    - Single inventive concept (if there are many related inventions, club together)
    - Declaration of inventorship
    - Claims of development/addition since filing provisional specification
- Publication and examination of application
  - Not published if
    - Secrecy direction is imposed (sec 35)
    - Abandoned under sec 9
    - Withdrawn 3 months prior to specified period
  - Publication includes
    - Date of application
    - Number of application
    - Name, address of applicant
    - Abstract
- Opposition claims
  - Wrongfully obtained complete invention
  - Prior publication
  - Subject matter of prior claim
  - Publicly known
  - Obvious
  - Non-patentable
  - 12 month deadline exceeded
- Grant if
  - Application not refused by controller
  - Application doesn't violate any provisions of the act
- Claims
  - Main claim: State what invention is in broadest terms
  - Subordinate claims: refer to additional features of invention

- Omnibus claim: Relates to any arrangement substantially as described or shown in drawings
- Amendment of complete specification
  - Before acceptance
    - Change date of application depending on how heavy the amendment is
  - After acceptance
    - Because of opposition, Controller might ask to amend.
  - Before grant
    - Ordered by high court if
- Conditions for amendment
  - Disclaimer: Claims x but does not claim y
  - Correction: Only typos. No major changes
  - Explanation: Can be added



EIPR Unit-3 Short Notes  
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- Rights conferred on a patentee
  - Exploit the patent: Just renew on time
  - License to another: Grant licenses
  - Assign to another: Fully or partially
  - Surrender the patent: Controller publishes the offer
  - Sue for infringement: In a court  $\geq$  District court
- Exceptions and Limitations on rights
  - Government use of patent
    - No money given if
      - Used before filing of complete spec
      - Record of invention in government doc
      - Government's own use
  - Compulsory licenses and licenses of rights
    - Can appeal for compulsory license 3 years after granting if
      - Reasonable public requirements not fulfilled
      - Not reasonably affordable
      - Not worked in India
    - Compulsory license
      - Reasonable royalty
      - Available to public at reasonable price
      - Non-exclusive
      - Non-assignable
  - Use for defence purposes
  - Revocation for non-working of patents
  - Limitation on restored patents
- Enforcement of patentee rights
  - Suit for infringement
  - Action for specific performance (contract)
  - Action for recovery of royalties
- Duties of a patentee
  - Ensure monopoly right isn't used unfairly
  - Else government will deny right by granting compulsory license / license of rights
  - Furnish all info to govt or controller, or pay fine
  - Don't be overzealous and make groundless threats about infringement
- Transfer of patent
  - Assignment
    - Legal
    - Equitable: Document (like letter), but not agreement.
    - Mortgage
  - License
    - Voluntary: Written authority granted by owner to make, use, sell
    - Statutory: Compulsory license and license of rights
    - Exclusive/Limited: Exclusivity (only licensee or many licensees) and limitation (constraints, such as state, people etc)
    - Implied: Not given in express terms

- Rights conferred on licensee
  - Make, use, exercise invention
  - Right to initiate proceedings against infringement (if exclusive)
- Restrictive conditions to be avoided while licensing
  - Prohibit from buying anything else
  - Prohibit from using article not made by patented process
  - Prohibit from using another process
  - Coercive patent licensing
- Transmission by operation of law
  - Patentee dies, patent goes to legal representative
  - Acquired by government when public requirements not met
- Infringement of patents
  - Violation of patentee rights
  - Depends on extent of monopoly rights
  - Construction of claims is important
  - Patents held to be infringed
    - Colourable imitation
    - Immaterial variations
    - Mechanical equivalents
    - Taking essential features
    - Decided based on facts of each case though
  - Patents held to be not infringed (words are important here)
    - Claim construed to be for a combination not infringed by the defendant
    - Claim construed to be for particular combination not taken by the defendant
    - Claim construed to be for particular combination not infringed by the defendants
    - Claim for a particular combination held to be not infringed by the defendant
    - Claim construed to be for a particular combination not infringed by defendants
    - Infringement not found
    - Patent held to be valid, but not infringed - the doctrine of 'pith and marrow'
- Action/Relief for infringement
  - Interlocutory/interim injunction (court asks to stop)
  - Damages or account of profits
  - Permanent injunction
- Where a suit is to be instituted:  $\geq$  District court. In case of counter claim for revocation: High court
- Procedure followed in the suit: Code of Civil Procedure
- When can suit be instituted
  - After patent sealed
  - If infringed before grant, then sue for damages, not infringement
  - If infringed between lapse and renewal, no suit
  - Patent obtained wrongfully then given to another, no suit
  - $\leq$  3 years from infringement
- Who can sue

- Patentee
- Exclusive licensee
- Compulsory licensee
- Other licensee depending on contract
- Assignee
- Co-owners of patent
- Who can be sued
  - Infringer
  - 2+ infringers together
  - Agents and servants of infringer
  - Cosignees of infringing article
- Onus (burden/responsibility) of establishing infringement: On the plaintiff
- Defence of the defendant
  - Plaintiff not entitled to sue
  - No infringement happened
  - License was there
  - Estoppel or Res judicata
  - Claims are invalid on several grounds (patent obtained wrongfully, etc)
  - There was an unlawful contract at the time of infringement
  - It's for research
  - Counter claim for revocation
- Patent Agents
  - Citizen of India, 21+ years old, degree in science, engg, tech. Has cleared exam or 10+ years working as Controller
  - Right to practice, prepare docs, transact businesses
  - Disqualified for registration if he has unsound mind, corrupt, misconduct, etc
- Patent drafting
  - Check if patentable
  - Fill out patent drafting application
  - Fill necessary forms to complete patent application

EIPR Unit-4 Short Notes  
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- Copyright
  - The right which a person acquires in a work which is result of his intellectual labour
  - Derived from 'copier of words'
  - Acts related to literary/dramatic/musical works, artistic work, cinematograph film, sound recording
- Characteristics of copyright
  - Creation of statute: Specific statute under present law
  - Some form of intellectual property: Since the product is result of investment of intellect
  - Monopoly right: Restraining others
  - Negative right: Prohibitory in nature
  - Multiple rights: Combo. Translation, public performance, etc.
  - Copyright only in form, not in idea
  - Neighboring rights: Related rights to works derived from original. Recording, broadcasting.
- Indian copyright law. 1914, but actually 1957
  - Creation of copyright office and board
  - Definition of various categories of work
  - Provisions to determine first ownership of copyright
  - Term of copyright
  - Provisions relating to performing rights
  - Broadcasting rights
  - International copyright
  - Definition of infringement
  - Author's special rights
  - Civil and criminal remedies against infringement
  - Remedies against groundless threats
- Requirements of copyright
  - Sufficient judgement, skill, labor or capital must be put
  - Owner of copyright has no monopoly in subject matter
- Illustrations of copyright in literary work
  - Adaptation of literary work: Yes
  - Abridgement of literary work: Yes
  - Translation: Yes
  - Report of judicial proceedings: Yes
  - Head notes of law reports: Yes
  - Historical works: Not really, but maybe if presentation is original
  - Lecture: Only if it's in writing before it's delivered
  - Letters: Yes
  - Titles of books: Mostly no
  - Shorthand writer's transcript: Yes
  - Questionnaires, Catalogues, Dictionaries, Compilations: Yes
  - I'm not writing the rest. Basically, if there has been sufficient skill and labor put into the work
- Musical work

- Song: NOPE. Lyrics: Yes, of the lyricist. Music: Yes, of the composer. Song: Only if composer and writer is same
- Remix of old song: Yes
- Artistic work
  - Adaptation, Engravings, Paintings, Drawings, Engineering Drawings, Photographs: Yes
  - Architecture: Original + Artistic Quality. Plan's copyright separate
- Film
  - Level of originality is not specified, but don't be dumb and infringe other stuff
  - Rights granted
    - To make a copy
    - To sell or give on hire or offer for sale/hire a copy
    - Communicate film to public
  - Actors aren't protected
  - Performer's right for 25 years
    - To record the performance
    - To reproduce the performance
    - To broadcast the performance
    - To communicate it to public otherwise than broadcast
- Ownership of copyright
  - Employee: Belongs to him
  - Apprentice: Belongs to teacher
  - Rest is obvious
- Contract OF Service vs. Contract FOR service
  - Contract of Service: A employs B to do work for him, but A directs the time, means, method of work etc. A has copyright. Also if work becomes integral part of business
  - Contract for service: A employs B to do work for him, and B decides everything. B has copyright. Also if work is only accessory to business.
- Rights conferred by copyright
  - Statutory: Copyright is creation of statute. Recognized by law. Reproduce, perform, translate, adapt, etc.
  - Negative: Stops other from exploiting.
  - Multiple: Bundle of rights
  - Economic: Since author can get economic benefit
  - Moral: Claim authorship, restrain and claim damages
- Term of copyright
  - Photos: 60 years
  - Films: 60 years
  - Sound recording: 60 years
  - Government works: 60 years
  - Broadcast reproduction right: 25 years
  - Performers' right: 25 years
- Licensing copyright
  - By owners
  - Compulsory license in works withheld from public: 2+ applicants needed
  - Compulsory license in unpublished Indian works
  - License to produce and publish translation

- License to reproduce and publish for certain purposes (copies unavailable in India, not been on sale for 6 months)
- Acts that constitute infringement
  - When anyone does stuff by way of trade without a license (make for sale, distribute, exhibit in public, import infringing copies)
  - Copying: Direct and indirect
  - Reproducing the work in a different medium
- Acts that don't constitute infringement
  - Fair dealing for private use
  - Reproduction of judicial proceedings
  - Reading extracts in public
  - Publication in collection for educational institutions
  - Reproduction in question papers
  - Performance in educational institutions
  - Sound in closed spaces (songs in clubs)
  - Performance to non paying audience or for religious institutions
  - $\leq 3$  copies for public library
  - Painting, drawing, photographs of a work of architecture
- Infringement in literary, dramatic, and musical work
  - Literary
    - Dictionaries
    - Historical
    - Commentaries
    - Quotations
    - Student guides
  - Musical
    - Paid performance in public
    - Music played in restaurant
  - Artistic work
    - Photograph, drawings, 3D representation
  - Films, Sound, also similar theory
- Remedies against infringement
  - Civil
    - Injunction
    - Damages
    - Account of profit
    - Damages for conversion (of medium)
  - Criminal
    - Imprisonment
    - Fine
    - Seizure of infringing copies

EIPR Unit-5 Short Notes  
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- Trademark
  - Visual representation attached to goods for the purpose of indicating their trade origin
- Statutory authorities
  - Controller-General of Patents, Designs, and Trade Marks (1958)
  - Trade Marks Registry (1999)
  - Intellectual Property Appellate Board (2003)
- Principles of registration of trademarks
  - Trader cannot claim absolute proprietary right on any word or symbol
  - Descriptive words, surnames, geographical names are not prima facie registrable
  - Interest of public is to be safeguarded
  - Provision that one mark is to denote one origin is not absolute
  - Life of trademark depends on actual use
  - It's a form of property
  - Property rights in this case are superior to similar rights
  - Law isn't coded with the aim of protecting the interest of trader only
- Rights conferred by registration of trademark (not absolute). Limitations are:
  - Use of the mark beyond the scope of conditions specified in register
  - Doesn't entitle owner to sue for infringement against other identical marks
  - Limits on effect of registered trademark
  - No infringement in some cases
  - Goods adapted to other goods/services isn't infringement
- Infringement of trademark
  - Happens if someone else uses same/similar mark for same goods/services in the course of trade
  - Essentials
    - Taking of essential feature/whole of mark with modifications
    - Must be used in the course of trade
    - Must be printed. No oral use
  - Miscellaneous. It's infringement if
    - Deceptively similar mark used
    - Substantial feature of the mark is taken
    - Inconspicuous additions to existing mark
    - Use of same mark, different name
  - Who can sue
    - Proprietor of trademark or legal successor
    - Registered user of trademark
    - Applicant for registration
    - Legal heirs of deceased
    - Joint proprietor
    - Foreigner proprietor registered in India
  - Who can be sued
    - Infringer
    - Master of infringer
    - Agents of infringers

- Types of relief
  - Injunction restraining further use of infringing mark
  - Damages or account of profits
  - Order for delivery-up, destruction, erasure of infringing labels
- Procedure of registration
  - Submission of application to Registrar
  - Reciprocal arrangements in regard to applications (convention country)
  - Four outcomes
    - Accepted as it is
    - Accepted subject to amendments
    - Accepted, but later found that it was accepted in error
    - Rejected
- Industrial Design
- Who is entitled to file application for registration of a design
  - Proprietor of new/original design
  - Not published in any country
  - Not contrary to public order or morality
  - Foreigner can apply
- Procedure of registration of design
  - Submission of application
    - With prescribed fee, in prescribed Form, in prescribed manner
    - Attach 4 copies, brief statement of novelty, class of design
  - Acceptance/objections/refusal
  - Removal of objections / appeal to Central Government
    - Within 1 month
  - Decision of Central Government
  - Registrations of design
    - Controller grants certificate of registration
- Rights conferred on a design (copyright in design)
  - Different from the copyright in unit-4
  - Right to exclusive use
  - Right to protect design from piracy
- Piracy (Infringement)
  - Publish, have it published, expose design
  - Apply or cause to apply to any class of goods covered by registration
  - Import for purpose of sale any article belonging to class in which design is registered
  - Any unauthorized application, fraudulent, obvious imitation
- Defence by the defendant
  - Plaintiff has no title to sue
  - Design not entitled to protection
  - Plaintiff's own conduct is tainted
  - Delay and Acquiescence
  - Expiry of period of registration