UNIT – 3

INTELLECTUAL PROPERTY RIGHTS (IPRs)

Definition of IPRs:

Intellectual property rights protect the intellectual creations of inventors, artists, designers, architects, musicians, producers, and other creative persons. By protecting their intellectual creations, it compensates for the time, effort, and resources that they would have invested towards such creations. IPRs are not one single right that is granted to creative individuals, but it is a collective word that includes various kinds of rights like patents, copyrights, trademarks, etc.

Broadly, the term IPRs includes two kinds of rights - industrial property and copyrights.

- 'Industrial property' is generally associated with the use of IPRs within an industrial or a business organization, and includes patents, trademarks, commercial names and designations, designs, integrated circuit layout designs, geographical indications, trade secrets/confidential information, and protection against unfair competition.
- Copyrights, on the other hand, include protection for the creative works of the authors, artists, and other creative persons (collectively called as copyrights), as well as the rights of the performers, phonogram producers, and broadcasters (which are collectively called as neighbouring rights). Intellectual Property Rights covers and introduces most of these IPRs.

Classification of Property

Property can be also be classified into various types. It could be a 'public property', like social property or community property, or it could be a 'private property'. This public and private property can again be classified into tangible property and intangible property. 'Tangible property' is one which can be seen, touched, and felt. Examples of tangible property include land, building, car, motorcycle, computer, etc. 'Intangible property', on the other hand, is one which cannot be seen and touched but nevertheless, it has legal existence and its presence can be felt. indications. Figure 1.1 provides a summary of the classification of property rights.

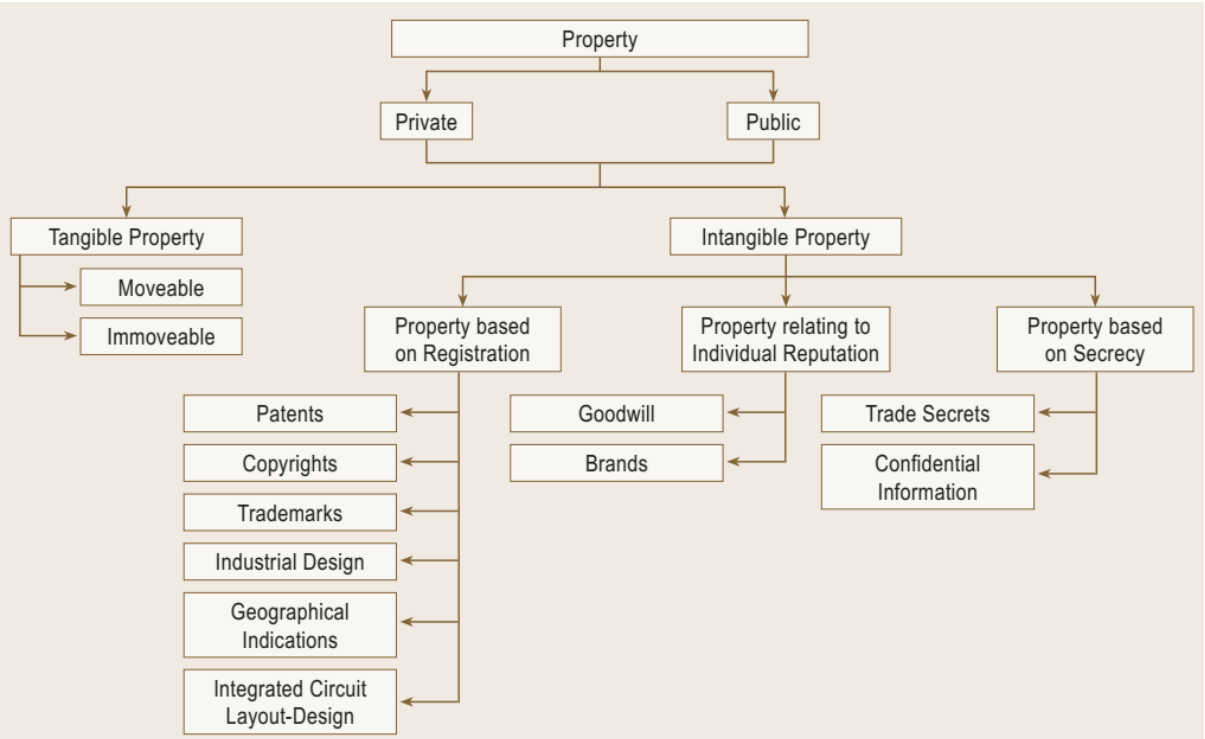

Figure 1.1 Classification of Property Rights

Need for IPRs:

Today's world is generally known as the knowledge economy. This is because most of the work that is available in today's world that pay well are not the ones dependent on physical labor, but intellectual labor. Every employee is expected to use his/her intellectual capabilities (basically his/her knowledge) and carry out the work for his/her employer. Such employees, who are called as knowledge workers, are paid for their time and for their intellectual capabilities used for solving problems for his/her employer. In today's world, being a knowledge economy, you can choose to take up any profession; you can choose to become anybody that you wish to become, but there would be a role for IPRs in that profession or field of your choice. For instance, you could become an artist and you might want to protect your artistic creations under the copyrights in order to prevent others from copying your work. You could become an academician (in any field), and you might want to protect your research work and academic writing under the copyright laws. You might become an engineer and you might want to protect your inventions, processes, designs, and even the schematics and drawings under various intellectual property laws. You might become a doctor and you might want to protect the medicines that you might create under the patent laws. You might become a media personnel and you might want to protect your creative works under the copyright laws. You

might wish to produce audio, video, cinema/movies, and other creative outputs; then you might wish to protect your work under the copyright laws and might also wish to know about licensing your work to a media house/television channel/movie theatre. You might become a designer and you might wish to protect your work under the copyright laws and the design laws (depending on the kind of designer you are).

If you are a business owner, then most likely you would be required to use not only most of the IPRs that are available, but you might also wish to follow the intellectual property management processes. Also, as a business owner, it will be found that the IPRs have a significant impact on the business. For instance, the money spent on Research and Development (R&D) could be claimed for deduction under the Income Tax legislation, the money spent on creating and filing for intellectual property protection could be treated as an asset on the balance sheet and it could be used as a fundamental element of the business plan in order for the business to operate successfully and flourish. Operating in the business world without any IPRs is like getting into the oceans without a life jacket. The business would have no protection whatsoever and it would be prone to damages and disasters from every pirate and counterfeiter out there. Hence, IPR becomes a very critical element in the success of a business owner. In today's world, where a new venture creation needs financial assistance from the angel funds and venture capital firms, funding would become scarce if the business owner does not have any IPRs to protect the business idea and the business model. The angel funds and the venture capital firms insist that the business owner secure his business under any or all of the IPRs. Similarly, IPRs affect the valuation of the business. The higher the valuations for the business, the better are the chances of raising finances for the business and the better are the opportunities for growing the business. The vice versa is also true.

Every business would have a considerable amount of intangible assets including IPRs, which gets generated in the course of business activities. Being the investor in the business, would you like the fact that at the end of the day, the creative pursuits residing in the minds of your employees, walks out of your office door with no guarantee of returning (or worse, joining your direct competitor and sharing all the information relating to your business with them), or would you rather have it secured in a safe place in the form of IPRs? It's your choice, but any prudent business owner would rather state that he would like to secure his assets. The same thing goes for other creative persons as well. Would you like to keep your intellectual creation without protection and allow everyone else to copy it and enjoy it, or would you rather protect

it and prevent others from copying it, so that you alone (or your immediate kith and kin) can enjoy the fruits of your labor?

Kinds of Intellectual Property Rights:

There are various forms of IPR. The Trade Related Aspects of Intellectual Property Rights, popularly known as TRIPS, in the WTO Agreement recognizes seven forms of IPR, namely, patents, trademarks, copyrights, geographical indications, industrial designs, trade secrets, integrated circuits, and new plant variety.

A brief description about each of these follows in seriatim:

PATENTS:

Patents are one of the oldest forms of intellectual property protection. The basic aim of a patent system is to encourage economic and technological development by rewarding individual creativity and/or intellectual.

A patent under the act is a grant from the government to inventors, for a limited period of time, the exclusive right to make, use, exercise, and vend the invention. As per Trade Related Intellectual Property Rights (TRIPS), Article 33, the periods of patent is 20 years from the date of filing of the application for a patent. At the end of patent period, the government publishes the invention and it becomes part of the public domain. In other words, after the expiry of patent period the public can make use of the patent. As part of the public domain it is assumed that the disclosure of patent for public will stimulate ideas and perhaps even the development of an even better product that could replace the original.

Patents as one's exclusive property rights can be sold, transferred, willed, licensed, or used as collateral much like other valuable assets. In fact, most independent inventors do not commercialize their inventions or create new products from their ideas, instead, they sell or license their patents to others who have the resources to develop. To quote one such case, the Coca-Cola formula was developed by a compounder. He could not commercialize it due to lack of required resources. He sold it to a doctor who commercialized 'the Coca Cola formula'.

What Can be Patented?

The Indian Patent Act, 1970 has notified the nature of patentable inventions.

Table 31.1: What Can Be Patented?

Processes	Methods of production, research, testing, analysis, and other technologies with new applications.
Machines	Products, instruments, machines, and other physical objects that have proved useful and unique in nature.
Manufactures	Combination of physical matter not found in nature fabricated in unique and useful application.
Compositions of Matter	Chemical compounds, medicines, and botanical compositions that do not exist in nature in an uncultivated state, nor those that could evolve in nature, better new and useful.

Types of Patents:

The Patent Law classifies all the patents into three types: 1. Utility Patents. 2. Design Patents. 3. Plant Patents.

1. Utility Patents: Patents granted for new products, processes, machines, methods of manufacturing, and composition of matter come under the category of utility patents. This is the most common patents sought by the inventors. inventors. It is granted for 17 years.

2. Design Patents: Design Patents are granted for any new or original ornamental design for an article of manufacture. Examples are shoe companies such as Reebok and Nike that have become more interested in design patents as a means of protecting their ornamental designs. What is the most important element in the design patent is that it protects the appearance (say, design) of the article, not the article itself. Compared to utility patent design patent has a shorter life for 3.5 or 7 years.

3. Plant Patent: Plant Patent is granted for any new variety of plant that has been asexually reproduced by an inventor. The new plants may be patented only when the inventor satisfies the patent office that the new plant did not exist in nature or in an uncultivated state. Like utility patent, a plant patent provides the protection for 17 years.

As per the provisions of the Patent Act 1970, only the inventor can apply for patent. Obtaining patent for one's invention involves a process consisting of several steps in it. These are shown in the following figure

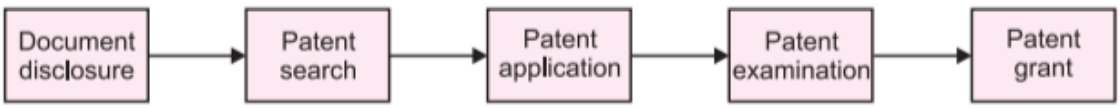

Fig. 31.1 The Patent Process

Patent Application: After the patent search is over, an application is made by the inventor and sent to the patents and trademarks office. The application has three parts:

(i) The first part is a written document that comprises a description of the invention, its specification, and claim.
(ii) The second part contains a set of drawings. The drawings need to be crude and accurate.
(iii) The third part of the application comprises a formal 'oath' or 'declaration' given by the inventor.

All these items are put together and accompanied with an application fee are submitted to the patents and trademarks office. If the patent office finds the application complete and, it records it by assigning a file number to it. The inventor is also notified.

Patent Examination:

Now the patent office makes the thorough examination of patent application filed by the inventor. Then, as its decision, specifies the claims and/or problems to be solved by the inventor.

Patent Grant: This is the last step involved in the patent process. The patent office documents the new patent grants in its records. Finally, letter of Patent Grant is sent to the inventor. Thus, the inventor's invention gets finally patented.

COPYRIGHTS:

Copyright protects original works of ownership. It gives an exclusive right to do or authorize others to do certain acts in relation to literary, dramatic, musical, and artistic works, cinematography and sound recordings. A copyright protects the intellectual property, for the life of the originator plus 50 years. In case of cinematographic work, the period of protection is 50 years after the work has been made available to the public and for photographic works 25 years after the making of the work.

India passed Copyright Act in 1957 and consequent upon India signing GATT and later WTO and entering the global market economy, a number of changes have been made in the Copyright Act of 1957 mainly in 1994 and 2002. Copyright cannot be granted for all types of original works. Following are the examples:

(i) There is no copyright for idea. Copyright subsists only in the material form in which the ideas expressed.

(ii) It is not an infringement of copyright to use the idea or concept of another in a different manner.

(iii) There is also no copyright in live events. For example, no license is required to transmit the programmes of sporting events and news events.

Objectives:

The Indian Copyright Act, 1957 is enacted with the following two main objectives:

1. Encouragement to the Original Work: The main objective of the Copyright Act is to encourage authors, composers, artists, and designers to create original works by rewarding them with the exclusive right for a limited period (usually for the life of the originator plus 50 years) to exploit the work for monetary gain. The economic exploitation is done by licensing such exclusive rights to the entrepreneurs like publishers, film producers and record manufacturers for a monetary consideration. In reality, people who economically exploit the copyright are the greater beneficiaries of the copyright law than the creators of works of copyright. The publishers and authors of books are such examples.
2. Protection to the Originator: The objective of copyright law is also, in essence, to protect the author or the creator of the original work from the unauthorized reproduction or exploitation of his/her materials. The right also extends to prevent others from exercising without authority any other form of right attached to copyright, for example, in case of literary work, the right of translation, adaptation or abridgement.

Here is an example of copyright protection of an author for his book:

S. S. Khanka: **Entrepreneurial Development,** S. Chand & Company Ltd., New Delhi, 2012.

Owning to the international character of copyright, various countries have joined to form conventions for the protection of copyrights owned by its nationals in other countries. The Berne Convention for the Protection of Literacy and Artistic Works is the result of such joint effort. India is a member of two of such conventions. Accordingly, the Indian copyright owners can protect their copyright in almost in any country in the world. As mentioned earlier, the

appropriate actions taken under the Copyright Act 1957 can stop infringement of copyright. Infringement of copyright is also an offence punishable with imprisonment and fine.

TRADEMARKS:

Trademark is any mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others, and may include a work or a device or a label, or shape of goods, their packaging, and combination of colours. Such marks are to be used in goods or services for the purpose of indicating a connection in the course of trade between the goods or services. [Section 2(1) (zb), Trade Marks Act of 1999]. Based on this definition, a trademark should have four essential features.

These are as follows:

1. It should be a mark;
2. It should be capable of being represented graphically;
3. It should be capable of distinguishing the goods and services of one person from those of others; and
4. It should be applied in commercial activities.

Mark, its Meaning, and its Categories:

Section 2(1)(m) of the Trade Marks Act defines what a mark is. It states that a mark includes 'a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging, or combination of colors, or any combination thereof.' This is an inclusive definition and many other things could also be included within its definition and it is up to the discretion of the courts to decide if certain things can be included within its meaning or not.

A trademark performs the following functions, which is also the rationale for having trademarks:

1. A trademark would uniquely identify a company and its products so that the consumer can identify them easily in the market and decide to purchase them without much difficulty.
2. A trademark would differentiate the product or services of one company from the product or services of its competitors.
3. A trademark signifies that all the products or services bearing a particular mark come from a single source.

4. A trademark also signifies that the products or services not only come from a single source but also have an equal level of quality.
5. A trademark evokes distinct associate stands for certain personality traits of the consumers, based on the prior consumption of the product or service.
6. A trademark evokes emotional attachment towards the product or service in the minds of the consumers based on the prior experience with such product or service.
7. A good trademark also enhances perceived value, quality, and customer satisfaction.
8. A good trademark serves as the most important tool for advertising and marketing the products and services, and helps in creating the brand association in the minds of the consumers.
9. Finally, a trademark inspires trust in the minds of the consumers towards the products or services of the seller.

The following list examines the meaning and examples of each of the items included within the meaning of a mark under the earlier-mentioned definition:

1. Device:
It is an instrument, while the shape of the goods is the structure or topography of a good. Ex: A Coca-Cola® bottle or an Apple iPod music player.
2. Brand:
Generally, when an organization has a whole lot of products under its banner, it is common to use the phrases ‘house mark’ and ‘product mark’. The house marks would be the general trademark of the company while the product mark would be the brand name. For instance, Cipla is a famous pharmaceutical company based in India. It has various products in its portfolio, some of which are Ciplacillin and Ciplamycin. They have been registered as trademarks and they are used as brands to promote their products.
3. Heading:
This would be the title of the movies or books which can be trademarked in India.
4. Label:
A label can contain marks which can be protected under trademarks. For instance, in Plate 3.6, the art on the label can be protected under not only copyrights but also under trademarks, as labels.
5. Ticket: A ticket may be the tags attached or stitched to various products and contains the trademark related information of the product. For example, the products of JanSport would

have the following tickets: the first one would be attached to its products while another would be stitched to it.

6. A Name:

Ex: Kellogg's® on cornflakes.

7. A Signature:

Ex: Signature of Elvis Presley® who was a pop star icon in the 1960s and the 1970s. You may notice the small 'TM' next to his signature, which indicates that it has been applied for registration as a trade mark.

8. A Word:

Ex: The word Infosys®.

9. A Letter:

This does not mean a letter as in a mail. But it means a letter as in alphabet. Ex: The letter 'M' used by McDonald's or the logo of Unilever, which is a combination of various images. Even Aamir Khan Production uses the alphabet 'a' as its trademark.

10. A Numeral:

Ex: The Numerals 5000 used in Haywards 5000 or the numerals 4810 used in Mont Blanc pens. The number 4810 represents the signature mark of the Montblanc brand and signifies the height of the Montblanc Mountain in Switzerland.

11. Packaging:

Ex: The packaging of Ferrero Rocher® chocolate packaging design and material. As can be seen from Plate 3.13, the Ferrero Rocher packing device has been filed for registration but due to some reasons, the application has been objected against. But the application for the name Ferrero Rocher has been filed in 2004 along with the packaging of the chocolate.

12. A Combination of Colours:

Ex: the combination of colours used in the Google® and Microsoft® logos. It can be noticed that the colour of the Microsoft logo is registered as a colour device mark in India.

13. A Picture or a Drawing:

Ex: The logo of Mozilla Firefox or Starbucks.

14. A Combination of Colour and Shape:

Ex: CNBC's peacock or the shape within the round structure of the Pepsi logo.

15. A Combination of Alphabets and Design:

Ex: the logo of IBM or the logo of Gati Logistics.

What is a good trademark?

Based on the discussion on distinctiveness, we can finalize some elements of a good trademark. These are as follows:

1. The trademark should be easy to pronounce, like Sony® or Xerox®.
2. The trademark should be easy to remember, like Maruti® Zen®.
3. It should preferably be an invented word which can provide the best distinctiveness, like Xerox® or Exxon®.
4. In case of a device mark, it should be capable of being used in a single word, like the Coke® bottle.
5. It should be easy to spell correctly and write legibly.
6. If it is not descriptive, then it may be suggestive, like A-1 which would be considered to be of superior quality, in which case Avon® would be a good trademark.
7. It should be short, like Zen®, Rin®, and Tide®.
8. It should appeal to the eye as well as to the ear.
9. It should be capable of being registered with the trademark office and consequently, it should not belong to a class of trademarks prohibited from registration, as decided by the trademark office. For instance, it should not contain names and emblems of India, it should not be obscene, etc.

Registration of a Trademark:

Trademarks are registered by national trademark offices and are territorial in nature. Once registered, the rights accruing on the trademarks are valid only within that country. The main register of trademarks would be maintained at the Mumbai office and any person interested in viewing it could visit the office and view it after paying the appropriate fees. In India, the Controller-General of Patents, Designs, and Trade Marks, who is appointed by the Government of India, would be the Registrar of Trademarks. There are five intellectual property offices (discussed earlier in Chapter 2 on Patents) at Mumbai, Ahmedabad, Calcutta, New Delhi, and Chennai.

The process of registering a trademark typically takes about 24 to 36 months. The flowchart for registering the trademark is available in Figure 3.2.

At the time of filing for a trademark, the proprietor, who is now the applicant, is expected to submit the technical specification of the mark along with the application, including the size, the dimensions, the colour, the shape, the font, the aspect ratio, etc., of the mark. In addition, copies of the mark have to be provided with the application. Once the applicant submits the

trademark application, the office of the trademark registrar would examine the trademark application and the examination report would be sent to the applicant. The applicant is expected to file his response within a specified time, after which the Registrar of Trademarks would conduct a hearing to discuss the concerns raised by the examiner and the proprietor's response thereof. After the hearing, the application becomes accepted by the trademark office to be considered for granting or not, according to the provisions of Section 19 of the Act.

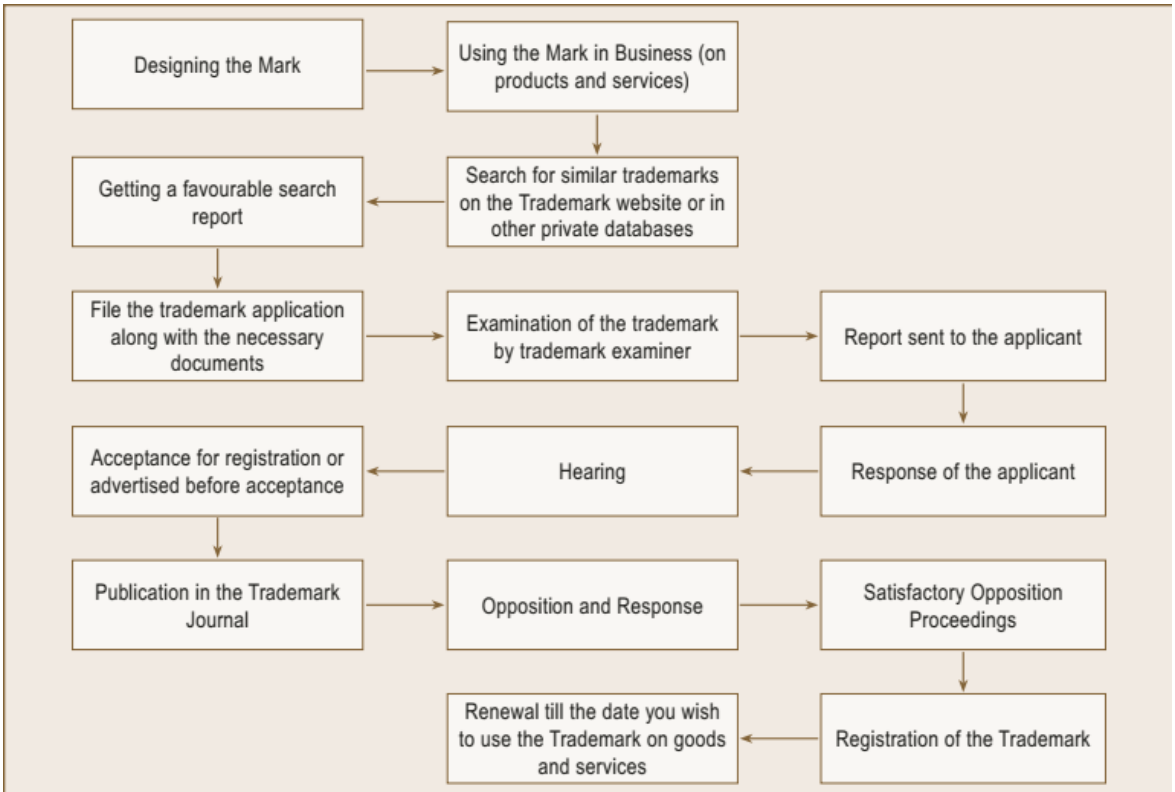

Figure 3.2 Process of Registering a Trademark in India

TRADE SECRET:

Whenever people talk about confidential information, they refer to it as trade secrets. Technically, there are differences between confidential information and trade secret. This section tries to provide clarity on the concepts relating to trade secrets.

Trade Secret and its Characteristics

Any organization or any person can have confidential information. But if a business organization or a businessperson has some confidential information, then such confidential information would be termed as 'trade secrets'. It can be any information that can be used in the operation of a business enterprise and that is sufficiently valuable to afford an actual or potential economic advantage to the business person over others. It must not be something which is public property or public knowledge.

It should generally fulfil the following requirements:

1. It is information which is a secret. Such information could be tangible embodiments like prototypes, or intangible information like market intelligence, etc.
2. The information should be continuously used in the business or it must be capable of continuous use in the business.
3. The businessman has intentionally treated such information as a secret. He has achieved this by taking necessary precautions like restricting access to the information, marking such information as confidential, and communicating it with others only under an obligation of confidentiality.
4. The information is capable of commercial application, and as such, it should be capable of generating value to the businessman. It should also be capable of providing a competitive advantage to the business and the businessman.
5. The information could also involve providing or enhancing the economic performance for the business and the businessman. This economic interest/benefit may be in the form of, specifically, but not restricted to, competitive advantage for the business.

Kinds of Trade Secrets

There are two kinds of trade secrets:

1. Technical Secrets: They relate to production processes, specifically the processes relating to the manufacturing, the improvements done to the machinery to improve production capabilities, innovations done to improve the quality and quantity of output, processes that ensure delivery of quality services, the design of the product, the know-how, etc.

2. Business Secrets: They are more administrative and strategic in nature. They are typically generated internally or created from external sources of data after a long and tedious exercise/analysis. The internally generated business secrets could be in the form of costing data, pricing data, sales statistics, list of customers, list of suppliers, market projections, expansion plans, etc. The data generated from external sources could be competitive analysis data, competitive intelligence data, market share and market projections of all the competitors in the market, etc.

Examples of Trade Secrets

Table 6.3 presents the commonly-held trade secrets/confidential information within a business organization, which are categorized based on the functional area/activity.

Table 6.3 Examples of Trade Secrets Within an Organisation

Human Resources (HR) Functional Area	Employment policies
	Details relating to employees; personal records of employees including their medical data, personal contact details, members of the family, etc.; the job assigned to them; the review records of employees; etc.
	Compensation package, compensation system, and personal file of employees
	Job description, role assignments, review processes, review techniques, review system, etc.
Operations Functional Area	Forms, formats, templates, and other design-related documents
	Customer list and vendor list
	Financial arrangements with customers and vendors
	Arrangements with various customers and vendors to process and finish the final product that is fit for sale
	Internal processes for planning and executing the finished product that is fit for sale
Information Technology (IT) Functional Area	Source code for any software developed in-house, the software architecture, the testing processes/ systems adopted, the software designing models/systems adopted
	The IT infrastructure design; the assigning, monitoring, and implementation of the user policies
	The terms of the Master Service Agreement (MSA), the Service Level Agreement (SLA) terms, etc.
Marketing Functional Area	Market projections and market trend projections, marketing intelligence, template for collecting market-related information, customised analytical and predictive models for data analytics
	Confidential discussions with strategic partners like brand managers, advertising bureaus, public relations agencies, media houses, etc., on matters like financial arrangements, promotion strategies, etc.
Finance Functional Area	Financial statements
	Financial arrangements with bankers and other financiers including venture capitalists, angel funds, private equity, etc.
	Business plan and financial forecasting, including projects planned and being executed
Legal Aspects	Legal matters like contracts entered with various parties and their terms, terms of understandings signed under the Memorandums of Understanding (MoUs)
	The details relating to disputes, the settlement signed between disputing parties and the terms, financial arrangements signed with disputing parties, etc.

Requirements of Trade Secret Protection

The requirements of trade secret protection are quite different from the ones that we have studied in earlier chapters (relating to other IPRs). It has to fulfil the following requirements:

1. There is no requirement of registering a trade secret. Trade secrets are protected within an organization using its own resources.

2. There is no subject matter limitation. Any confidential information, which provides the business with some competitive advantage of some sort, can be protected as a trade secret by that organization. It could include any of the items discussed earlier.

3. There is no tangibility requirement for trade secrets. The patent law insists that the invention has to be tangible in some form. But this condition is not insisted upon in matters relating to trade secrets, as any intangible information which provides some benefit to the owner of that information can be protected as trade secrets.

4. There is no strict novelty requirement. As mentioned earlier, the information need not be novel or new in its form. The only requirement is that the information must be modified/sufficiently developed to provide some competitive advantage to the owner of the information.
5. The subject matter must not be generally known to others outside the organization, either to the competitors or to the people in the industry.
6. The information must have sufficient economic value and must be capable of providing some form of competitive advantage to the owner of the confidential information.
7. The owner of that information must have taken reasonable affirmative measures to safeguard the information as a trade secret.
8. The information need not actually be used within the organization; even in the case of non-use of such information, it could be considered as a trade secret if it has some value to the company in some form of competitive advantage to the owner of the information.
9. The most important requirement is that the owner of such information must maintain the information as secret.

PATENTS AND TRADE SECRETS

A patent is a monopoly right granted by the government to the inventor, in exchange for a full and complete disclosure of the invention. The inventor, who wishes to seek statutory monopoly right protected by the government, would prefer to disclose his invention and all the technicalities involved in making that invention to the government. For such disclosure, his monopoly rights are protected for a period of 20 years, after which the invention and the technology therein falls into the public domain, and any member of the public can understand the technology and follow/adopt the technology.
Trade secrets, on the other hand, protect all kinds of information as which are capable of providing a competitive advantage to the owner of such information. The crux of the trade secret protection lies in maintaining the information confidential and out of the reach of the general public and specifically the competitors of the business organization.
Beyond this simple strategy adopted by business organizations while dealing with patents and confidential information, there are significant differences between these two kinds of IPRs, which are summarized in Table 6.4.

Table 6.4 Distinction Between Patents and Trade Secrets

Trade Secret	Patent
Applies to all kinds of information which has commercial value to the owner of such information.	Applies only to inventions that are eligible for seeking patent protection under the Patents Act.
Exclusivity is attained if the information is retained as a secret.	Exclusivity is granted by the government only on disclosing the information relating to the invention to the government.
Ownership over confidential information is attained based on the amount and the extent of due diligence exercised by the owner of such information.	Ownership over the invention is granted by the government on fulfilling the statutory requirements of Novelty, Non-Obviousness, and Utility (NUN Test).
The protection can technically be available for an unlimited duration of time, viz., as long as the owner retains the information as confidential information.	The duration of patent protection granted to the invention is 20 years from the date of the application seeking patent protection.
The cost involved with trade secrets can vary depending on the kind of information protected and the cost of erecting the protection wall around the trade secret.	The cost of patenting can be extremely high as it involves costs associated with patent due diligence, patent application drafting, filing, office processes, maintenance, and renewal costs.
The owner of the trade secret does not have any legal right against people who honestly discover such confidential information on their own.	The patent holder can enforce their patent right even against innocent infringers.

Design:

What is a Design?

In order to understand what a design is, one needs to take a quick look at the first part of the above-mentioned definition.

On a quick review of this statement, we can notice that a design is nothing but the artistic component in the form of shape, configuration, pattern, ornamentation, or the composition of lines of colour. But these elements are artistic in nature, and we have seen that artistic elements are protected under the Copyright Act of 1957, and it is generally understood that one element of creativity cannot be protected under multiple legislations.

Companies generally spend a lot of resources to differentiate their products from that of their competitors' products. They would also be spending resources to make it more visually appealing to the buyers. This is because consumers pay attention to those products which are visually attractive and appear nice to look at.

Design protection encourages creativity in the field of industrial designs and industrial manufacturing. It encourages manufacturers to invest towards adding value to a product by making it attractive. If such investment is not protected appropriately, then it leads to unfair competition and the person who invested time, effort, and resources for creating the design will be at a disadvantage. Legal protection becomes necessary to prevent unfair competition and

encourage companies to invest resources for creating visually appealing products. On the other hand, if such protection is granted for a longer time, then it kills creativity in the industry.

The law of designs provides a mechanism to protect the investments made by the innovator. It grants a monopoly right to the innovator for a limited time, thereby granting him the opportunity to recover his investment so made towards innovating a visually appealing product. During such limited time, the innovator is also empowered to seek necessary legal action against those people who infringe on his design rights. Thus, design protection not only fuels industrial innovativeness by encouraging people to innovate visually appealing products, but also ensures that the society is benefitted in the long run as the designs, which are beyond the limited protection period, would pass on to the public domain and could be used by anyone who wishes to use it.

Design law in India has a very interesting history. The first design law was enacted in India by the British colonisers in 1872 with the title 'Patterns and Designs Protection Act of 1872'. The main objective of the Legislation was to provide exclusive privilege to the inventors of new patterns and designs, an exclusive privilege of making, selling, and using the invention in India.

Administrative mechanism dealing with design protection in India

The administrative mechanism to administer design protection is slightly different than the mechanism for administering other rights like patents, trademarks, and copyright. As mentioned earlier, the principal legislation dealing with the administration of design protection is the Designs Act of 2000 (hereafter referred to as the Act).

How is Design Defined Under the Act?

Section 2(d) of the Act defines 'Design' as:

It refers to only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trademark as defined in clause (v) of sub-section (1) of Section 2 of the Trade and Merchandise Marks Act 1958 or property mark as defined in Section 479 of the Indian Penal Code or any artistic work as defined in Clause (c) of Section 2 of the Copyright Act, 1957.

A design is nothing but the artistic component in the form of shape, configuration, pattern, ornamentation, or the composition of lines of colour. But these elements are artistic in nature, and we have seen that artistic elements are protected under the Copyright Act of 1957, and it is generally understood that one element of creativity cannot be protected under multiple legislations. For this, the Designs Act provides a clarification. It indicates that these artistic elements must be applied to an article either in two-dimension or in three-dimension or in both forms.

Also, we can understand that if something is to be applied in a three-dimensional article, then the only thing that can be integrated into such an article is the shape of the design. The other elements of a design would remain as artistic work, expressed on a specific article. It can be safely concluded that the element of shape is covered under the three-dimensional article, while elements of a design like configuration, pattern, ornamentation, or composition of lines of colour, can be expressed on other two-dimensional articles.

Article Definition:

An 'Article' is defined under Section 2(a) of the Act as:

An "article" means any article of manufacture and any substance, artificial, or partly artificial and partly natural and includes any part of an article capable of being made and sold separately.

As can be understood from the definition of the word 'design', the artistic elements of a design have to be applied to an article. It cannot be the article *per se*, but various aspects of the article can include the design elements. For instance, in Plate 5.6, it can be noticed that traditional design elements like mango, etc., have been applied to the textile fabric.

Requirements for Design Protection

Based on the requirements of Section 4 and Section 5 of the Act, we can say that for a design to become eligible to be protected under the Act, it must fulfil the following requirements:

1. The design is new or original;
2. The design has not been disclosed to the public;
3. The design is significantly distinguishable from known designs or a combination of known designs;
4. The design does not comprise or contain scandalous or obscene matter; and
5. The use of the design would not be contrary to public order or morality.

Design is New or Original

A ‘new’ design is one which comes into existence in public knowledge for the first time, whereas an ‘original’ design may not be strictly new in the sense that the shape of the design is available in public domain, but there is newness or originality in applying the existing design to a particular article which no one thought of before which amounts to newness in creation.

Going by this, one can understand that a design may not be completely new. It may be known to others, but the application of such design to a new product category is new and original. Let us take an example to illustrate this matter. Everybody knows the shape of a heart and it is known to be a very popular design. Applying this ‘shape of a heart’ to a new set of product category, which was till date unheard of or till date not hitherto applied to any product (like a heart-shaped pencil, heart-shaped toilet, or a heart-shaped chair, and so on), is what makes it fulfil the requirements of new or original.

To summarizes, the principles applicable to the new or original criteria of designs are as follows:

1. The design may be new (completely new and it was not known earlier);
2. The design was known but the application was new (applied to a new product category) (the reader may recall the example of the heart shape mentioned earlier);
3. In order to qualify the novelty requirement, the design must contribute substantially to an existing design, otherwise it would stifle the trade; and
4. If the design is only adding a new feature/a protrusion that is novel and innovative, then it can be protected under the Act as a standalone design on an existing article.

Registration of Designs

Typically, the registration of designs, as applied to an article, is carried out with the following process:

1. The innovator of the design has to file an application addressed to the Controller. The application has to be in the prescribed form and it must be accompanied by the prescribed fees.

2. Along with the application, the applicant has to submit a declaration in the format provided in the Manual of design Practice and Procedure. The declaration format included in the manual is provided in Plate 5.8.

3. The application, along with the declaration in Plate 5.8, can be submitted to any patent office. All such applications would be sent to the Design Wing of the Patent Office located in Kolkata.

4. It is to be ensured that the design is not registered in more than one class. If there is confusion as to the appropriate class in which the design has to be registered, then the Controller of Designs would decide on the appropriate class that it has to be registered in.

5. The Controller may refer the application to an examiner for examination as to whether such design is capable of being registered. The Controller would rely on the examination report submitted by the examiner while deciding on the registration.

6. Based on the inputs provided by the examiner, as well as based on his own analysis of the design, the Controller would decide as to the registration of the design. If he decides to grant registration to the design, then he would issue a Certificate under his signature, confirming the registration. The date of the application for registration would be the date of registration of a design.

7. If the Controller rejects the registration of the design, then the applicant can file an appeal against the decision of the Controller to the High Court in the appropriate jurisdiction.

8. Once registered, the Controller can decide on publishing the application in the Patent Office Journal published by the Patent Office. Also, the details relating to the name and address of the applicant, notification of assignment and transmission of registered designs, and other relevant details relating to the design would be entered in the Register of Designs maintained at the Patent Office. Once the design is published in the Patent Office Journal, the design becomes part of the public knowledge and the design would be open for public inspection.

9. If the application refers only to a new feature of an existing/registered design, then the Controller can decide on its registration. Once he decides to register the new feature of an existing design, then the information relating to that new feature would be added into the Register of Designs, but it would not extend the life of the old design.It

Duration of Copyright in Designs

Once a design is registered, the applicant who is seeking design protection would be called a ‘registered proprietor of the design’. On registration, the registered proprietor is granted exclusive rights to use the registered design on the article so registered (in the class it was registered for) for a period of 10 years from the date of registration (which typically is the date on which the application was filed). However, if the proprietor finds that there is still value to

be exploited from the design at the end of 10 years, then before the expiry of the 10 years from the date of registration, he can apply to the Controller of Designs in a prescribed form accompanied with the prescribed fees, seeking extension of the registration. On reviewing the application on its merits, the Controller may extend the registration for an additional period of 5 years. Including the extension on the registration, the design protection is available to the registered proprietor for a period of not more than 15 years, at the end of which the design would fall into the public domain and will become public property. These provisions are covered under Section 11 of the Designs Act.

Geographical Indications:

Definition and the Meaning of Geographical Indications

Section 2(1)(e) of the GI Act defines GI as follows:

Geographical indication, in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods, or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

It is also clarified that:

Any name which is not the name of a country, region or locality of that country shall also be considered as the geographical indication if it relates to a specific geographical area and is used upon or in relation to particular goods originating from that country, region or locality, as the case may be.

On a quick review, one can find that the Act specifically narrows down the scope of its protection only to goods (and excludes services) and the word goods have been defined in Section 2(1)(f) of the GI Act as 'any agricultural, natural or manufactured goods or any goods of handicraft or of industry and includes foodstuff.' Such goods can either be an agricultural, natural, or manufactured. These goods should originate from a geographical region or territory of a country (it could even be a state, like in the case of Banglar Rasogolla, or a city, for instance Hyderabadi Biryani, with that geographical region or territory).

applies.' The GI tag could include a name like 'Darjeeling Tea' originating in Darjeeling, or it could just be a geographical name associated with a particular geographical region like 'Kancheepuram silk sarees' (there is no logo associated with this GI), or it could be a logo created for this specific purpose like the Darjeeling Tea logo created for this specific purpose as presented.

Kinds of Geographical Indications:

Having understood the meaning of GI and its relevance in commerce and trade, one should also try to understand the various kinds of GIs that are in vogue. In terms of broader to the narrower, the various kinds of GIs are:

(1) indication of the source, (2) GI of origin, and (3) appellation of origin.

1. Indication of Source:
Also known as an 'Indication of Provenance', indication of source connects a product to a particular geographical location. For instance, 'Made in India' or 'Made in France'.

2. Geographical Indication of Origin:
Also known as 'geographical designations', they are also simply known as GIs.
Aspects of Intellectual Property Rights (TRIPS) Agreement defines it as:
Indications, which identify a good as originating in the territory of a member, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good is essentially attributable to its geographical origin.
3. Appellation of Origin:
This is a specific type of GI and is much narrower in scope than the 'Indication of Source'. This is derived from the French word *appellatio*.
They must contain the name of a country, a region, or a locality. For instance, French wine, Scotch whiskey, etc.

Advantages of the Geographical Indications Protection

1. GI serves as a Good Indicator of the Quality of the Items
2. GI Serves an Educative Role as Well
3. GI Protects Producers Against Piracy and Unfair Competition
4. GI Benefits the Producers
5. Promote and Protect Agricultural and Cultural Heritage of the Country
6. Encourage Investment in Production of Quality Local Products
7. Very Important for the Social Development Post-1991 Liberalization

Legal Aspects of IPRs

Having applied for various IPRs for innovation/inventions coming out of the organizational innovation activities, the IPMC should then move towards the second stage of the management of IPRs, viz., securing the IPRs. The IPRs can be secured in multiple ways and at multiple checkpoints. This section highlights the activities that needs to be carried out to secure the IPRs of the organization effectively.

Prosecute the Intellectual Property Application till the Grant of the Intellectual Property Right

- Once you apply for an IPR with the IP Office of the Government of India (either for a patent, or a trademark, or a design, or a copyright, or a semiconductor layout design), you are required to follow up with the IP Office to ensure that the said IP is granted in the name of the applicant. This process is commonly known as prosecuting the IP application.
- The IPMC has to ensure that the IPRs, which have been applied for, have to be properly secured in the name of the applicant. This would entail that the IP application is published in the relevant journal (if applicable) on time (for which the relevant fees has to be paid to the IP office), it is examined at the right time (if applicable), all the objections raised by the examiner are duly and promptly responded to before the deadline, and any objections/oppositions raised by competitors are duly addressed successfully.
- Following these processes are extremely critical because any lapse at this stage and in the application for the IPR would be considered as the abandonment of the application by the applicant.
- At the end of successfully completing these processes, the IP office would grant the certificate securing the IPR in the name of the applicant.
- The IPMC should ensure that once the application is duly processed for grant, all the relevant fees are paid for the grant of the certificate. These processes would ensure that the IPR is secured at the shortest possible time and in an efficient manner without too many hurdles.

Renew the Intellectual Property Right

The grant of the IPR is not the ‘be-all-and-end-all’ in the IP Management cycle. In fact, the actual work of managing the IP starts only after the IPR has been secured. The granted IPRs

have to be diligently followed up and monitored throughout their valid life. The renewal fee has to be duly paid to the IP office to ensure that the IPR is maintained in favour of the IP owner and to ensure that it does not lapse for not doing so. If the IP owner forgets to pay the renewal fees, then the IP office would consider that the IP owner has abandoned their IPR and would be more than happy to remove the IPR from the register of IP assets.

Create Internal Policies to Safeguard the Intellectual Property Rights

Once the IPRs have been secured in the name of the IP owner, the IPMC (IP Management Committee) has to create internal policies to safeguard the IPRs within the organization.

These policies should generally address the following questions:

1. Who maintains the certificates of the IPRs (legal department or the concerned division holding the IPR)?
2. Who is responsible for the renewal of these IPRs (legal department or the concerned division holding the IPR)?
3. Who can access these IPRs (based on the hierarchy within an organization)?
4. How should these documents be secured (in a safe locker or digitally stored with password access control)?
5. Under what class of document should the knowhow relating to an IPR be memorialized (meaning documented for the purpose of securing them) within the organization?
6. What should be the markings on those documents (confidential/for your eyes only/strictly private, to be destroyed after reading, etc.)?
7. How should the documents be indexed and who should maintain such an index?
8. Who should be able to access these documents, when, how, and for what purpose?
9. What process is to be put in place to allow access to these people (access card/password control/physical lock and key systems)?
10. How to control the copying of these documents?
11. How to track the accessing, the usage, and copying of these documents?
12. What measures are to be taken in case there is an unauthorized access to these documents?

Once the IPMC puts these policies in place, it has to be properly communicated to all the stakeholders of the organization (employees/customers/suppliers, etc.). They should also be informed about their rights/ obligations/responsibilities relating to these IPRs within the

organization and should also be clearly informed about the implications (specifically legal, procedural, and operational), in case these policies are flouted.

Establish Processes to Monitor the Infringement of Intellectual Property Assets:

After setting up the internal processes to secure the IPRs (including the processes to secure the trade secrets or know-how of the organization), the IPMC has to then establish the processes to monitor infringement of IP assets (Case 9.1). This can be done at multiple levels using multiple processes, which are listed as follows:

1. Establish a dedicated training programme for the employees for identifying infringing products in the market;
2. Provide special training to the sales staff to monitor the infringement of IP assets in the marketplace (on the ground level);
3. Create a dedicated helpline, both in the form of telephone/mobile phone numbers, and dedicated email IDs to report infringement activities;
4. Train the employees (especially the sales staff), suppliers, customers, as well as other stakeholders to utilize the dedicated helpline for reporting infringing activities;
5. Review all the complaints received through the dedicated helpline with utmost seriousness and follow up on them to get more information;
6. Create an enforcement unit to monitor and take necessary actions against infringing activities;
7. Gather market intelligence data and analyse for abnormalities which could be because of the infringing activities;
8. Deploy market intelligence agencies to monitor and report infringing activities;
9. In case the complaint turns out to be a truth or based on the internal analysis or intelligence, it is found that there is in fact infringement of IPR taking place, then the organization should take quick and decisive action by intimating the police, conducting raids against the premises where the goods are sold/stored, getting them confiscated, producing them before the court, and securing the necessary court orders to either destroy the infringing goods or to seek custody of the infringing goods to analyses them further. These activities should be carried out in the presence of the media and must be publicized to ensure that such raids and destruction act as a deterrent to future infringers; and
10. Educate the consumers about the harms caused by the infringing products and motivate them not to resort to buying such products.

Monitor Filing of Applications for Similar Intellectual Property Rights by Competitors

This becomes the next most important task that the IPMC of the business organization has to focus on. The IPMC has to constantly monitor the applications filed with the IP office for products which are similar to the ones secured by it. This can typically be done using the information published by the IP office in the form of journals on a weekly/monthly basis. Based on the information published there, the IPMC should review whether a technology filed by a competitor is similar to the ones secured by it or not. If it is found to be similar, then such applications have to be vehemently opposed with the IP office which is processing such application. As discussed in the earlier chapters, most of the IP offices and for that matter, most of the IPRs, provide for the process of objecting to the IP application. This process has to be properly utilized by the organization through the IPMC at appropriate times.

IPRs in INDIA:

NATIONAL INTELLECTUAL PROPERTY RIGHTS POLICY OF INDIA

On 24 October 2014, the Government of India, through its Department of Industrial Policy and Promotion (DIPP) constituted an IPR Think Tank to draft the National Intellectual Property Rights Policy and to advice the DIPP on IPR issues. This Think Tank comprised eminent people working in the field of IPR. The mandate given to them was not just to draft the National IPR Policy, but also to create a knowledge repository for the country on the latest national and international developments in the field of IPR, identifying areas where further study needs to be undertaken, preparing reports, advising the government on matters relating to IPR, and also suggest the possible institutional mechanisms that need to be created to implement this IPR policy.

India. After reviewing and making the necessary changes, the Union Cabinet approved the National IPR Policy of India on 12 May 2016 with the aim of laying down the future roadmap for all the IPRs and its administration in India. The National IPR Policy is a vision document that brings various IPRs on to a single platform. It views various IPRs holistically, understanding all the linkages as well as creating and exploiting synergies between these various IPRs, legislation, and agencies. It has rationalized the existing institutional framework for the implementation, monitoring, and review of the IPRs in light of the objectives set under this Policy document. It also aims to upgrade the national IPR system by incorporating and adapting global best practices to the Indian context. The Policy recognizes that India is well-compliant with the obligations under the TRIPS Agreement. It also reviews and recognizes that

the existing legislative, administrative, and judicial framework are compliant with the commitments made under various international treaties including the TRIPS Agreement. Predominantly it wanted to provide a vibrant and predictable IPR regime in India for foreign investors, which stimulates creativity and innovation across sectors, while facilitating a stable, transparent, and service-oriented IPR administration in India. The broad contours of the National IPR Policy are delineated next.

Vision Statement

An India where creativity and innovation are stimulated by IP for the benefit of all; an India where IP promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

Mission Statement

Stimulate a dynamic, vibrant, and balanced IPRs system in India to:

1. Foster creativity and innovation and thereby promote entrepreneurship and enhance socio-economic and cultural development; and
2. Focus on enhancing access to healthcare, food security, and environmental protection among other sectors of vital social, economic, and technological importance.

Objectives

The Policy lays down the following seven objectives:

1. IPR Awareness: Outreach and Promotion

To create public awareness about the economic, social, and cultural benefits of IPRs among all sections of the society.

2. Generation of IPRs

To stimulate the generation of IPRs.

3. Legal and Legislative Framework

To have strong and effective IPR laws which balance the interests of rights owners with larger public interest.

4. Administration and Management

To modernize and strengthen the service-oriented IPR administration.

5. Commercialization of IPRs

Get value for IPRs through commercialisation.

6. Enforcement and Adjudication

To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.

7. Human Capital Development

To strengthen and expand human resources, institutions, and capacities for teaching, training, research, and skill-building in IPRs.

These objectives are sought to be achieved through detailed action points. The action by different ministries/departments shall be monitored by DIPP, which shall be the nodal department to coordinate, guide, and oversee the implementation and future development of IPRs in India.

Salient Features

1. Cell for IPR Promotion and Management

A Cell for IPR Promotion and Management (CIPAM) shall be created as a professional body under the aegis of DIPP to address the seven identified objectives of the Policy. Among other aspects, it shall study the IP processes to simplify and streamline them; monitor public grievances; oversee the capacity building of human resources and institutions for outsourced search activities; promote commercialization of IPRs; and endeavor to provide a platform to connect innovators and creators to potential users, buyers, investors, and funding institutions. It will coordinate with agencies at the state level and with the various ministries/departments of the Union government. The data generated at CIPAM shall serve as a valuable resource for future policy.

2. Awareness Campaign

To be launched in schools, institutions of higher education like engineering colleges and law schools, centres of skill development, industry clusters, etc., it aims to foster an IP culture in the country by creating awareness about the economic, social, and cultural benefits of IPRs among all sections and enabling people to realize the value of their IPRs as also respect for others' IPRs.12 Syllabi and suitable course materials to emphasise the importance of IPRs shall be formulated for educational institutions at all levels.

3. Intellectual Property Cells

Intellectual property cells shall be created in key ministries/departments of the Government of India which are vital in the field of IPRs, as well as in state governments, industry associations and clusters, and major academic institutions. CIPAM shall coordinate with the cells.

4. Generation, Registration, and Commercialization

The Policy aims to encourage creativity and innovation, leading to the generation of IPs and their protection through IPRs. The registration of GIs shall be encouraged through support institutions. Action shall be taken to encourage R&D, as well as to improve IPR output from government laboratories and organizations, with a special focus on national priority areas. Apart from the creation of IPRs, for their effective commercialization, it is essential to identify opportunities for marketing Indian IPR-based products, especially GIs, and services to a global audience.

5. Traditional Knowledge Digital Library

The Traditional Knowledge Digital Library's (TKDL's) ambit is to be expanded to include other fields besides Ayurveda, Yoga, Unani, and Siddha. The possibility of using TKDL for furthering R&D by public research institutions and private sector will be explored. The Policy recognizes the importance of effective coordination between the Patent Office and the National Biodiversity Authority for speeding up the disposal of patent applications using biological resources and associated traditional knowledge.

6. Cadre Management in Intellectual Property Offices

The Policy recognizes the crucial role of a motivated workforce in productivity enhancements. The organizational and cadre structure of the Indian IP offices shall be studied and reviewed with a view to enhancing efficiency and productivity.

7. Access to Medicines

Access to affordable medicines and other healthcare solutions is becoming a challenge for all countries. India too faces a growing challenge on this count. The Policy recognizes this and aims to enhance this by:

(a) encouraging cross-sector partnerships between the public sector, the private sector, universities, and NGOs; (b) promoting novel licensing models; and (c) developing novel technology platforms.

8. Piracy/Counterfeiting

Offline and online piracy is a serious concern and needs to be combated through public awareness as also legal and enforcement mechanisms.

9. Assistance to Smaller Firms

Smaller firms need assistance for the protection of their IPRs internationally. Schemes such as the Department of Electronics and Information Technology (DeitY) and DeitY's Support for International Patent Protection in Electronics and Information Technology (SIP-EIT) are to be enhanced.

10. Judicial

Awareness and Resolution of Intellectual Property Disputes Since IPRs are a specialized discipline, awareness among the judiciary is crucial since judicial precedents set the tone of the country's IP regime. For this, it is important that IP modules for judges be formulated, including regular IP workshops/ colloquia at the judicial academies. Commercial courts set up at appropriate levels will be responsible for adjudicating IP disputes. Resolution of IP cases through Alternate Dispute Resolution (ADR) Methods shall reduce the burden on the judiciary and provide speedy and inexpensive resolution of disputes. Mediation and conciliation centres need strengthening and ADR capabilities and skills in the field of IP developed.

11. Review

A detailed review of the IPR Policy shall be undertaken every 5 years. The continuous and regular review will be done by a committee to be constituted for this purpose under the Secretary, DIPP.

INTELLECTUAL PROPERTY RIGHTS ADMINISTRATION SYSTEM IN INDIA

Traditionally, the administrative mechanism for implementing the IPRs in India was determined by different legislations which were enacted in the pre-WTO and pre-TRIPS era. But post-WTO and post-TRIPS Agreement, the administrative mechanism was spread over four departments in the Government of India, viz., the Ministry of Industry and Commerce, the Ministry of Human Resource Development (MHRD), the Ministry of Electronics and Information Technology, and the Ministry of Agriculture and Farmer's Welfare. Figure 1.8 provides a summary of the administrative structure for implementing various IPRs in India under the Ministry of Industry and Commerce.

Till the National IPR Policy was accepted and approved by the Union Cabinet, the copyright offices were under the control of the MHRD, the Department of Higher Education (DHE). But, accepting the recommendation from WIPO on this matter (to have uniformity with all the other IP offices in developed countries), the Government of India decided to shift the copyright office from under the control of MHRD, and put it under the authority of the Controller General of Patents, Designs, and Trademarks (CGPDTM) from July 2016 (2 months after the release of the National IPR Policy of India document). Since then, the copyright office is working under the aegis of the DIPP under the Ministry of Industry and Commerce. However, the other two IPRs, viz., the protection for Semiconductor Layout Designs and the Protection of Plant Varieties are governed by the ministries as elaborated in Figure 1.9.

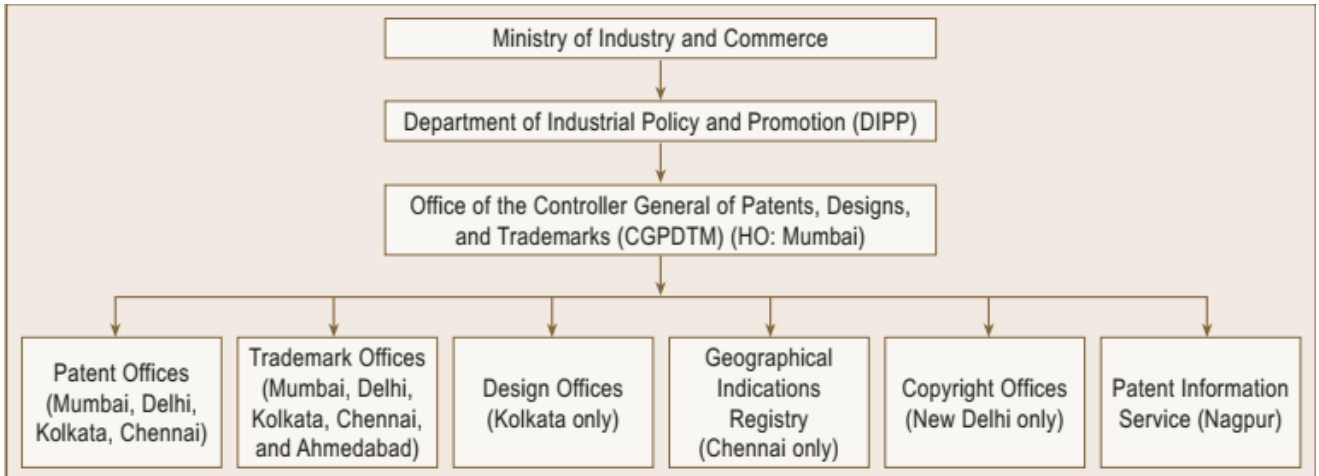

Figure 1.8 Administrative Structure for Implementing Various Intellectual Property Rights in India (*Note:* The location of the various Intellectual Property offices is provided within brackets in this figure.)

Though these departments and offices are responsible for the registration of various IPRs, any matter of dispute or contention or matters of appeal against the orders of the Controller can be appealed to the Intellectual Property Appellate Board (IPAB) located at Chennai. The IPAB is under the aegis of the DIPP, Ministry of Industry and Commerce (Figure 1.10).

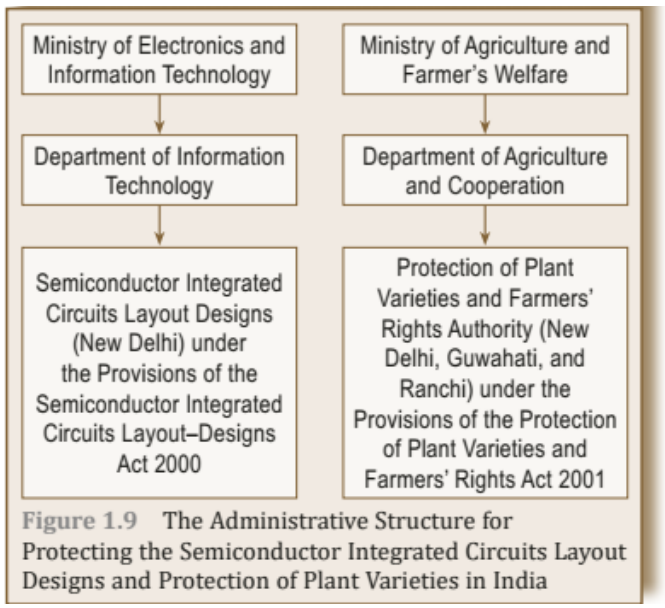

Figure 1.9 The Administrative Structure for Protecting the Semiconductor Integrated Circuits Layout Designs and Protection of Plant Varieties in India

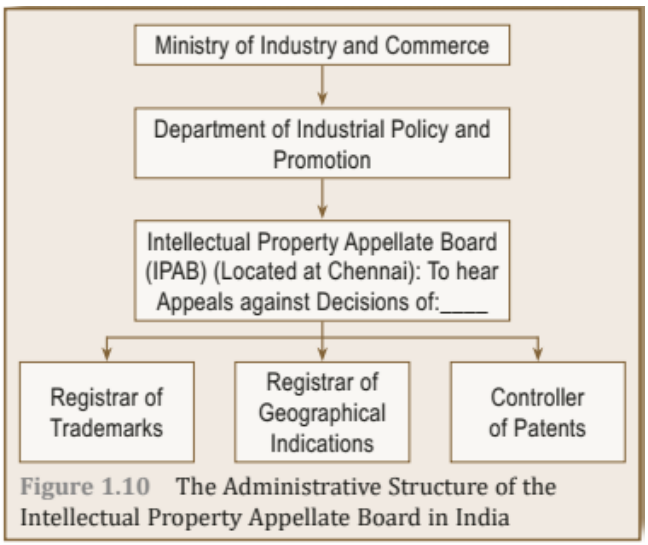

Figure 1.10 The Administrative Structure of the Intellectual Property Appellate Board in India