

IPR UNIT-1

1. Explain the concept of property.

A. CONCEPT OF PROPERTY

According to Legal Services of India, property can be any movable or immovable, tangible or intangible object that is owned by a person or jointly by a group of people.

Classification of property

Movable property: In civil law systems, personal property is often called movable property or movables – any property that can be moved from one location to another. This term is in distinction with immovable property or immovable, such as land and buildings.

Immovable property: Immovable property is an immovable object, an item of property that cannot be moved without destroying or altering it - property that is fixed to the earth, such as land or a house. In the United States it is also commercially and legally known as real estate and in Britain as property.

Intellectual property: Intellectual property (IP) refers to creations of the mind, such as inventions literary and artistic works; designs; and symbols, names and images used in commerce.

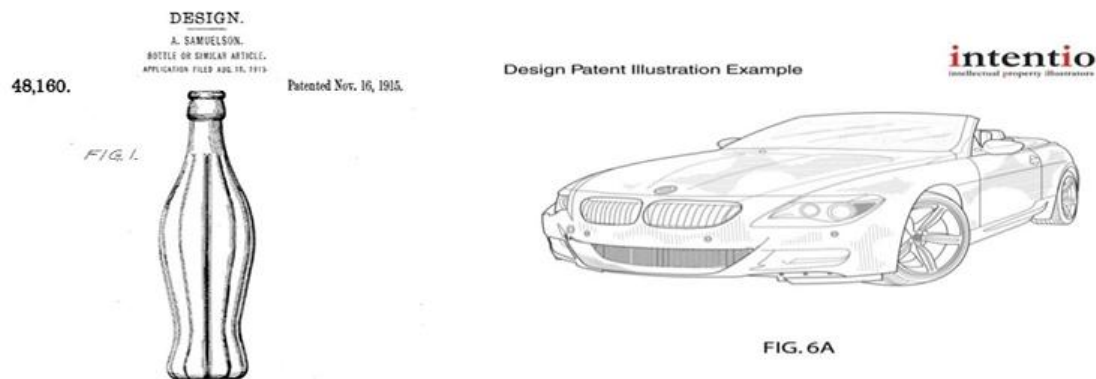
Depending upon nature of the property, an owner of the property has the right to-

1. Control over the use of property.
2. Right to take any benefit from the property.
3. Right to transfer or sell the property.
4. Right to exclude others from the property.

2. Explain design patent

A. **design patent** is a form of intellectual property protection granted to the ornamental or aesthetic aspects of a functional item. Unlike utility patents, which safeguard how an invention works, a design patent focuses solely on how it looks—its shape, configuration, surface decoration, or overall visual impression. To qualify, the design must be novel, original, and non-functional, meaning it cannot be dictated purely by the product's utility. Once granted, a design patent gives the holder exclusive rights to prevent others from making, using, selling, or importing products that copy or closely resemble the protected design. In the United States, the term of a design patent is typically 15 years from the date of grant, while other countries like India and those in the European Union have their own systems and durations. Famous examples include the contour of the Coca-Cola bottle or the sleek design of Apple's iPhone. Design patents are crucial for industries where visual appeal drives consumer choice, and they serve as powerful tools to preserve brand identity and market differentiation.

Examples:



3. Examine the protection and regulation of IPR

A. Protection of IPR

- **Exclusive Rights:** Creators and inventors are granted legal rights to control the use of their intellectual creations.
- **Encourages Innovation:** By protecting ideas, IPR fosters creativity, research, and economic development.
- **Legal Remedies:** Owners can take legal action against unauthorized use, infringement, or piracy.
- **Types of Protection:**
 - **Patents:** Protect inventions and processes.
 - **Copyrights:** Safeguard literary, artistic, and musical works.
 - **Trademarks:** Protect brand names, logos, and slogans.
 - **Designs:** Secure the aesthetic aspects of products.
 - **Geographical Indications:** Preserve regional product identities (e.g., Darjeeling tea).

Regulation of IPR

- **National Laws:**
 - In **India**, IPR is regulated by acts such as:
 - The Patents Act, 1970
 - The Copyright Act, 1957
 - The Trademarks Act, 1999
 - The Designs Act, 2000
 - The Geographical Indications of Goods Act, 1999
 - Administered by the **Department for Promotion of Industry and Internal Trade (DPIIT)**.
 - IP offices handle registration, examination, and enforcement.
- **International Treaties:**
 - **TRIPS Agreement (WTO):** Sets minimum standards for IP protection globally.
 - **Berne Convention:** Governs copyright protection.
 - **Paris Convention:** Deals with industrial property like patents and trademarks.

- **WIPO** (World Intellectual Property Organization): Coordinates international IP efforts.
- **Modernization Efforts:**
 - Online filing systems and e-governance tools.
 - Fast-track examination for startups and innovators.
 - Public-private partnerships to combat piracy and counterfeiting.
- **Awareness & Education:**
 - Government campaigns to promote IP literacy.
 - IP cells in universities and research institutions.

4. Discuss in detail the features of IPR

A. Key Features of IPR

1. **Exclusivity** IPR grants creators and inventors exclusive rights over their intellectual creations. This means they can control how their work is used, reproduced, distributed, or sold, and prevent unauthorized exploitation by others.
2. **Territorial Nature** Intellectual property rights are territorial, meaning protection is limited to the country or jurisdiction where the rights are granted. For global protection, separate applications must be filed in each region, often through international treaties like the Patent Cooperation Treaty (PCT) or Madrid Protocol for trademarks.
3. **Time-Limited Protection** IPR is not perpetual. Each type of intellectual property has a defined protection period:
 - **Patents:** Usually 20 years from the filing date.
 - **Copyrights:** Lifetime of the author plus 50–70 years.
 - **Trademarks:** Renewable indefinitely as long as they are in use.
 - **Designs:** Typically 10–25 years depending on jurisdiction.
4. **Public Disclosure Requirement** In exchange for exclusive rights, inventors must publicly disclose details of their invention (especially in patents). This promotes transparency and knowledge sharing while protecting the creator's interests.
5. **Encouragement of Innovation and Creativity** By offering legal protection and financial incentives, IPR motivates individuals and businesses to invest in research, development, and creative endeavors.
6. **Legal Enforcement and Remedies** IPR holders can take legal action against infringement, including seeking damages, injunctions, and criminal penalties. Enforcement mechanisms vary by country but are essential for maintaining the integrity of IP systems.
7. **Commercialization and Monetization** Intellectual property can be licensed, sold, or used as collateral for loans. It's a valuable business asset that can generate revenue and attract investment.
8. **Diversity of Forms** IPR covers a wide range of creations, including inventions (patents), artistic works (copyrights), brand identifiers (trademarks), product designs (design rights), and regional specialties (geographical indications).

5. Discuss Traditional Knowledge, its features and Traditional Knowledge Digital Library

A. TRADITIONAL KNOWLEDGE

Traditional knowledge (TK) is knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.

While there is not yet an accepted definition of TK at the international level, it can be said that:

TK in a general sense embraces the content of knowledge itself as well as traditional cultural expressions, including distinctive signs and symbols associated with TK.

Features of traditional knowledge

- 1) Generated within communities
- 2) Location and culture Specific
- 3) Not systematically documented
- 4) Oral and rural in nature
- 5) Concern critical issues of life

Traditional Knowledge Digital Library (TKDL)

The **TKDL** is a groundbreaking initiative by India, launched in collaboration with the **Council of Scientific and Industrial Research (CSIR)** and the **Ministry of AYUSH**, to prevent the misappropriation of Indian traditional medicinal knowledge at international patent offices.

Key Highlights:

- **Purpose:** To document and digitize traditional medicinal knowledge (Ayurveda, Unani, Siddha, Sowa Rigpa, and Yoga) and present it as prior art to prevent wrongful patenting.
- **Languages:** TKDL translates ancient texts from Sanskrit, Hindi, Urdu, Tamil, and other Indian languages into five international languages—English, French, German, Spanish, and Japanese.
- **Classification System:** Uses the **Traditional Knowledge Resource Classification (TKRC)** to align traditional terms with modern scientific terminology.
- **Global Access:** TKDL is shared with 16 international patent offices under non-disclosure agreements, allowing examiners to use it for prior art searches.
- **Impact:** Over 4.5 lakh formulations have been documented, and TKDL has helped revoke or amend hundreds of patent applications that attempted to claim rights over traditional Indian remedies like turmeric and neem.

6. Examine the uses and Misuses of IPR

A. Uses of IPR

1. **Encourages Innovation and Creativity** IPR provides inventors and creators with exclusive rights, motivating them to invest time and resources into developing new ideas, technologies, and artistic works.
2. **Boosts Business Growth** Companies can protect their unique products,

services, and branding, helping them maintain a competitive edge and attract investment.

3. **Facilitates Marketing and Branding** Trademarks and design rights help businesses build brand identity and consumer trust, making it easier to market products.
4. **Supports Economic Development** IPR contributes to national economies by fostering innovation, attracting foreign investment, and promoting exports of patented or branded goods.
5. **Enables Monetization** IP assets can be licensed, sold, or used as collateral, providing revenue streams and financial leverage for creators and businesses.
6. **Protects Cultural Heritage** Geographical Indications and Traditional Knowledge rights help preserve and promote indigenous practices and regional specialties.

MISUSE OF INTELLECTUAL PROPERTY RIGHTS

If an Intellectual Property owner improperly uses the Intellectual Properties beyond its lawful scope, the Intellectual property is considered to be improperly used or misused.

Patent misuse

At times, patent owner wrongfully uses the patent surpassing its legitimate scope. Patent misuse is the unjustified use of the acquired patent rights.

Examples of patent misuse include illegal tying of products and services to the patented invention, price fixing, fraudulently making the customers pay royalties on items the patent of which has expired, and the like.

Copyright misuse

Copyright misuse occurs when a company or an individual makes unjustified use of a copyright which is beyond its legal capacity and in violation of the Copyright Act of the concerned country. A copyright owner could commit misuse by violating any public policy choices embodied in the Copyright Act, such as by using a license agreement to extend the length of its copyright monopoly. Copyright misuse can also occur when the assertion of copyright is aimed at suppressing speech.

Trademark misuse

It is a type of defence which claims that an owner of a particular trademark has misused their trademark registration to strive to create an unfair monopoly of trademark rights.

Example: the word "organic" is now used to indicate the biological and natural origin of the products concerned

7. Discuss the various emerging areas of IPR

A. Emerging Areas of IPR

1. **Artificial Intelligence (AI) and Machine Learning (ML)** AI-generated content—such as music, art, and inventions—raises complex questions about authorship and ownership. Legal frameworks are evolving to determine whether machines can hold IP rights or if the rights belong to developers or

users.

2. **Blockchain Technology** Blockchain offers secure, transparent, and decentralized systems for managing IP assets. It can be used for timestamping creations, verifying ownership, and automating licensing through smart contracts.
3. **Internet of Things (IoT)** IoT devices generate vast amounts of data and innovations in connectivity. Protecting the software, hardware designs, and data-sharing protocols through IPR is becoming increasingly important.
4. **Biotechnology and Genetic Resources** Innovations in genetic engineering, pharmaceuticals, and agriculture demand robust patent protection. Ethical concerns around patenting life forms and genetic material are also gaining attention.
5. **Digital Content and Streaming Platforms** With the explosion of digital media, copyright laws are being updated to address online piracy, digital rights management, and fair use in the context of streaming, gaming, and social media.
6. **Software and Algorithms** Software is protected under copyright, but algorithms and business methods may also be patentable in certain jurisdictions. This area continues to evolve with debates around open-source licensing and proprietary code.
7. **Traditional Knowledge and Cultural Expressions** Countries like India are actively working to protect indigenous knowledge and folklore through mechanisms like the Traditional Knowledge Digital Library (TKDL), preventing biopiracy and misappropriation.
8. **IPR in Startups and Innovation Ecosystems** Startups increasingly rely on IP to attract investment, build brand identity, and secure market position. Governments are offering fast-track patenting and IP support to nurture entrepreneurial growth.
9. **3D Printing and Additive Manufacturing** The ability to replicate physical objects from digital files challenges traditional IP enforcement. Copyright, design, and patent laws are being reexamined to address unauthorized reproduction.
10. **Metaverse and Virtual Assets** As virtual worlds and digital avatars gain popularity, IP protection for virtual goods, NFTs, and immersive experiences is becoming a new frontier.

8. Discusses the National and International agencies for registering IPRs

A. National Agencies for IPR Registration (India)

1. **Controller General of Patents, Designs and Trademarks (CGPDTM)**
 - Main authority under the **Department for Promotion of Industry and Internal Trade (DPIIT)**
 - Handles registration of patents, trademarks, industrial designs, and geographical indications
 - Website: DPIIT – National IPR Policy

2. Copyright Office (Ministry of Education)

- Responsible for copyright registration and management
- Administers the Copyright Act, 1957

3. Geographical Indications Registry (Chennai)

- Manages registration of products with unique regional identity under the GI Act, 1999

4. Intellectual Property Facilitation Centres (IPFCs)

- Provide support to MSMEs, startups, and academic institutions for IP filing and awareness

5. Startup India IPR Support

- Offers fast-track patent filing, fee rebates, and legal support for startups under the **SIPP scheme**

International Agencies for IPR Registration

1. World Intellectual Property Organization (WIPO)

- A UN agency that promotes global IP protection
- Administers treaties like:
 - **Patent Cooperation Treaty (PCT)** – for international patent filing
 - **Madrid Protocol** – for international trademark registration
 - **Hague Agreement** – for international design protection
- Website: WIPO

2. International Copyright and Intellectual Property Rights Organization (ICRIPRO)

- Offers global registration services for copyrights, trademarks, patents, trade secrets, and geographical indications
- Provides legal support and recognition across multiple jurisdictions

3. United States Patent and Trademark Office (USPTO)

- Handles IP registration in the U.S. and collaborates internationally on enforcement and policy

4. European Union Intellectual Property Office (EUIPO)

- Manages trademarks and designs across EU member states

5. International Treaties and Conventions

- **TRIPS Agreement (WTO)**: Sets global standards for IP protection
- **Berne Convention**: Governs international copyright
- **Paris Convention**: Covers patents and industrial property
- **Lisbon Agreement**: Protects appellations of origin

9. Summarize different laws pertaining to intellectual property rights

A.

INTELLECTUAL PROPERTY

In today's competitive world 'Innovation' is the main requirement for the survival of every business. Identifying, developing, and using innovations provide a competitive edge to the business to aid in its long-term success. There is a misnomer that Intellectual property is limited to technology companies, However, the fact is that it is a necessity and is very much valuable for every business which invests huge sums

in its research and development programmes in order to create new and useful indigenous products and services.

It is a well-known fact that an organization's success largely depends upon its Patent portfolio apart from various other Intellectual Property assets, such as, designs, trademarks, and copyrights, thus, every organization must ensure maximisation of its intellectual property portfolio. The TRIPS Agreement provides for protection of various kinds of intellectual property rights and ensure that adequate standards of protection exist in all member countries. The agreement was implemented with the minimum standards for the protection of IPR and a time-frame has been specified

- Provides a business with a competitive advantage
- Treated in a way that can reasonably be expected to prevent the public or competitors from

learning about it, absent improper acquisition or theft

within which member countries are required to effect changes in their respective laws to meet the requisite compliance standards. Thus, it has made way for the harmonization of Indian laws connected with Intellectual Property Rights.

Intellectual properties rights in India are governed under the following Acts:

- Trade Marks Act, 1999
- The Patents Act, 1970 (amended in 2005)
- The Copyright Act, 1957
- The Designs Act, 2000
- The Geographical Indication of Goods (Registration and Protection) Act, 1999
- The Protection of Plant Varieties and Farmers Rights Act, 2001
- The Information Technology Act, 2000

Type of IPR	Governing Law	Key Features
Patents	Patents Act, 1970 (amended in 2005)	Protects inventions; grants exclusive rights for 20 years
Trademarks	Trade Marks Act, 1999	Protects brand names, logos, and symbols; renewable every 10 years
Copyrights	Copyright Act, 1957	Covers literary, artistic, musical, and software works
Designs	Designs Act, 2000	Protects aesthetic aspects of products for 10 years (extendable)
Geographical Indications (GI)	Geographical Indications of Goods Act, 1999	Protects products with regional identity (e.g., Darjeeling tea)
Plant Varieties	Protection of Plant Varieties and Farmers' Rights Act, 2001	Safeguards new plant varieties and farmers' rights
Semiconductor IC Layouts	Semiconductor Integrated Circuits Layout-Design Act, 2000	Protects layout designs of semiconductor chips

10. Write about various international instruments for IPR

A. The need for international protection of intellectual property became evident when foreign exhibitors refused to attend the International Exhibition of Inventions in Vienna in 1873 because they were afraid their ideas would be stolen and exploited commercially in other countries. There are number of International Treaties/Conventions which deal with the various aspects of intellectual property and industrial property.

Paris Convention:

The year 1883 marked the origin of the Paris Convention for the Protection of Industrial Property, the first major international treaty designed to help the people of one country obtain protection in other countries for their intellectual creations in the form of industrial property rights, known as inventions (patents); trademarks; industrial designs. The Paris Convention entered into force in 1884 with 14 member States, which set up an International Bureau to carry out administrative tasks, such as organizing meetings of the member States.

Berne Convention:

In the year 1886, copyright also entered the international arena with the Berne Convention for the Protection of Literary and Artistic Works to help nationals of its member States obtain international protection of their right to control, and receive payment for, the use of their creative works such as novels, short stories, poems, plays; songs, operas, musicals, sonatas; and drawings, paintings, sculptures, architectural works. Like the Paris Convention, the Berne Convention set up an International Bureau to carry out administrative tasks.

Madrid protocol

The Madrid system (officially the Madrid system for the international registration of marks) is the primary international system for facilitating the registration of trademark in multiple jurisdictions around the world. Its legal basis is the multilateral treaty Madrid Agreement Concerning the International Registration of Marks of 1891, as well as the Protocol Relating to the Madrid Agreement (1989). The Madrid system provides a centrally administered system of obtaining a bundle of trademark registrations in separate jurisdictions

Rome Convention (1961)

Protects rights of performers, producers of phonograms, and broadcasting organizations

Patent Cooperation Treaty (PCT)

- Enables inventors to seek patent protection in multiple countries through a unified process
- Simplifies filing and examination procedures
- Administered by **WIPO**

11. Discuss about World Intellectual Property Organization, TRIPS, WTO and GATT

A. TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) AGREEMENT

With the establishment of the world trade Organization (WTO), the importance and role of the intellectual property protection has been crystallized in the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. Its objectives include the reduction of distortions and impediments to international trade, promotion of effective and adequate protection of intellectual property rights, and ensuring that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade.

The TRIPS Agreement encompasses, in principle, all forms of intellectual property and aims at harmonizing and strengthening standards of protection and providing for effective enforcement at both national and international levels.

- o Copyright and related rights (i.e., the rights of performers, producers of sound recordings and broadcasting organisations);
- o Trademarks including service marks;
- o Geographical indications including appellations of origin;
- o Industrial designs;
- o Patents including protection of new varieties of plants;
- o The lay-out designs (topographies) of integrated circuits;
- o The undisclosed information including trade secrets and test data.

WORLD TRADE ORGANIZATION (WTO)

Created in 1995, the World Trade Organization (WTO) is an international institution that oversees the rules for global trade among nations. It is based on agreements signed by a majority of the world's trading nations. The main function of the organization is to help producers of goods and services, as well as exporters and importers, protect and manage their businesses. As of 2021, the WTO has 164 member countries.

The WTO is essentially a mediation entity that upholds the international rules of trade among nations. The organization provides a platform that allows member governments to negotiate and resolve trade issues with other members. The WTO's main focus is to provide open lines of communication concerning trade among its members and attempts to mediate between nations in order to benefit the global economy.

General Agreement on Tariffs and Trade (GATT)

General Agreement on Tariffs and Trade (GATT) was a multilateral agreement regulating international trade. According to its preamble, its purpose was the "substantial reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis."

It was negotiated during the United Nations Conference on Trade and Employment and was the outcome of the failure of negotiating governments to create the International Trade Organization (ITO). GATT was signed by 23 nations in Geneva on October 30, 1947 and took effect on January 1, 1948. It lasted until the signature by 123 nations in Marrakesh on April 14, 1994 of the Uruguay Round Agreements, which established the World Trade Organization (WTO) on January 1, 1995.

12. Illustrate the concept of industrial Property and the concept of layout design and integrated circuits

A. INDUSTRIAL PROPERTY

Industrial property is one of two subsets of intellectual property (the other being copyright), it takes a range of forms, including patents for inventions, industrial designs (aesthetic creations related to the appearance of industrial products), trademarks, service marks, layout-designs of integrated circuits, commercial names and designations, geographical indications of source etc. The purpose of industrial property law is to protect inventions and industrial or commercial creative work. Industrial property has become a key economic and strategic tool for any economic player. The broad application of the term “industrial property” is set out in the Paris Convention. Industrial property rights guarantee their holder a monopoly on exploitation. Patents are for technical inventions, designs for aesthetic creations and trademarks or geographical indications for distinctive signs.

Patent

A patent is a legal right to exclude others from practicing the patented invention for a limited period of time in exchange for disclosing the details of the invention to the public.

Feature of Patent

- Invention must be “NEW”
 - An invention must involve an “Invention Steps”-
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- **Patents:** Protect inventions and technological innovations.
 - **Trademarks:** Protect brand names, logos, and symbols that distinguish goods/services.
 - **Industrial Designs:** Protect the aesthetic or ornamental aspects of a product.
 - **Geographical Indications:** Protect names that identify products from specific regions (e.g., Darjeeling tea).
 - **Layout Designs of Integrated Circuits:** Protect the 3D arrangement of electronic components in chips.
 - **Trade Secrets and Protection Against Unfair Competition:** Safeguard confidential business information and practices.