

Module 2 : Remaining Topics

1. Trade Secrets

A trade secret refers to any information that gives a business a competitive advantage and is kept confidential. This could be a formula, practice, process, design, or compilation of information not generally known or reasonably ascertainable.

Key subtopics:

- **Definition:** A trade secret is information that is valuable because it is not publicly known and has reasonable steps taken to keep it confidential.
- **Examples:**
 - The recipe for Coca-Cola.
 - Google's search algorithm.
- **Legal Protection:** Trade secrets are protected by law, but unlike patents, they do not need to be registered. The owner must take reasonable steps to maintain secrecy (e.g., non-disclosure agreements, restricted access).
- **Requirements for a Trade Secret:**
 - **Not known to the public:** The information must be something that competitors or the general public do not know.
 - **Economic value:** The information provides an economic advantage to its owner.
 - **Reasonable steps to keep secret:** The owner must take steps to maintain its secrecy, such as limiting access or signing confidentiality agreements.
- **Misappropriation:** If someone obtains a trade secret through improper means (like theft, bribery, or breach of a confidentiality agreement), it is considered misappropriation, and the owner can sue for damages.

2. Antitrust

Antitrust laws are regulations that prevent unfair business practices, monopolies, and ensure competition in the marketplace. These laws exist to protect consumers from businesses that would otherwise dominate the market and reduce choices or increase prices.

Key subtopics:

- **Monopolies:** A **monopoly** occurs when a single company dominates a market, often leading to higher prices and reduced choices for consumers. Antitrust laws prevent this.
- **Cartels:** When businesses agree to work together rather than compete, they form a **cartel**. For example, companies might agree on prices, limiting competition. This is illegal under antitrust laws.
- **Mergers and Acquisitions:** Large companies sometimes try to buy out smaller competitors to reduce competition. Antitrust laws review such mergers to ensure they do not harm competition.
- **Price Fixing:** Antitrust laws prevent businesses from agreeing to set prices at a certain level. This behaviour is known as **price fixing**, and it harms consumers by preventing natural competition from lowering prices.
- **Penalties:** Companies found guilty of violating antitrust laws can face severe fines, breaking up of the company, or prison sentences for individuals involved.

3. Infringement and Applicable Laws - National and International Perspective

Infringement refers to the violation of an intellectual property (IP) owner's exclusive rights, such as using, selling, or copying

a patented invention, copyrighted work, or trademarked item without permission.

National Perspective (India):

- **Copyright Act 1957:** In India, the **Copyright Act** protects the rights of creators of literary, artistic, musical, and dramatic works. Copyright infringement happens when someone uses these works without authorization.
- **Patent Act 1970:** The **Indian Patent Act** protects inventions and provides the inventor with exclusive rights to use, sell, or licence the invention for a specified time (usually 20 years). Infringement occurs if someone manufactures or sells the patented product without permission.
- **Trademarks Act 1999:** The **Trademarks Act** protects logos, brand names, and other distinctive signs used by businesses. Trademark infringement occurs when a business uses a sign or mark identical or confusingly similar to a registered trademark.
- **Trade Secrets Protection:** Though India doesn't have a specific law for trade secrets, courts protect them under contract law and other statutes.

International Perspective:

- **TRIPS Agreement:** The **Trade-Related Aspects of Intellectual Property Rights (TRIPS)** agreement is an international legal framework that sets minimum standards for IP protection worldwide. It requires member countries (including India) to ensure that IP laws meet these standards.
- **WIPO:** The **World Intellectual Property Organization (WIPO)** helps harmonize IP protection globally. It oversees international treaties, like the **Berne Convention** (for copyright) and **Paris Convention** (for patents and trademarks).
- **Penalties for Infringement:** Infringement can lead to civil and criminal penalties, including fines, damages, and

imprisonment. IP owners can seek court orders (injunctions) to stop infringers and claim damages for losses.

4. Patent Act India

The Indian Patent Act of 1970 governs patents in India. A patent gives the inventor exclusive rights to their invention for a limited period, generally 20 years, in exchange for publicly disclosing how the invention works.

A **patent** is a legal right granted to an inventor that provides exclusive ownership over their invention for a limited period, typically 20 years. It protects innovations by allowing the inventor to control how the invention is used, manufactured, or sold, while ensuring public disclosure of the invention's details. To qualify, an invention must be new, non-obvious, and useful. Patents promote innovation by rewarding inventors while eventually making the invention available for public use once the patent expires.

Introduction:

- Governs the patent system in India.
- Provides exclusive rights to inventors for their inventions.

Patentable Inventions:

- Must be **novel (new), non-obvious, and industrially applicable.**
- Excludes inventions related to atomic energy, frivolous or immoral inventions, and methods of agriculture/horticulture.

Patent Application Process:

- **Filing:** Submit an application with complete specification and necessary documents to the Indian Patent Office.
- **Publication:** Application is published 18 months after filing.
- **Examination:** Request for examination must be filed within 48 months from the filing date.
- **Objections:** Applicant can respond to objections raised by the examiner.
- **Granting of Patent:** Granted if the application meets all requirements, and patent details are published in the patent journal.

Term of Patent:

- Valid for **20 years** from the filing date.

Rights of Patentee:

- Exclusive rights to make, use, sell, or license the patented invention in India.
- Right to file a lawsuit against patent infringement.

Patent Infringement:

- Unauthorized use, manufacture, or sale of a patented invention.
- Legal action: Patentee can claim **damages** and seek **injunction**.

Compulsory Licensing:

- Granted when the public demand for a patented product is not being met by the patent holder.
- Applicable after 3 years from the grant of the patent.
- Issued in cases like public health emergencies or national importance.

Revocation of Patent:

- A patent can be revoked for non-working, non-compliance with conditions, or if it was wrongfully obtained.

Patent of Addition:

- Granted for an improvement or modification of an existing invention.
- Linked to the main patent and expires with it.

International Patents:

- India is a signatory to the **Patent Cooperation Treaty (PCT)**, allowing patent protection in multiple countries through a single application.