

1. How Indian economy system has been changed by signing TRIPS? Please elaborate in accordance with IP regime.

Answer) The signing of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1995 has had a significant impact on the Indian economy, particularly in terms of intellectual property (IP) regime.

Before the signing of TRIPS, India had a relatively weak IP regime and was known for producing and exporting generic drugs at a low cost. This was possible because India did not grant product patents for pharmaceuticals, which allowed domestic firms to produce generic versions of patented drugs without fear of legal action. However, under TRIPS, India was required to introduce product patents for pharmaceuticals, which meant that domestic firms would no longer be able to produce generic drugs without permission from the patent holder.

The introduction of product patents for pharmaceuticals had a significant impact on the Indian economy. On the one hand, it provided greater protection for foreign firms' IP, which encouraged more foreign investment in India's pharmaceutical industry. This, in turn, led to increased research and development activities and the introduction of new drugs into the Indian market.

On the other hand, the introduction of product patents for pharmaceuticals also had negative consequences for access to affordable medicines in India. Because patented drugs are often expensive, the introduction of product patents meant that many essential medicines would become unaffordable for millions of Indians. This was particularly problematic for the treatment of

diseases such as HIV/AIDS, where access to affordable generic drugs was critical.

To address this issue, India introduced several measures to ensure that access to affordable medicines was not compromised. For example, India's patent law allows for the grant of compulsory licenses, which allow domestic firms to produce generic versions of patented drugs without the permission of the patent holder in certain circumstances, such as in the case of a public health emergency. This has enabled Indian firms to continue producing affordable generic drugs for the Indian market and for export to other developing countries.

In conclusion, the signing of TRIPS has had a significant impact on the Indian economy, particularly in terms of its IP regime. While it has provided greater protection for foreign firms' IP and encouraged more foreign investment in India's pharmaceutical industry, it has also had negative consequences for access to affordable medicines. However, India has introduced measures to ensure that access to affordable medicines is not compromised, including the grant of compulsory licenses.

2. What is a design under the Design Act, 2000? What are the characteristics that a design must possess in order to be registrable?

Answer) In India, the Design Act, 2000 provides legal protection for industrial designs. A design is defined as the features of shape, configuration, pattern, ornament, or composition of lines or colors applied to any article, whether in two-dimensional or three-dimensional or in both forms, by any industrial process or means, which appeals to and is judged solely by the eye.

For a design to be registrable under the Design Act, it must possess the following characteristics:

- i) Novelty: The design must be new and original, i.e., it should not have been published or publicly disclosed anywhere in India or elsewhere before the date of filing the application for registration.
- ii) Originality: The design should be the result of the designer's creative effort and should not have been copied from any existing design.
- iii) Individual character: The design should have an individual character that distinguishes it from any existing design, and it should not be merely a trivial variation of a known design.
- iv) Applicability: The design should be applicable to any article, and not just to a specific article.
- v) Non-obviousness: The design should not be obvious to a person skilled in the art.

If a design satisfies all of the above characteristics, it can be registered under the Design Act. Once registered, the owner of the design has the exclusive right to use it, and no one else can reproduce, sell, or import articles bearing the design without the owner's permission. The registration is valid for ten years, which can be further renewed for another five years.

Q) What is Intellectual property rights and its types?

Intellectual property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, and names used in commerce, which are protected by law. Intellectual property rights (IPR) are the legal rights that creators, inventors, and owners of these intellectual assets have over their creations, granting them the right to control and exploit them for a certain period of time.

There are several types of intellectual property rights, including:

**Patents:** These give inventors exclusive rights to their inventions for a certain period of time, generally 20 years from the date of filing.

Patents protect functional and technical aspects of inventions, such as processes, machines, and compositions of matter.

**Trademarks:** These are symbols, designs, or words that identify and distinguish the goods or services of one person or company from those of others. Trademarks can be registered with the government to prevent others from using the same or similar marks.

**Copyrights:** These protect original creative works, such as books, music, films, and software, and give the creator exclusive rights to reproduce, distribute, and display their work. Copyrights generally last for the lifetime of the creator plus a certain number of years after their death.

**Trade secrets:** These are confidential and proprietary information that gives a company a competitive advantage over others. Examples of trade secrets include customer lists, formulas, and manufacturing processes. Trade secrets are protected through non-disclosure agreements and other legal means.

**Industrial designs:** These protect the visual appearance of a product, such as its shape, pattern, or color. Industrial designs are registered with the government and protect the aesthetic aspects of products, but not their functionality.

Q) Importance of Intellectual Property Right.

Intellectual property (IP) refers to the intangible creations of the human mind, such as inventions, literary and artistic works, symbols, names, and images used in commerce. Intellectual property rights (IPRs) provide legal protection to owners and creators of these intangible assets. Here are some of the reasons why intellectual property rights are important:

**Encourage innovation and creativity:** Intellectual property rights provide incentives for innovators and creators to invest time, money, and effort into the development of new and useful products, technologies, and artistic works. This leads to progress and growth in various fields.

**Protection of investments:** Intellectual property rights protect the investments made by creators and owners of intellectual property. They can monetize their creations by licensing or selling their patents, trademarks, copyrights, and other forms of IP.

**Competition:** Intellectual property rights encourage competition by providing a level playing field for businesses to compete based on innovation and creativity rather than price.

**Consumer protection:** Intellectual property rights ensure that consumers can rely on the quality and origin of goods and services they purchase. Trademarks, for instance, help consumers identify and differentiate products in the marketplace.

**Economic growth:** Intellectual property rights play a critical role in economic growth and development. A strong IP system promotes foreign investment, technology transfer, and international trade, which can boost economic activity and create jobs.

In summary, intellectual property rights are important for fostering innovation, protecting investments, promoting competition, safeguarding consumers, and driving economic growth.

#### Q) Agencies responsible for Intellectual Property registration.

The agencies responsible for intellectual property (IP) registration vary by country. Here are some examples:

United States: The United States Patent and Trademark Office (USPTO) is responsible for registering patents and trademarks. The Copyright Office, which is part of the Library of Congress, is responsible for registering copyrights.

United Kingdom: The Intellectual Property Office (IPO) is responsible for registering patents, trademarks, and designs. Copyrights are automatically protected in the UK and do not need to be registered.

European Union: The European Patent Office (EPO) is responsible for registering patents in Europe. The European Union Intellectual Property Office (EUIPO) is responsible for registering trademarks and designs in the European Union.

Australia: The Australian Government agency responsible for intellectual property registration is the Intellectual Property Australia (IPA). They are responsible for registering patents, trademarks, and designs.

Japan: The Japan Patent Office (JPO) is responsible for registering patents, trademarks, and designs.

China: The State Intellectual Property Office (SIPO) is responsible for registering patents, trademarks, and designs in China.

It's important to note that these agencies only provide registration services within their respective countries or regions. If you are

seeking international protection for your intellectual property, you may need to apply for protection in multiple countries or through international agreements such as the Madrid Protocol or the Patent Cooperation Treaty.

### Q) Regulatory Compliance and Liability Issues in Intellectual Property Right.

Regulatory compliance and liability issues are important considerations in intellectual property rights. Here are some key points to keep in mind:

**Compliance with regulations:** Intellectual property owners need to comply with regulations related to their particular type of IP, such as patents, trademarks, and copyrights. For example, patents must be filed within a certain time period and meet specific requirements for patentability. Trademarks must be used in commerce and renewed periodically to remain valid. Copyright owners must adhere to the limitations of exclusive rights under copyright law, such as fair use.

**Infringement liability:** If an intellectual property owner believes their rights have been infringed upon, they may have grounds to pursue legal action against the alleged infringer. However, they must ensure they have a valid claim and that they have not infringed upon anyone else's IP rights in the process.

**Diligent monitoring:** Intellectual property owners must be diligent in monitoring their IP rights to ensure they are not being infringed upon by others. If they fail to do so and someone else uses their IP without permission, they may be held liable for damages.

**International considerations:** Intellectual property rights vary by country, so compliance with regulations and liability issues may be different depending on where the IP is being used or registered. It is

important to understand the laws and regulations in each country where the IP is being used or registered.

Overall, compliance with regulations and liability issues are critical considerations for any intellectual property owner. It is important to work with legal professionals who are knowledgeable about IP law to ensure that all requirements are met and to mitigate any potential liability issues.

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### Q) Impact of Intellectual Property?

Intellectual property (IP) refers to creations of the mind, such as inventions, literary and artistic works, symbols, names, and designs. IP protection is a legal concept that grants exclusive rights to owners of intellectual creations to control the use and distribution of their work for a limited period.

The impact of intellectual property can be significant and far-reaching, and it affects different stakeholders in various ways. Here are some of the ways in which intellectual property can have an impact:

**Encourages Innovation:** Intellectual property protection provides incentives for creators to invest their time, effort, and resources in developing new and useful products or services. It rewards inventors, creators, and entrepreneurs for their creativity and allows them to reap the benefits of their investments.

**Promotes Economic Growth:** Intellectual property protection can be a significant driver of economic growth by stimulating investment, job creation, and trade. It encourages companies to invest in



research and development and helps them to commercialize their innovations and generate revenue.

**Protects Consumers:** Intellectual property protection ensures that consumers have access to high-quality and safe products and services. It promotes fair competition and prevents unauthorized use of intellectual property, which can lead to poor quality or dangerous products.

**Fosters International Relations:** Intellectual property protection can be a significant factor in international trade negotiations and agreements. It helps countries to build stronger relationships by protecting each other's intellectual property rights and promoting a level playing field for businesses.

**Limits Access to Knowledge:** Some critics argue that intellectual property protection can create barriers to the dissemination of knowledge and limit access to essential medicines, educational materials, and other public goods.

**Can Stifle Innovation:** In some cases, overly broad or restrictive intellectual property rights can stifle innovation and competition. For example, patent trolls, who acquire patents solely to license or litigate them, can discourage innovation and limit competition in certain industries.

In summary, intellectual property can have a significant impact on innovation, economic growth, consumer protection, international relations, and access to knowledge. However, policymakers must strike a balance between protecting intellectual property rights and promoting innovation, competition, and public access to essential goods and services.

**Q) Invention vs. Patent in IPR.**

In Intellectual Property Rights (IPR), invention and patent are two related but distinct concepts.

An invention refers to a novel and non-obvious solution to a technical problem. It can be a product, a process, or an improvement of an existing product or process. In order to be patentable, an invention must meet certain criteria such as novelty, non-obviousness, and industrial applicability.

A patent, on the other hand, is a legal document that grants exclusive rights to the inventor or patent holder to exclude others from making, using, or selling the invention for a certain period of time, usually 20 years from the filing date of the patent application. The patent provides a legal framework for the inventor to monetize their invention and recoup the investment made in its development.

In other words, an invention is the result of a creative process that solves a technical problem, while a patent is a legal mechanism that protects the inventor's rights to that invention. Not all inventions are patentable, but in order to be patentable, an invention must meet certain legal requirements, including novelty, non-obviousness, and industrial applicability.

### Q) Patentization

Patentization, also known as patenting, is the process of obtaining a patent for an invention or innovation. A patent is a legal document that grants the holder exclusive rights to prevent others from making, using, or selling an invention for a certain period, typically 20 years from the date of filing.

The patentization process typically involves several steps:

**Invention Disclosure:** The first step in the patentization process is to disclose the invention in a written description that provides sufficient

detail to enable someone skilled in the relevant field to understand and reproduce the invention.

**Patent Search:** Before filing a patent application, it is essential to conduct a patent search to determine whether the invention is new and non-obvious. A patent search involves reviewing existing patents and patent applications to determine whether the invention is already patented or if there are similar inventions that could be considered prior art.

**Patent Application:** Once an invention has been disclosed and a patent search has been conducted, the next step is to file a patent application with the appropriate patent office. The application must include a written description of the invention, claims that define the scope of the invention, and any necessary drawings.

**Patent Examination:** After filing a patent application, it is reviewed by a patent examiner who determines whether the invention meets the legal requirements for patentability. The examiner may request additional information or modifications to the application before granting a patent.

**Patent Grant:** If the examiner determines that the invention meets the legal requirements for patentability, a patent is granted, giving the inventor exclusive rights to the invention for a specified period.

Patentization can be a complex and time-consuming process, requiring knowledge of patent law and the ability to write detailed patent applications. However, obtaining a patent can provide significant benefits, including protection against infringement and the ability to license or sell the invention to others for a profit.

**Q) Patent is a territorial right**

Yes, a patent is a territorial right. This means that a patent granted in one country only gives the patent owner the exclusive right to prevent others from making, using, selling, or importing the patented invention in that particular country. The patent owner does not have the right to prevent others from using, making, selling or importing the invention in other countries where the patent has not been granted.

To protect an invention in multiple countries, the inventor or patent owner must apply for a patent in each individual country or region where they want protection. This can be done through national patent offices or by using international patent systems such as the Patent Cooperation Treaty (PCT) or the European Patent Convention (EPC).

It is important for inventors and businesses to consider the costs and benefits of seeking patent protection in different countries, as the patent laws and procedures can vary significantly between different jurisdictions.

### Q) Management of International Patents

Managing international patents can be a complex and challenging process, but it is essential for businesses and inventors who want to protect their inventions in multiple countries. Here are some key considerations for managing international patents:

Strategy: Developing a comprehensive patent strategy that takes into account the inventor's or business's goals, budget, and timeline is crucial. This includes determining which countries or regions to pursue patent protection in, deciding on the most appropriate patent application process (e.g., national filings, PCT, EPC), and

prioritizing patent applications based on the importance and commercial potential of the invention in each market.

**Patent Search:** Conducting a thorough patent search is essential to identify any potential infringement risks and to ensure that the invention is novel and non-obvious. The search should be conducted in each country or region where patent protection is being considered.

**Patent Filing:** Once a patent strategy has been developed and a patent search has been conducted, the inventor or business can begin filing patent applications in each country or region. This can be done through national patent offices or through international patent systems such as PCT or EPC.

**Patent Prosecution:** After filing a patent application, the inventor or business must work with patent examiners in each country or region to obtain patent protection. This may involve responding to office actions, conducting patentability searches, and amending claims to ensure that the invention is patentable.

**Maintenance:** Once a patent is granted, it must be maintained by paying maintenance fees and annuities in each country or region where it has been granted. Failure to pay these fees can result in the patent being invalidated.

**Enforcement:** If infringement of a patent occurs, the inventor or business must decide whether to pursue legal action in each country or region where the patent has been granted. This can be a complex and expensive process, so it is important to carefully consider the costs and benefits of enforcement actions.

**Q) Patent filing timeline**

The timeline for filing a patent can vary depending on the jurisdiction in which you are filing. Here is a general timeline that applies to most jurisdictions:

**Invention Disclosure:** The first step is to document your invention in writing, including any drawings or diagrams that may be necessary to describe it. This documentation should include a detailed description of the invention, as well as any information about its use, function, and potential commercial applications.

**Prior Art Search:** Before filing a patent, it is important to conduct a prior art search to ensure that your invention is novel and non-obvious. A prior art search involves looking for existing patents, publications, and other publicly available information that may be relevant to your invention.

**Patent Application Drafting:** Once you have completed your prior art search, you can begin drafting your patent application. This involves writing a detailed description of your invention, as well as creating drawings or diagrams that help to illustrate its features.

**Filing the Application:** Once your patent application has been drafted, it can be filed with the appropriate patent office. The filing process can take several weeks or months, depending on the jurisdiction.

**Patent Examination:** After your application has been filed, it will be assigned to a patent examiner, who will review it to determine whether your invention meets the criteria for patentability. The examination process can take several years, and may involve several rounds of back-and-forth correspondence between you and the examiner.

**Granting of Patent:** If your application is approved, you will be granted a patent, which gives you the exclusive right to use, make, and sell your invention for a certain period of time (usually 20 years from the date of filing).

It is important to note that the timeline for filing a patent can vary depending on the complexity of your invention, the jurisdiction in which you are filing, and other factors. It is always best to consult with a patent attorney or agent to determine the best course of action for protecting your intellectual property.

### **Q) Parts of Patent Document**

A patent document typically consists of the following parts:

**Title of the invention:** This is a brief description of the invention that the patent application covers.

**Abstract:** A short summary of the invention that describes its technical aspects and its novelty.

**Background of the invention:** This section provides a detailed explanation of the problem that the invention aims to solve, along with an overview of prior art or previous attempts to solve the problem.

**Description of the invention:** This is the most detailed part of the patent document, and it explains how the invention works, what it is made of, and how it is used. It includes drawings or diagrams that illustrate the invention.

**Claims:** These are the legal statements that define the scope of protection granted by the patent. They describe the specific features of the invention that are protected by the patent, and they

determine whether other inventors or companies are infringing on the patent.

**Abstract drawings:** These drawings are included to provide further detail and context to the description of the invention. They may include flowcharts, graphs, or other illustrations that support the patent claims.

**References and citations:** This section lists all of the prior art and references that were consulted during the creation of the invention. It helps establish the novelty and originality of the invention.

**Patent application data:** This includes information about the inventors, their contact information, and the date of the patent application.

#### Q) **What is done before filing Patent?**

Before filing a patent, inventors typically go through the following steps:

**Conducting a patent search:** Inventors should search existing patents and published patent applications to ensure their invention is novel and non-obvious. This search can help avoid the costly and time-consuming process of filing a patent application that is unlikely to be granted.

**Conducting a prior art search:** In addition to searching patents, inventors should also search for any relevant publications, trade journals, and other sources of information that may impact the patentability of their invention.

**Evaluating patentability:** Based on the results of the patent and prior art searches, the inventor should evaluate the patentability of their invention. This involves analyzing the novelty, non-obviousness, and



utility of the invention, as well as the potential market for the invention.

Preparing a patent application: Once the inventor has determined that their invention is likely to be patentable, they should prepare a patent application. This includes creating detailed drawings or diagrams, drafting a detailed description of the invention, and creating the legal claims that define the scope of the patent protection.

Filing the patent application: Finally, the inventor can file the patent application with the appropriate patent office. The application will be reviewed by a patent examiner, who will evaluate the patentability of the invention and determine whether to grant the patent.

#### Q) PCT system in Intellectual Property Rights

The PCT system (Patent Cooperation Treaty) is an international treaty that streamlines the process of filing patent applications in multiple countries. The PCT system is administered by the World Intellectual Property Organization (WIPO).

Under the PCT system, an applicant can file a single international patent application with WIPO, which then serves as a kind of placeholder application that can be used to initiate the process of seeking patent protection in multiple countries. This international patent application is known as the PCT application.

The PCT application provides a standardized format and a centralized filing and search system. Once filed, the PCT application is subjected to an international search and a written opinion, which assesses the potential patentability of the invention. This written opinion can be

used by the applicant to make informed decisions about whether to proceed with patent applications in individual countries.

The PCT system does not grant patents directly. Rather, it provides a mechanism for applicants to delay the decision about which countries to seek patent protection in, while still maintaining the priority date of their invention. The priority date is the date on which the first patent application is filed and is used to establish the novelty and inventiveness of the invention.

By filing a PCT application, applicants can delay the cost and administrative burden of filing individual patent applications in multiple countries, while still securing the priority date and obtaining an assessment of the patentability of their invention.

Q) Process of Drafting patent in IPR.

Drafting a patent application is a complex process that requires a deep understanding of the invention, the relevant patent laws, and the technical language used in the field of the invention. The following are the general steps involved in drafting a patent application:

**Conduct a patentability search:** Before drafting a patent application, it is important to conduct a patentability search to ensure that the invention is not already patented or described in the prior art.

**Identify the invention:** The inventor needs to identify the specific aspects of the invention that are novel and non-obvious, and determine the scope of protection sought through the patent.

**Describe the invention:** The inventor needs to provide a detailed description of the invention, including how it works and how it differs from the prior art. The description should be written in clear, concise, and precise language.

**Draft the claims:** The claims define the scope of protection sought through the patent. The inventor needs to draft the claims carefully to ensure that they are broad enough to cover the invention, but not so broad as to be invalid.

**Prepare drawings:** If the invention is a product or device, it is often helpful to prepare detailed drawings that show how the invention works.

**Prepare the specification:** The specification is a written document that includes the description of the invention, the claims, and the drawings. It is important to ensure that the specification meets the legal requirements for patentability.

**File the patent application:** Once the patent application is drafted, it needs to be filed with the appropriate patent office, along with the required fees and any additional documentation.

**Prosecute the patent:** After the patent application is filed, the patent office will examine the application to determine if it meets the legal requirements for patentability. The inventor may need to respond to office actions and make amendments to the application to overcome any rejections or objections raised by the patent office.

**Obtain the patent:** If the patent application is found to meet the legal requirements for patentability, the patent will be granted and the inventor will have exclusive rights to the invention for the term of the patent.

**Q) What is done before drafting patent**

Before drafting a patent, the inventor or applicant typically performs a patentability search to determine if their invention is new and non-obvious. This search involves examining existing patents and published patent applications, as well as other relevant literature

and products, to see if the invention has already been disclosed or claimed by someone else.

Additionally, the inventor or applicant may perform a market research study to determine the commercial potential of the invention. This study may involve assessing the target market, identifying potential competitors, and estimating the potential financial returns of the invention.

Once the inventor or applicant determines that their invention is novel and non-obvious, they can begin drafting the patent application. This involves describing the invention in detail and including drawings or diagrams to illustrate the invention. The application must also include one or more claims that define the scope of the invention and distinguish it from prior art.

Before submitting the patent application to the patent office, the inventor or applicant may seek the assistance of a patent attorney or agent to ensure that the application meets all of the legal and technical requirements.