

- **Theory, History & Evolution of IPRs**
- **Different Types of IPs**

Theory of Intellectual Property

- The founder's philosophy of the value of intellectual property rights can be explained with two justifications:
- **Bargain Theory:** In exchange for inventing something useful, society gives the inventor the exclusive right to his invention for a limited time, after which it goes into the public domain and belongs to society.
- **Natural Rights Theory:** Discusses the inventors' inherent rights of property. In exchange for disclosing to the public the nature and details of the invention, the Constitution authorizes the government to enforce the inventor's exclusive property right to that invention for a limited time.

History and Evolution of IPRs

History of IPR

- **Ancient Societies:**

- In ancient Greece and Rome, there were instances of legal protections for certain inventions of the handicraft skills, first IP/patent rights in Greece, 500 BC .
- Often more focused on rewarding inventors rather than providing exclusive rights.

- **Medieval and Renaissance Periods:**

- **Guilds and Monopolies:** various guilds and craft organizations controlled the production of certain goods and technologies.
- Monopolies were granted to artisans and guilds to encourage innovation and quality.
- Exclusive rights were given through religion, tradition and habits

Origins or Birth of Modern IP Laws

- **Statute of Monopolies (England, 1624):** First notable piece of legislation that resembled modern patent law was the Statute of Monopolies in England in 1624.
- This statute limited the power of the Crown to grant monopolies.
- Established the principle that exclusive rights should be granted for a limited time to encourage innovation.

Globalization of IPR

- Explore the 19th and 20th centuries, where the concept of IP expanded globally.
- **Key Milestones:**
 - **Paris Convention** for the Protection of Industrial Property 1883
 - **Berne Convention** for the Protection of Literary and Artistic Works 1886
 - **International Union for New Varieties of Plants (UPOV)** 1961, 1972, 1978 and 1991
 - **Convention on Biodiversity, 1992**
 - **Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)** 1994 in harmonizing global IP standards
 - **Internet Treaties 1996**

Definition of IP

“Intellectual Property shall include the rights relating to

- literary, artistic and scientific works,
- performances of performing artists, phonograms, and broadcasts,
- inventions in all fields of human endeavor
- scientific discoveries
- Industrial designs
- trademarks, service marks and commercial names and designations
- protection against unfair competition

and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”

(WIPO Convention)

Major Intellectual Properties

- **Industrial Property**
 - Patents
 - Industrial Designs
 - Trade Marks
 - Geographical Indications
 - Layout Designs of Integrated Circuits
 - Trade Secrets
 - Protection of New Plant Varieties
- **Copyright and Related Rights**

Patent

- A patent is an exclusive right granted for an invention, which is a **product** or **a process** that provides a new way of doing something, or offers a new technical solution to a problem.
- The limited monopoly right granted by the state enables an inventor to prohibit another person from manufacturing, using or selling the patented product or from using the patented process, without permission.
- Period of Patents - 20 Years

Industrial Design

- ‘Design’ means 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.

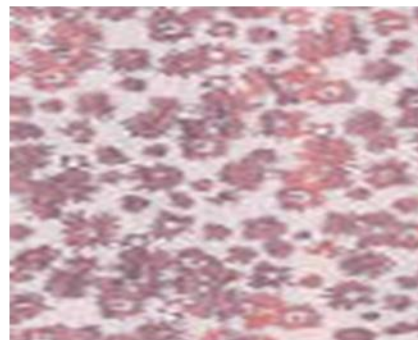
Example: Consumer Products



Example: Pharmaceutical Product



Example: Textile & Jewellery



Industrial Design

- **Rights of the Registered Proprietor:**

- The proprietor of the registered design has the exclusive right to apply the design to any article in the class in which the design is registered.
- Period of protection is ten years extendable by 5 years.

- **What is Excluded?**

- Any mode or principle of construction or anything which is in substance a mere mechanical device
- Trade mark
- Artistic work

Industrial Design

- **What is not registrable?**

- A design which is not new or original.
- A design which has been disclosed to the public anywhere in the world prior to the filing.
- A design which is not significantly distinguishable from known designs or combination of known designs.
- A design which comprises or contains scandalous or obscene matter.
- A design which is contrary to public order or morality.

Not Registrable Articles

- 'Calendar, certificate, forms, greeting cards, leaflets,
- Maps, building plan, medals
- Labels, tokens, stamps
- Religious symbols
- Mere mechanical contrivance
- Building and construction or real estate
- Flags, emblems, or signs of any country, computer icons Parts of articles not manufactured and soled separately
- Layout designs of integrated circuits Basic shape, variations commonly used in the trade
- Mere workshop alteration
- Mere change in size
- Any principle or mode of construction of article

Trade Marks

- A name of an enterprise or a Mark capable of being represented graphically, distinguishing the goods or services of one person from those of others e. g., LUX, Godrej, TVS ,Telco, 555, APPLE
- **Trade Mark can be -**
 - sign, words, letters, numbers,
 - drawings, pictures, emblem,
 - colours or combination of colours,
 - shape of goods,
 - graphic representation or packaging or
 - any combination of the above
 - as applied to an article or a product.



Trade Marks

- **Registration of Trade Mark**

- Trade Marks are registered by national trade mark registries and are valid in that country
- Period of registration is for 10 years but can be renewed indefinitely

- **Kinds of Trademarks**

- Marks on goods
- Service Marks Certification trademark
- Collective Marks
- Well known marks
- Trade Names

Example of Different Types of TM



Forms of TM

- **Visual:**

- Words, letters, numerals, devices including drawings and symbols
- 2-D representations of object or a combination of two or more of these,
- colour combinations
- 3-D sign as shape of goods or packaging.

- **Audio:** Sounds, Musical Notes

- **Olfactory:** Smells



Trade Marks

- **What is protected and what's not?**
- Right to use TM in relation to goods/ services as registered are protected (If TM consists of several parts, protection is for TM as a whole)
- State Emblems, Official Hallmarks, Emblems of Intergovernmental Organizations cannot be used as TM.

Geographical Indication

- Geographical Indication is an indication which identifies goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin.
- **GI need not be a geographical name:** e.g. Alphonso, Basmati
- Goods include goods of handicraft or of industry and also foodstuff.

Geographical Indication

Image of GI : example of @@ apple (fictional product)

Producing area



✓ Natural factor
climate, soil, varieties

✓ Human factor
traditional production
methods
historical or cultural
events

“essentially
attributable”
= There is a
causal link

Characteristics of Products

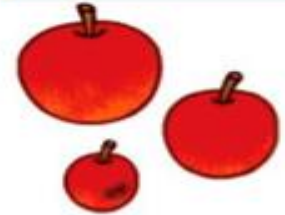


✓ Quality
high sugar content
crisp texture

✓ Reputation
traded at high price in
the market
awarded famous prize
in Japan

✓ Others
purely red color
large in size

GI



@@ apple

The indication of
the product
name, in which
characteristics of
the product are
essentially
attributable to
@@ region

Example of GI



EXAMPLES OF GIs INDIA

- Basmati rice
- Mysore silk
- Mysore sandalwood oil
- Mysore sandal soap
- Mysore jasmine
- Coorg orange
- Madhubani paintings
- Darjeeling tea
- Dharwad pedha
- Alphonso mango
- Tirupathi laddu
- Kolhapuri chappal
- Nanjangud banana



WORLD

- Canadian whisky
- Swiss watches
- Florida oranges
- Champagne
- Tequilla.



Example of GI

Geographical Indications from India		Geographical Indications from other parts of world	
Name of the product	Associated place	Name of the product	Associated place
Darjeling tea	West Bengal	Champagne	France
Mysore silk	Karnataka	Havan Cigar	Cuba
Kullu Shawl	Himachal Pradesh	Scotch Whisky	United Kingdom
Coorg Orange	Karnataka	Tequila	Mexico
Madhubani Paintings	Bihar	Swiss knife	Switzerland
Feni	Goa	Cognac	France
TirupathiLaddu	Andhra Pradesh	Napa Valley wine	USA
BikaneriBhujia	Rajasthan	Washington Apple	USA
Phulkari	Punjab, Haryana & Rajasthan	Gorgonzola cheese	Italy
Nashik Valley Wine	Maharashtra	Irish Cream	Ireland
Hyderabadi Haleem	Andhra Pradesh	Roquefort Cheese	France

Geographical Indications

- In India, geographical indications have to be registered.
- GI Registry examines and publishes the application before registration
- Registration is valid for 10 years but can be renewed indefinitely
- Exclusive right to use the Geographical Indication on the goods
- Right to obtain relief for infringement of the Geographical Indication

Semiconductor IC Layout Design

- Original and novel Layout-Designs of semiconductor integrated circuits can get protection through registration
- Registration is done after examination and publication of the application
- Registration is valid for 10 years
- **Non-registrable Layout-Designs**
 - Not original
 - Has been commercially exploited anywhere in India or in a convention country
 - Not inherently distinctive
 - Not inherently capable of being distinguishable from any other registered layout-design

Trade Secrets

- Some inventions, data, information cannot be protected by any of the available means of IPRs. Such information is held confidential as a trade secret.
- Trade secret can be an invention, idea, survey method, manufacturing process, experiment results, chemical formula, recipe, financial strategy, client database etc.
- **When Trade Secrets are preferred?**
 - When invention is not patentable
 - Patent protection is limited to 20 years, when secret can be kept beyond that period
 - When cost of patent protection are prohibitive

Trade Secrets

- **How to guard Trade Secret?**
 - Restricting number of people having access to secret information
 - Signing confidentiality agreements with business partners and employees
 - Using protective techniques like digital data security tools and restricting entry into area where trade secret is worked or held
 - National legislations provide protection in form of injunction and damages if secret information is illegally acquired or used

Plant Varieties and Farmer's Rights

- **Protection of plant varieties**
- Registrable varieties and criteria:
 - **New Varieties**
 - Novelty, Distinctiveness, uniformity and stability
 - **Extant varieties**
 - Distinctiveness, uniformity and stability
- **Persons who can Register**
 - Breeders, farmers, universities, agricultural institutes
- **Period of protection**
 - 15 years for annual crops
 - 18 years for trees and vines

Plant Varieties and Farmer's Rights

- **Farmers' Right**

- To save, use, sow, re-sow, exchange, share or sell his farm produce including seed in the same manner as he was entitled earlier (Seeds for sale should not be branded)

- **Researchers' Rights**

- Free and complete access to protected materials for research use in developing new varieties of plants.

Copyright and Related Rights

- **Scope of Copyright**

- Original Literary, Dramatic, Musical and Artistic Works
- Work: Ideas expressed in material form
- No copyright in ideas or facts
- Cinematograph Films
- Sound Recordings

- **Two Kinds of Rights**

- **Moral Rights**

- To protect personality of author
- Right of Authorship, Right of Integrity, Digital Manipulation, No Right for Display etc.)

- **Economic Rights**

- To bring economic benefits (Right of Reproduction, Distribution etc.)

Copyright Protects:



Literature



Drama



Music



Art



Imagery



Graphic Design



Sculpture



Architecture



Choreography



Pantomime



Motion Pictures



Sound Recordings

Copyright and Related Rights

- **Duration of Copyright:**

- Literary, dramatic, Musical and Artistic Works published during life time of author: Life + 60 years

- **All Other Works: 60 years from date of publication**

- Posthumous, Anonymous Works
- Works of Government and Organizations
- Cinema and Sound Recording
- Photograph

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