

Course: Intellectual Property Rights (IPR) for Information Technology (IT)

Course Code:

UG (B.Tech): HS410

PG (M.Tech): HS600

Course Description

- This course aims to provide with a comprehensive understanding of Intellectual Property Rights (IPR) and their significance in Information and Technology.
- Get basic understating of Legal frameworks, international treaties, and contemporary issues related to patents, copyrights, trademarks and other forms of IPRs.
- Emphasis will be on the application of these concepts in the Indian context, with a focus on promoting innovation, creativity, and ethical practices in the IT sector.

Learning Outcomes

- Understand the fundamentals of IPR and their relevance in the IT industry.
- Distinguish different types of IPRs, such as patents, copyrights, trademarks, industrial design, and geographical indications.
- Comprehend the legal frameworks governing IPR in India and globally.
- Understating the IPR related issues in emerging technologies such as AI, Blockchain, Internet of Things (IoT) and Cloud Computing
- Implications of IPR for Tech Start-Ups

Syllabus

- **General Introduction to Intellectual Property Rights (IPR):** Concept, History and Evolution of IPRs, Definition and Types of IPRs, IPR in IT Industry, International Framework of IPR, Legal Framework of IPR in India, International Treaties and Agreements, IP Protection and Enforcement.
- **Patents:** Fundamentals of Patenting, Obtaining a Patent in India, International Patent Search, Patent Specification and Claims, Commercialization of Patents, Technology Transfer, Infringement of Patent.
- **Copyright:** Introduction to Copyright, Registration, Assignments, Licences of Copyrights, Copyright Piracy, Infringement, Rights of Sound Recording Producers, Broadcasting Organisations, Performers' Rights, International Protection of Copyright
- **Industrial Designs and Layout designs of Integrated Circuits:** Industrial design and protection, Registration and Rights of Designs, Scopes and rights of Registration of Layout-Designs of Semiconductor ICs.

Syllabus

- **Trademarks, Domain Names, Geographical Indications:** Introduction to Trademarks, protection of Trademarks in India, Trademark assignment and licensing, Internet and Domain Names, Registration of Domain Names, Introduction to Geographical Indications (GI), Indian Law on GI.
- **IPR in Software, Data and Databases:** IPR Issues in Software Development and Distribution, Digital Rights Management, Open Source Software, Data IPR, IPR in E-commerce, IT Contracts and Agreements.
- **IPR Implication of Emerging Technologies:** Artificial Intelligence, Blockchain, Internet of Things (IoT), Cloud Computing, Big Data and Cybersecurity.
- **IPR for Tech Start-ups:** IPR Strategies for Tech Start-up, Funding and IPR Protection for Tech Entrepreneurs.
- **IPR Case Studies in IT:** Different case studies on successful IPR management in IT companies

Books / Study Material

- Intellectual Property: A Primer for Academia, by Rupinder Tewari and Ms. Mamta Bhardwaj; Publisher: Publication Bureau, Panjab University, Chandigarh-160014, India, Edition: 2021.
Free Online Available: <https://dst.gov.in/sites/default/files/E-OOK%20IPR.pdf>
- Intellectual Property Rights Under WTO: Tasks Before India, by T. Ramappa; Publisher: Wheeler Pub. First Edition, 2000
- Intellectual Property Law Paperback by Lionel Bently and Brad Sherman, Publisher: Oxford University Press; Fourth Edition, 2014
- **Study Material / Lectures Notes**

Evaluation

- **For UG (B.Tech)**

- Mid Semester: 30%
- End Semester: 30%
- Assignments: 40% (Must be Handwritten) (Two Assignments, each 20%)

Handwritten → make pdf → upload (within due date)

- **For PG (M.Tech)**

- Mid Semester: 30%
- End Semester: 30%
- Assignments: 40% (Must be Handwritten) (Two Assignments, each 20%)
(More tasks)

Introduction

Concept of Property

- Property is any physical or virtual entity owned by an individual or jointly owned by a group of individuals.
- Property is any item that a person or a business has legal title over.
- Can refer to tangible and intangible items.

Tangible Property

- In law, tangible property is literally anything that can be touched, and includes both real property and personal property, and stands in distinction to intangible property.
- Tangible personal property is anything that can be held and has definitive value.
- Movable Property
 - Car, Pen, Furniture, Dress etc.
- Immovable Property
 - Land, Building etc.

Intangible Property

- Intangible Property is a property without a physical existence.
- Carry the promise of future worth.
- Examples:
 - Stock, Bond Certificates.
 - Patents or Patent Applications,
 - Trademark
 - Copyright
 - so on....

Property Rights

- Property rights are commonly identified as a right to own or possess something (e.g., land or an automobile) and to be able to dispose of it as one chooses.
- Five different rights concerned with property:
 - The Right of Possession
 - The Right of Control
 - The right of Exclusion
 - The right of Enjoyment
 - The right of Disposition.

Example: The Right of Possession

- **Homeownership:** Owning a house gives you the right of possession. You have the legal right to occupy and use the property as your residence.
- **Vehicle Ownership:** When you own a car, you have the right of possession. You can keep and use the vehicle as you see fit, subject to applicable laws and regulations.
- **Business Premises:** Business owners who own the premises where their business operates have the right of possession over that property, allowing them to control the use of the space.
- **Personal Belongings:** Everyday items like clothing, furniture, and electronics are examples of personal property where individuals have the right of possession.
- **Land Ownership:** Landowners have the right of possession over their real property, allowing them to use, lease, or sell the land.

Example: The Right of Control

- **Business Operations:** Business owners have the right of control over their operations, making decisions about products, services, and the overall direction of the company.
- **Intellectual Property Management:** The owner of a trademark has the right of control over how the trademark is used in commerce, including licensing and enforcing proper usage.
- **Property Development:** Real estate developers exercise the right of control over the planning, construction, and management of a property
- **Technology Systems:** IT administrators have the right of control over the organization's technology infrastructure, determining access, security, and usage policies.
- **Artistic Direction:** A film director has the right of control over the creative aspects of a film, making decisions about the script, cinematography, and overall artistic vision.

Example: The Right of Exclusion

- **Private Property Access:** Property owners have the right of exclusion, meaning they can deny others access to their private property without permission.
- **Membership Clubs:** Exclusive clubs exercise the right of exclusion by restricting access to members only, excluding non-members from certain privileges.
- **Confidential Information:** Businesses have the right of exclusion over confidential information, restricting access to only authorized personnel.
- **Ticketed Events:** Events that require tickets for entry exercise the right of exclusion, allowing organizers to control who attends.
- **Gated Communities:** Residents of gated communities have the right of exclusion, controlling access to their community through gates and security measures.

Example: The Right of Enjoyment

- **Leisure Activities:** Property owners have the right of enjoyment over their land, allowing them to engage in recreational activities such as gardening or hiking.
- **Intellectual Property Use:** Licensees of copyrighted material have the right of enjoyment, enabling them to use the content for specific purposes as outlined in the licensing agreement.
- **Landscaped Gardens:** Homeowners enjoy the right of landscaping and beautifying their property, enhancing the aesthetic enjoyment of their surroundings.
- **Personal Hobbies:** Individuals have the right of enjoyment over personal hobbies and activities, such as playing musical instruments or practicing sports.
- **Cultural Events:** Attendees at cultural events, like concerts or art exhibitions, have the right of enjoyment, experiencing and appreciating the artistic and cultural offerings.

Example: The Right of Disposition

- **Property Sale:** Property owners can exercise the right of disposition by selling their property, transferring ownership to a new owner.
- **Intellectual Property Licensing:** Copyright owners can grant licenses, exercising the right of disposition by allowing others to use their copyrighted works for specific purposes.
- **Business Asset Sale:** Business owners can dispose of assets by selling or transferring them, exercising the right of disposition over the company's property.
- **Estate Planning:** Individuals can exercise the right of disposition through estate planning, deciding how their assets will be distributed after their passing.
- **Lease Agreements:** Property owners can lease their real estate to tenants, exercising the right of disposition by granting others the right to possess and use the property for a specified period.

Concept of Intellectual Property

- Intellectual Property is something produced using human intellect which has commercial value.
- Intellectual Property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, and images used in commerce.
- Often intangible in nature, but usually contained on a tangible, fixed medium - paper, CD, computer chips.....
- IP is protected by law through patents, copyrights, trademarks, trade secrets etc.

Characteristics of IP

- Creation of human mind (Intellect)
- Intangible property
- Exclusive rights given by statutes
- Time-bound
- Territorial

Example of IPR

Copyright:

- **Definition:** Copyright protects original works of authorship fixed in a tangible medium, including literary, artistic, musical works, code, data etc.
- **Examples:** Books, music, software, paintings, films, and photographs.
- **Rights:** Exclusive rights to reproduction, distribution, public performance, and creation of derivative works.

Example of IPR

Patents:

- **Definition:** Patents grant inventors exclusive rights to their inventions, providing a temporary monopoly on the use and sale of the patented invention.
- **Examples:** Technological innovations, processes, machines, and chemical compounds.
- **Rights:** Exclusive rights to make, use, sell, and import the patented invention for a specified period.

Example of IPR

- **Trademarks:**

- **Definition:** Trademarks protect symbols, names, and slogans used to identify and distinguish goods and services in the marketplace.
- **Examples:** Logos, brand names, slogans, and distinctive packaging.
- **Rights:** Exclusive rights to use the trademark in commerce and prevent others from using confusingly similar marks.

Significance of IPR

- Intellectual Property Rights (IPR) play a pivotal role in:
 - Providing a legal framework that encourages innovation
 - Protects creators and inventors
 - Fosters economic growth
 - Protecting investments
 - Promoting fair competition
 - Ensuring the continued advancement of technology and culture.

Significance of IPR

Incentive for Innovation: Provides creators and inventors with exclusive rights to their creations, serving as a powerful incentive for innovation.

- Knowing that
 - They can reap the rewards of their efforts through exclusive rights and potential financial gains.
 - Individuals and companies are motivated to invest time, resources, and creativity into developing new technologies, products, and creative works.

Significance of IPR

Protection of Investments: safeguards the significant investments made in research, development, and creative processes.

- Businesses and individuals are more likely to invest in developing new technologies, artistic works, or brands when they know that their investments are protected from unauthorized use or reproduction by competitors.

Significance of IPR

Encourages Economic Growth: Contributes to economic growth by fostering innovation and creativity, leading to the development of new industries and job opportunities.

- A robust system of IP encourages entrepreneurship and the establishment of new businesses, contributing to economic expansion and technological advancements.

Significance of IPR

- **Promotes Fair Competition:** Promotes fair competition by preventing unauthorized use or imitation of innovations and creative works.
 - Through patents, trademarks, and copyrights, IPR ensures that businesses compete based on the merit of their ideas, products, and services rather than through unfair practices such as copying or counterfeiting.

Significance of IPR

Consumer Protection: Helps protect consumers by ensuring the quality and authenticity of products and services.

- Trademarks and other IPR mechanisms enable consumers to identify and trust the source of goods and services
- Reducing the risk of counterfeit or substandard products in the market.

Significance of IPR

Facilitates Technology Transfer: Facilitates the transfer of technology and knowledge between different entities.

- Through licensing agreements and collaborations, IPR allows businesses and researchers to share innovations while ensuring that the creators are appropriately compensated.

Significance of IPR

Global Trade and Investment: A strong IPR framework promotes global trade and attracts foreign investments.

- International businesses are more likely to engage in trade and investment with countries that have effective and well-defined intellectual property laws, providing a level playing field for innovation and creativity.

Significance of IPR

Legal Recourse and Enforcement: Provides legal recourse and enforcement mechanisms against infringement.

- Creators and innovators have the ability to take legal action against those who violate their intellectual property rights, creating a deterrent against unauthorized use and ensuring a fair and just system.

Significance of IPR

Balance Between Public and Private Interests: strikes a balance between the interests of creators and the public by offering limited exclusive rights.

- While IPR grants exclusive rights, it does so for a limited duration. This balance ensures that, over time, innovations and creative works enter the public domain, contributing to the collective knowledge and culture.

A Case Study of IPR in IT Industry

- **Microsoft vs. Linux Vendors (Use of "Windows" Trademark):**
 - Microsoft and Linux vendor, a U.S.-based company, it had implications for the global IT industry, including India.
 - Microsoft sued Lindows (now Linspire) over trademark infringement, claiming that the name "Lindows" was too similar to its Windows operating system.
 - The case highlighted the importance of trademarks in the IT sector.
- **Background:**
 - Microsoft has historically been protective of its trademarked term "Windows."
 - Over the years, the company engaged in legal disputes with various Linux vendors who used names containing the word "Windows" for their operating systems.

Microsoft vs. Linux Vendors (Case Details)

- **Nature of Allegations:**

- Microsoft alleged that the use of terms such as "Lindows" by Linux vendors, including Lindows (later Linspire), infringed on Microsoft's trademark for its widely recognized operating system, Windows.
- Microsoft argued that such use could cause confusion among consumers.

- **Legal Proceedings:**

- Microsoft initiated legal proceedings against Linux vendors to protect its trademark rights.
- The cases involved claims of trademark infringement and dilution, with Microsoft seeking injunctions and damages.

Microsoft vs. Linux Vendors (Case Details)

- **Importance of the Case:**

- The legal battles underscored the challenges associated with using a term closely associated with a widely known operating system.
- It highlighted the importance of trademark protection and the potential conflicts that can arise when companies use names that resemble established trademarks.

Implications and Industry Impact

- **Trademark Protection:**

- The case emphasized the need for companies to carefully navigate the use of trademarks, especially when operating in the same industry.
- It reinforced the significance of trademark protection in preventing confusion among consumers.

- **Balancing Trademark Rights and Competition:**

- The legal disputes prompted discussions about the balance between protecting trademark rights and fostering healthy competition in the software industry.
- It also raised questions about the potential impact on open-source and alternative operating systems.

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