



ENVIRONMENTAL STUDIES & LIFE SCIENCES

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Intellectual Property Rights

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- The word **property** is defined in the concise oxford dictionary as something owned, a possession, especially a house, land, etc. and the right to possession, use etc.
- In **Jurisprudence** the term **property** is a very complex term having different aspects which commonly includes all **legal rights, proprietary rights, and corporeal property**.
- Intellectual property means such rights recognized by law which result from **Intellectual creativity or Intellectual activity in the fields of literature, art, science and industry**.

Intellectual process

- Anything someone thinks through the application of his/her mind is collectively known as intellectual process which is the cause of creativity and inventions in this world.

- Intellectual property rights are such rights which are given to persons **who are the authors or creators of the new and original literary and artistic works such as books, articles , other writings ,paintings , musical compositions, sculpture , films and computer programs by application of their creativity process and intellect.**

- WIPO (World Intellectual Property Organization) was established by the WIPO Convention in 1967
- The WIPO is a **specialized agency of** the United Nations.
- It **promote the protection of IP** throughout the world.
- Its headquarters are in Geneva, Switzerland



Types of property:

- Movable Property
 - Car, Pen, Furniture, Dress
- Immovable Property
 - Land, Building
- Intellectual Property
 - Literary works, inventions

IP as a property

- Can be sold
- Can be bought
- Can be lease or rent
- Can pass under a will
- Can be assigned

NECESSITY OF IPR PROTECTION

Intellectual property rights protection is necessary due to following reasons:

- Encouragement to creativity by ensuring its reward
- Innovations in technology
- Protection of users and consumers
- Transfer of technology to less developed nations and countries of the world
- IPR are given to such individuals to compensate for their efforts during such creative process and their investments.
- These rights are given for a certain period of time and after which general public have the right to get freely benefitted and use subsequently.

- Encouragement to creativity by ensuring its reward
- All the creations are used by human beings for their enjoyment and benefit and due to that reason they have social applications in economic and social terms like financial gains and reputation.
- Pirates and imitators are not only depriving the intellectual property right- holders from their legal rights but also looting the users and consumers of such products and goods which are not original or produced by the real producers.

The role of IP as intangible property provides:

- Economic rights of creators
- Commercial exploitation of owner of IP
- Capital expenditure
- Transfer of technology
- Cultural development

TYPES/TOOLS OF IPRs

- Patents.
- Trademarks.
- Copyrights and related rights.
- Geographical Indications.
- Industrial Designs.
- Trade Secrets.
- Layout Design for Integrated Circuits.
- Protection of New Plant Variety.

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Patent

The word *patent* originates from the Latin ***patere***, which means "**to lay open**" (i.e., to make available for public inspection).

- 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.
- It provides protection for the invention to the owner of the patent.
- The protection is granted for a limited period, i.e., 20 years.
- Patent protection means that the invention cannot be commercially made, used, distributed or sold without the patent owner's consent.
- In principle, the patent owner has the exclusive right to prevent or stop others from commercially exploiting the patented invention.

Patent

- Patents are territorial rights. In general, the exclusive rights are only applicable in the country or region in which a patent has been filed and granted, in accordance with the law of that country or region.

What kinds of inventions can be protected?

- Patents may be granted for inventions in any field of technology, from an everyday kitchen utensil to a nanotechnology chip.
- An invention can be a product – such as a chemical compound, or a process, for example – or a process for producing a specific chemical compound.
- Many products in fact contain a number of inventions. For example, a laptop computer can involve hundreds of inventions, working together.

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**Apple's 'rubber-banding' patent win stands –
Samsung denied new trial**

<https://9to5mac.com/2013/08/23/>

Trademarks

- A trademark is a distinctive sign that identifies certain goods or services as those produced or provided by a specific person or enterprise.
- It may be one or a combination of words, letters, and numerals.
- They may consist of drawings, symbols, 3D signs such as the shape and packaging of goods, audible signs such as music or vocal sounds, fragrances, or colours used as distinguishing features.
- The initial term of registration is for 10 years; thereafter it may be renewed from time to time.

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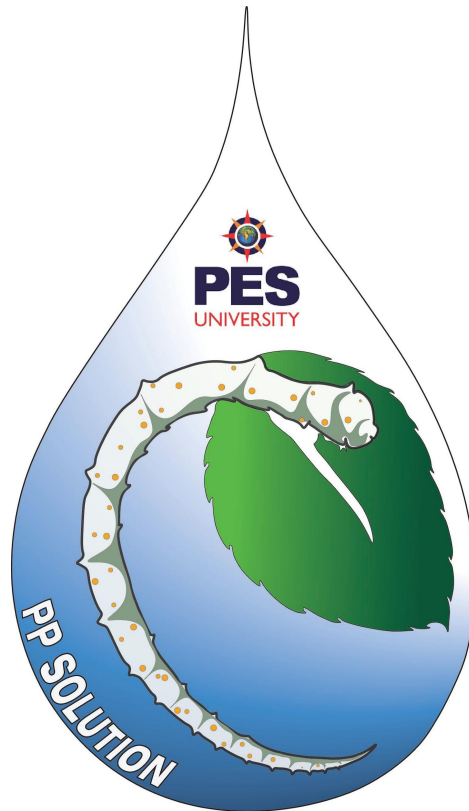
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<https://blog.ipleaders.in/trademark-law-in-india/>

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Trade Mark:
Application No.: 3296219
Dated June 28, 2016 in
Class 1

Trademarks

- In principle, a trademark registration will confer an exclusive right to the use of the registered trademark.
- This implies that the trademark can be exclusively used by its owner, or licensed to another party for use in return for payment.
- Registration provides legal certainty and reinforces the position of the right holder, for example, in case of litigation.

Trademarks

- A word or a combination of words, letters, and numerals can perfectly constitute a trademark.
- But trademarks may also consist of drawings, symbols, three-dimensional features such as the shape and packaging of goods, non-visible signs such as sounds or fragrances, or color shades used as distinguishing features – the possibilities are almost limitless
- Trademark rights are private rights and protection is enforced through court orders.

Copyrights and related rights

- Copyright is a legal term describing rights given to creators for their literary and artistic works.
- The kinds of works covered by copyright include:
 - literary works such as novels, poems, plays, reference works, newspapers and computer programs; databases; films, musical compositions, and choreography; artistic works such as paintings, drawings, photographs and sculpture; architecture; and advertisements, maps and technical drawings.



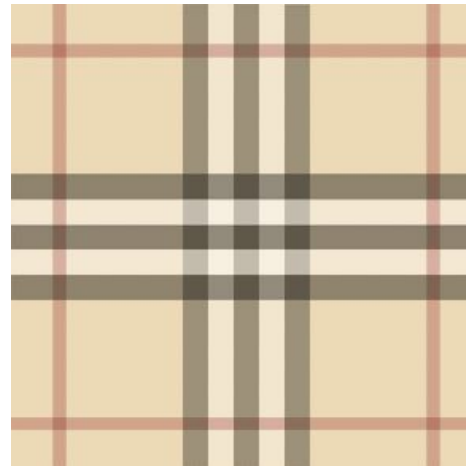
Geographical Indications (GI)

- GI are signs used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin.
- Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil.
 - Ex: Basmati rice, Darjeeling tea

Industrial Designs

- Industrial designs refer to creative activity, which result in the ornamental or formal appearance of a product, and design right refers to a novel or original design that is accorded to the proprietor of a validly registered design.
- Industrial designs are an element of intellectual property.

- Three-dimensional product (Ex. Shape of a Coca-Cola bottle)
- Two-dimensional product (Ex. Check pattern of burberry)



Trade Secrets

- It may be confidential business information that provides an enterprise a competitive edge may be considered a trade secret.
- Usually these are manufacturing or industrial secrets and commercial secrets.
- These include sales methods, distribution methods, consumer profiles, advertising strategies, lists of suppliers and clients, and manufacturing processes.
- Contrary to patents, trade secrets are protected without registration.

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Layout Design for Integrated Circuits

- Semiconductor Integrated Circuit means a product having transistors and other circuitry elements, which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function.
- The initial term of registration is for 10 years; thereafter it may be renewed from time to time.

Protection of New Plant Variety

- The objective of this act is to recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their contribution and to stimulate investment for R & D for the development new plant varieties to facilitate the growth of the seed industry.

IP Evolution

INTELLECT – PROPERTY – RIGHT

Idea → Expression → COPYRIGHT

Idea → Innovation → Invention → PATENT

Idea → Quality + Identity → TRADEMARK

Idea → Appearance → DESIGN

**Idea → Keep Confidential
No Disclosure } → TRADE SECRETS**

One product – many IP rights

Trademarks

- NOKIA
- Product “225”
- Start-up tone

Copyright

- Software
- User manuals
- Ringtones
- Start-up tone
- Images



Patents and utility models

- Data processing methods
- Operating system
- Operation of user interface

Designs

- Form of overall phone
- Arrangements and shape of buttons
- Position and shape of screen

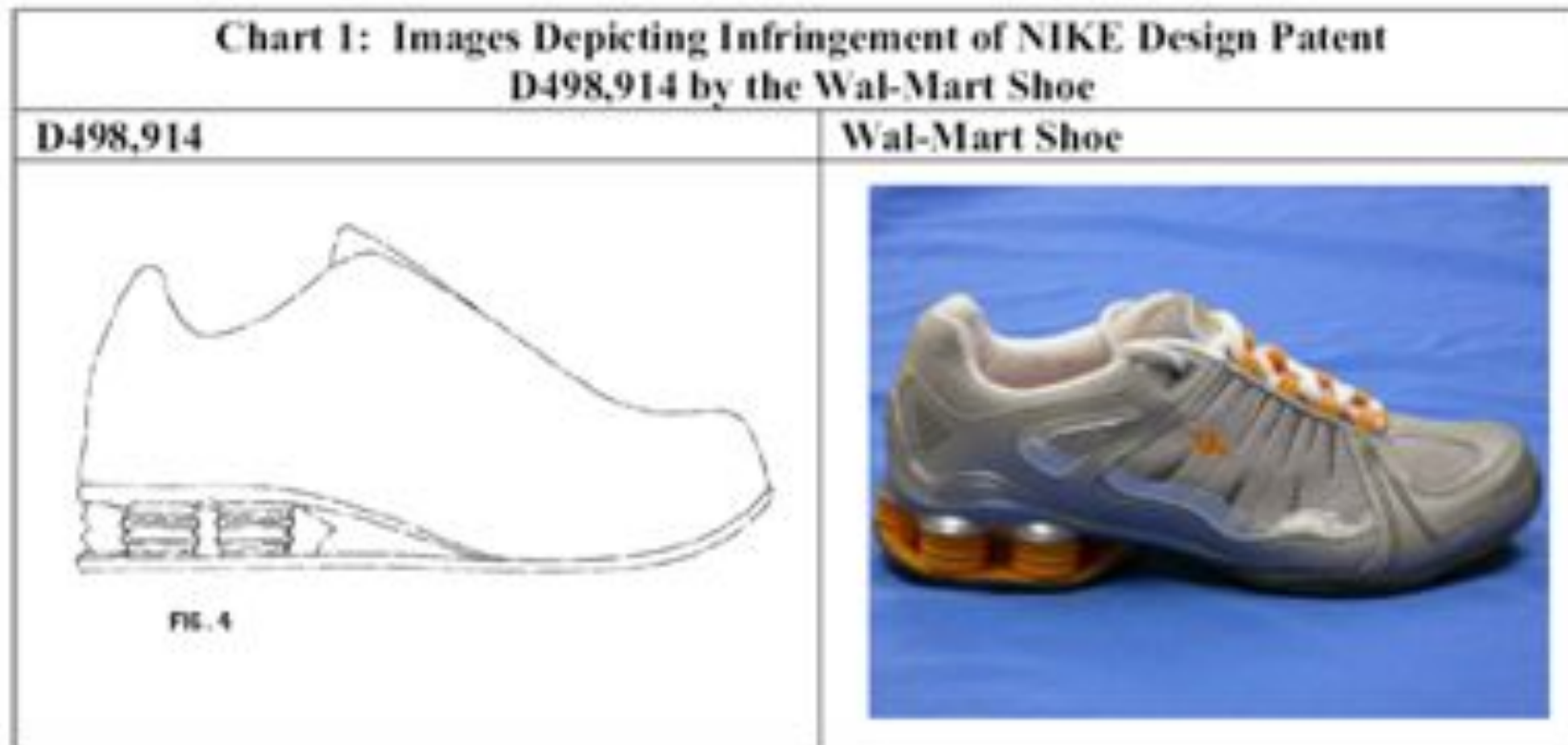
Trade secrets

- Part of technical know-how kept “in-house” and not published

• Remedies for Infringement

- ❖ Administrative(copyright board)
- ❖ Civil Proceedings(starts from district court)
- ❖ Criminal remedies
- ❖ Penalties and Punishments
- ❖ First offence –six months imprisonment and Rs.50,000/-fine(Section 63)
- ❖ Second offence –one year imprisonment and Rs.1,00,000/-fine(Section 63 A)
- ❖ Maximum –three years imprisonment and Rs.2,00,000/-fine

Nike has sued Wal-Mart for design patent infringement asserting infringement of Pat Nos. D498,914



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- “Infringement” of a patent occurs when a competitor makes, uses, sells, offers to sell or imports an embodiment of the invention **without the permission** of the patent owner.



First man jailed in web piracy case

Hong Kong, Nov. 7: A Hong Kong man on Monday was sentenced to three months in prison in what local officials said was the world's first successful prosecution of copyright violation using the popular file-sharing software BitTorrent. Chan Nai-ming, 38, was convicted of illegally uploading three Hollywood films, *Daredevil*, *Red Planet* and *Miss Congeniality*, onto a Web site so that others could obtain them, said Judiciary spokesman Mackenzie Mak.

Mr Chan is the first person in the world to be convicted and jailed for illegal online sharing of copyrighted material using the BitTorrent software, said customs spokeswoman Glenis Liong.



Pirated goods openly on sale at a shopping mall in Hong Kong. (AFP)

The software allows users share large chunks of data in a speedy way. But movie and music industries say the illegal online sharing of files causes them losses of millions of dollars a year. Mr Chan was found guilty last month of three counts of attempting to distribute copyrighted material without authorisation. The magistrate who convicted him said his act greatly hurt the interest of the copyrighted material's owner although he did not make any profit from uploading the movies onto the Internet. Because of its speed, BitTorrent steadily gained in popularity after the recording industry began cracking down on users of Kazaa and Morpheus, established file-sharing software. (AP)

Intellectual rights cases to get top priority, says CJI

By Dhananjay Mahapatra/TNN

New Delhi: Giving the first official recognition to the importance of intellectual property rights (IPR) cases in a fast developing economy like that of India, Chief Justice of India Y K Sabharwal on Saturday promised to put all such litigations in the fast track system for their early disposal.

This promise he dished out at the 51st Council meeting of Asian Patent Attorneys Association (APAA) here amidst applause from a large gathering of jurists from Asian countries.

Underlying the importance of intellectual property rights and protection of trade marks for foreign companies to venture into the domestic market, Justice Sabharwal promised to include IPR cases in his priority list, which he had unveiled as Chief Justice designate, to be put on fast track trial. The priority list was originally meant to include corruption cases against high and mighty and cases against old and infirm.

This was an impromptu promise by the CJI as his written speech did not contain any reference to the IPR cases. He said, "Any delay in deciding such cases would promote deceit and counterfeit and every attempt should be made to put these type of cases on fast track."

He said much before the world judiciary realised the importance of intellectual property rights, it was the Indian judiciary which took timely action in protecting



Y K Sabharwal

what was known then as Patents or Trade Marks. "Our judiciary has been proactive in protecting trade marks much before the TRIPS agreement took effect," the CJI said.

He reeled out statistics: patent application filing in India has gone up from 5000 in 1999 to 17,000 in 2004 and issuance of 2 lakh trademark certificates in last two years to lay stress on his view that India has kept pace with the dynamics of the field.

Jyoti Sagar, APAA Indian group president, narrated a joke to illustrate how important the trademarks have become. Two persons debating over a picture - whether it was a crocodile or alligator - went to an arbiter, who after having a look at the picture exclaimed, "it looks like lacoste!"

APAA president Dato Kar dan said in today's world the struggle is for economic and technological superiority. Technological supremacy comes from creation, marketing and mastering a brand, which is intellectual property.



THANK YOU

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