

Intellectual Property Rights

- What is Intellectual Property?

— The term Intellectual Property is reserved for types of property that result from creations of the human mind, the intellect. These includes intangible creations such as scientific discoveries and inventions, literary and artistic works, engineering designs, pharmaceutical formula and symbols, names, images and designs used in commerce.

IPR stands for Intellectual Property Rights.

As the name suggests, these are the rights associated with Intellectual Property which are products of human intellect, skill and creativity.

IPR forms an important part of our daily lives right from the brush we use has its design and company name protected by registration of Trademark to our cup of tea which is protected by Geographical Indications. Each time we buy a protected item, the owner gets back a part of what we pay to compensate for the time and energy involved in work.

Like any other form of tangible property including our car, house, land, jewels, etc. Intellectual property also should not be used without the permission of the owner and needs to be protected. IPR provides protection to the assets created out of human geniuses & are rewarded; and unauthorized reproduction and its distribution.

• Various forms of Intellectual Property :-

a) Patents:- A patent is an exclusive territorial right granted for an invention, either a ~~production~~ product or a process that offers a new technical advance or solution as compared to existing knowledge to a problem. The patent holder has the right to make, use, sell and import the product within the territory of grant of Patent.

The requirements for a product/process to be patented are:-

- i) The invention must be novel and should not exist in Prior art.
- ii) It should have an inventive step and be non-obvious.
- iii) It should be capable of industrial application.

b) Copyright:- Copyright is a protection given by law to creators of original literary and artistic work from unauthorized uses. The kind of works covered by Copyright include, expressions as novels, poems, plays, reference works, books, pamphlets, newspaper and computer programmes; artistic work as paintings, drawings, photographs, musical composition, Sound recording, maps, etc. A Copyright protection extends only to expressions and not to ideas, procedures and methods.

It is not necessary to formally register a work to get Copyright. Its acquisition is automatic, as soon as the work is created. The term of protection of Copyright works last for 60 years.

c) Design :- A design refers to features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two-dimensional or three-dimensional form or both. The design is supposed to be fit for protection only if it is new and original and has not been disclosed to the public anywhere in the world for obtaining protection.

The registration of a design gives the owner the legal right to bring an action against those who use it without his/her knowledge or approval. It also helps economic development by encouraging creativity, as well as arts and crafts. The term for protection of a design is 10 years which can be extended for upto 5 years.

d) Trademark :- A trademark is a distinctive sign or a visual symbol used for services or product to visually identify them from other goods and services of similar nature. These may include a combination of words, letters and numerals or may consist drawing, symbols, 3-D signs and audible sign such as music, fragrances used as distinguishing features. It provides protection to the owner of mark.

Trademarks promote initiative and enterprise by rewarding the owners of trademarks with recognition and financial profit. The protection term for a trademark is indefinite but it has to be renewed every 10 years.

e) Geographical Indication :- GI is an indicator of goods organization from a definite geographical territory having particular characteristics. It gives an assurance of quality and distinctiveness which is attributed to its place of origin in that defined geographical locality. It essentially indicates the name of the place of source of origin of the goods.

Many products acquire valuable reputation due to their place of origin. The protection term for a GI is indefinite but has to be renewed every 10 years.

f) Integrated Circuits :- Integrated circuit means a product having transistors or 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. India has the Integrated Circuits Act, 2000 for their protection. The term of protection is for 10 years.

g) Trade Secrets :- These are intellectual property rights on confidential information which may be sold or licensed. To qualify as trade secret, the information must be:-

- i) Commercially valuable because it is secret.
- ii) Be known only to a limited group of persons.
- iii) Be subject to reasonable steps taken by the rightful holder of the information to keep it secret.