

EIPR Unit-1 Short Notes

Ishan Dubey

- Entrepreneur
 - One who creates a new business
 - in the face of risk and uncertainty
 - for the purpose of achieving profit and growth
 - by identifying significant opportunities and assembling necessary resources to capitalize on them
- Characteristics of entrepreneur
 - Desire for responsibility
 - Preference for moderate risk
 - Confidence in their ability
 - Desire for immediate feedback
 - High level of energy
 - Future orientation (serial entrepreneurs)
 - Skilled at organizing
 - Value of achievement over money
 - Others
 - High degree of commitment
 - Flexibility
 - Tolerance for ambiguity
 - Tenacity
- Benefits of entrepreneurship
 - Create your own destiny
 - Make a difference
 - Reach your full potential
 - Reap impressive profits
 - Contribute to society and be recognized for your efforts
 - Do what you enjoy and have fun at it
- Drawbacks of entrepreneurship
 - Uncertainty of income
 - Risk of losing entire investment
 - Long hours and hard work
 - Lower quality of life until business gets established
 - High level of stress
 - Complete responsibility
 - Discouragement
- What's feeding the entrepreneurial fire
 - Entrepreneurs as heroes
 - Entrepreneurial education
 - Demographic and economic factors
 - Shift to servicing economy
 - Technological advancements
 - Independent lifestyle
 - E-Commerce and WWW
 - International opportunities
- Cultural diversity of entrepreneurship

- Young
- Women
- Minority
- Immigrant
- Part-time
- Home-based
- Family business
- Copreneurs
- Corporate cast-offs (blacklist)
- Corporate dropouts
- Power of small businesses
 - 99.7% of all businesses in U.S.
 - Employ 51% of nation's private sector workforce
 - Create more jobs than big businesses
 - Are leaders in offering training and advancement opportunities to workers
 - Produce 51% of nation's private GDP
 - 47% of business sales
 - 13X more innovations per employee than large companies
- 10 Deadly mistakes of entrepreneurship
 - Management mistakes
 - Lack of experience
 - Poor financial control
 - Weak marketing effort
 - Failure to develop strategic plan
 - Uncontrolled growth
 - Improper inventory control
 - Incorrect pricing
 - Inability to make the entrepreneurial transition
 - Poor location
- Putting failure into perspective
 - Entrepreneurs are not paralyzed by the prospect of failure
 - Failure is natural part of creative process
 - Learn to fail intelligently
- How to avoid pitfalls
 - Know your business in depth
 - Develop a solid business plan
 - Manage financial resources
 - Understand financial statements
 - Learn to manage people effectively
 - Keep in tune with yourself
- Creativity
 - Ability to develop new ideas
 - Discover new ways of looking at problems and opportunities
 - Thinking new things
- Innovation
 - Ability to apply creative solutions to problems and opportunities
 - Enhance and enrich people's lives
 - Doing new things

- Entrepreneurship
 - Result of disciplined, systematic process of applying creativity+innovation to needs and opportunities in the market place
- Creative thinking
 - Right-brained
 - Divergent reasoning
 - Ability to create multitude of original, diverse ideas
 - Ask if there is a better way
 - Challenge custom, routine, tradition
 - Left-brained
 - Convergent reasoning
 - Ability to evaluate multiple ideas and to choose the best solution
- Barriers to creativity
 - Searching for the one "right" answer
 - Focusing on being logical
 - Blindly following rules
 - Constantly being practical
 - Viewing play as frivolous
 - Becoming overly specialized
 - Avoid ambiguity
 - Fearing looking foolish
 - Believing "I am not creative"
- How to ensure creativity
 - Organizational
 - Embrace diversity
 - Expect creativity
 - Expect and tolerate failure
 - Encourage curiosity
 - Change scenery periodically
 - View problems as challenges
 - Provide creativity training
 - Provide support
 - Develop a procedure for capturing ideas
 - Talk with customers
 - Look for uses for company's product in other markets
 - Reward creativity
 - Model creative behavior
 - Individual
 - Allow yourself to be creative
 - Give your mind fresh input every day
 - Recognize the creative power of mistakes
 - Keep a journal to record thoughts and ideas
 - Listen to other people/customers
 - Keep a toy in office
 - Read books on stimulating creativity
 - Take a class on creativity
 - Talk to a child
 - Take some time off

- Creative Process (7 steps)
 - Preparation
 - Get mind ready for creative thinking
 - Investigation
 - Transformation
 - Viewing both similarities and differences among collected info
 - Convergent and divergent thinking
 - Incubation
 - Allow subconscious to reflect on the collected info
 - Illumination
 - Verification
 - Validate the idea as accurate and useful
 - Implementation
- Techniques for improving creative process
 - Brain storming
 - Keep group small (5-8 members. two pizza rule)
 - Company rank and department affiliation are irrelevant
 - Well defined problem for the group to address, but don't reveal it before time
 - Limit time to 40-60 mins
 - Appoint someone as recorder
 - Throw logic out of the window
 - Encourage all ideas. Even extreme ones
 - Shoot for quantity of ideas over quality
 - Forbid evaluation or criticism during session
 - Mind mapping
 - Start writing/sketching a picture that symbolizes the problem
 - Write down every idea that comes into mind. Connecting each to central picture/word
 - When flow of ideas stops, don't force it
 - Allow mind to rest for some mins, then integrate ideas into mind map
 - Rapid prototyping
 - Three Rs: Rough, Rapid, Right
- Protecting ideas
 - Patent
 - Grant from the Patent and Trademark Office to inventor of a product
 - Exclusive right to make, use, sell invention for 20 years from date of filing
 - Steps
 - Establish patent's novelty
 - Document the device
 - Search existing patents
 - Study search results
 - Submit patent application
 - Prosecute patent application
 - Trademark
 - Distinctive word, symbol, design, name, logo, slogan used to identify the origin of a product or to distinguish it from others. For services, it is servicemark

- Copyright

- Exclusive right that protects creators of original works of authorship such as literary, dramatic, musical, artistic.

EIPR Unit-2 Short Notes

Ishan Dubey

- Patent

- Origin
 - Term "Letter Patent" which means open letters as distinguished from closed letters.
- Meaning
 - Grant of some privilege, property, or authority made by government to one or more individuals
 - Granted by Controller to the inventor for 20 years. Exclusive right to make, use, exercise, vend invention
 - Form of property.
- Objective behind patent law
 - Role: Recognize exclusive right of patentee to gain commercial advantage.
 - Objective: To encourage scientific research, new tech, and industrial progress
- Legislative provisions regulating patents
 - Indian Patents Act, 1970. Amended, 2005
 - Patent Rules, 2003. Amended, 2005 and 2006
- Principles underlying patent law in India. Product/Process must be
 - New
 - No prior publication/use of same or identical invention
 - Must involve innovation or tech which has not been anticipated
 - Subject matter must not have fallen in public domain
 - Non-obvious
 - to a person skilled in the art to which invention relates
 - Useful
 - Don't patent useless things. Must be beneficial to mankind
 - Capable of industrial application
 - Disclosed fully
 - Disclose in complete specification to help users after period of protection expires
 - If not, won't grant patent
 - If granted, validity can be contested by opposing party
- Exceptions (non-patentable despite being new, non-obvious, useful)
 - Injurious to public health or violate public interest
 - New method of agriculture or horticulture
 - Process of treatment of humans, animals, plants
 - New form of known substance which doesn't enhance efficacy
 - Medicinal, surgical, curative, prophylactic, diagnostic, therapeutic
 - Traditional knowledge or its duplication
 - Atomic energy related
- Not Patentable under the act (above ones + these)
 - Frivolous and obviously wrong claims
 - Naturally occurring living/non-living thing
 - Rearrangement of known devices
 - Computer program, algorithms
 - Literary productions
 - Presentation of information

- Procedure for obtaining patent
 - Submission of application
 - by true and first inventor
 - by assignee of true and first inventor
 - by legal representative of deceased person
 - Examination of application
 - Advertisement of acceptance of complete specification
 - Opposition to grant of patent to applicant
 - Hearing of the parties
 - Grant and sealing of patent
- Specification
 - Technical document describing the invention
 - Provisional: Initial description
 - General description, field of application, anticipated results
 - Complete: Full and sufficient detail
 - Titled sufficiently indicating subject matter
 - Full description of invention and operation
 - Best known method of use
 - Claims defining scope of invention
 - Abstract
 - Single inventive concept (if there are many related inventions, club together)
 - Declaration of inventorship
 - Claims of development/addition since filing provisional specification
- Publication and examination of application
 - Not published if
 - Secrecy direction is imposed (sec 35)
 - Abandoned under sec 9
 - Withdrawn 3 months prior to specified period
 - Publication includes
 - Date of application
 - Number of application
 - Name, address of applicant
 - Abstract
- Opposition claims
 - Wrongfully obtained complete invention
 - Prior publication
 - Subject matter of prior claim
 - Publicly known
 - Obvious
 - Non-patentable
 - 12 month deadline exceeded
- Grant if
 - Application not refused by controller
 - Application doesn't violate any provisions of the act
- Claims
 - Main claim: State what invention is in broadest terms
 - Subordinate claims: refer to additional features of invention

- Omnibus claim: Relates to any arrangement substantially as described or shown in drawings
- Amendment of complete specification
 - Before acceptance
 - Change date of application depending on how heavy the amendment is
 - After acceptance
 - Because of opposition, Controller might ask to amend.
 - Before grant
 - Ordered by high court if
- Conditions for amendment
 - Disclaimer: Claims x but does not claim y
 - Correction: Only typos. No major changes
 - Explanation: Can be added

EIPR Unit-3 Short Notes
Ishan Dubey

- Rights conferred on a patentee
 - Exploit the patent: Just renew on time
 - License to another: Grant licenses
 - Assign to another: Fully or partially
 - Surrender the patent: Controller publishes the offer
 - Sue for infringement: In a court \geq District court
- Exceptions and Limitations on rights
 - Government use of patent
 - No money given if
 - Used before filing of complete spec
 - Record of invention in government doc
 - Government's own use
 - Compulsory licenses and licenses of rights
 - Can appeal for compulsory license 3 years after granting if
 - Reasonable public requirements not fulfilled
 - Not reasonably affordable
 - Not worked in India
 - Compulsory license
 - Reasonable royalty
 - Available to public at reasonable price
 - Non-exclusive
 - Non-assignable
 - Use for defence purposes
 - Revocation for non-working of patents
 - Limitation on restored patents
- Enforcement of patentee rights
 - Suit for infringement
 - Action for specific performance (contract)
 - Action for recovery of royalties
- Duties of a patentee
 - Ensure monopoly right isn't used unfairly
 - Else government will deny right by granting compulsory license / license of rights
 - Furnish all info to govt or controller, or pay fine
 - Don't be overzealous and make groundless threats about infringement
- Transfer of patent
 - Assignment
 - Legal
 - Equitable: Document (like letter), but not agreement.
 - Mortgage
 - License
 - Voluntary: Written authority granted by owner to make, use, sell
 - Statutory: Compulsory license and license of rights
 - Exclusive/Limited: Exclusivity (only licensee or many licensees) and limitation (constraints, such as state, people etc)
 - Implied: Not given in express terms

- Rights conferred on licensee
 - Make, use, exercise invention
 - Right to initiate proceedings against infringement (if exclusive)
- Restrictive conditions to be avoided while licensing
 - Prohibit from buying anything else
 - Prohibit from using article not made by patented process
 - Prohibit from using another process
 - Coercive patent licensing
- Transmission by operation of law
 - Patentee dies, patent goes to legal representative
 - Acquired by government when public requirements not met
- Infringement of patents
 - Violation of patentee rights
 - Depends on extent of monopoly rights
 - Construction of claims is important
 - Patents held to be infringed
 - Colourable imitation
 - Immaterial variations
 - Mechanical equivalents
 - Taking essential features
 - Decided based on facts of each case though
 - Patents held to be not infringed (words are important here)
 - Claim construed to be for a combination not infringed by the defendant
 - Claim construed to be for particular combination not taken by the defendant
 - Claim construed to be for particular combination not infringed by the defendants
 - Claim for a particular combination held to be not infringed by the defendant
 - Claim construed to be for a particular combination not infringed by defendants
 - Infringement not found
 - Patent held to be valid, but not infringed - the doctrine of 'pith and marrow'
- Action/Relief for infringement
 - Interlocutory/interim injunction (court asks to stop)
 - Damages or account of profits
 - Permanent injunction
- Where a suit is to be instituted: \geq District court. In case of counter claim for revocation: High court
- Procedure followed in the suit: Code of Civil Procedure
- When can suit be instituted
 - After patent sealed
 - If infringed before grant, then sue for damages, not infringement
 - If infringed between lapse and renewal, no suit
 - Patent obtained wrongfully then given to another, no suit
 - \leq 3 years from infringement
- Who can sue

- Patentee
- Exclusive licensee
- Compulsory licensee
- Other licensee depending on contract
- Assignee
- Co-owners of patent
- Who can be sued
 - Infringer
 - 2+ infringers together
 - Agents and servants of infringer
 - Cosignees of infringing article
- Onus (burden/responsibility) of establishing infringement: On the plaintiff
- Defence of the defendant
 - Plaintiff not entitled to sue
 - No infringement happened
 - License was there
 - Estoppel or Res judicata
 - Claims are invalid on several grounds (patent obtained wrongfully, etc)
 - There was an unlawful contract at the time of infringement
 - It's for research
 - Counter claim for revocation
- Patent Agents
 - Citizen of India, 21+ years old, degree in science, engg, tech. Has cleared exam or 10+ years working as Controller
 - Right to practice, prepare docs, transact businesses
 - Disqualified for registration if he has unsound mind, corrupt, misconduct, etc
- Patent drafting
 - Check if patentable
 - Fill out patent drafting application
 - Fill necessary forms to complete patent application

EIPR Unit-4 Short Notes
Ishan Dubey

- Copyright

- The right which a person acquires in a work which is result of his intellectual labour
- Derived from 'copier of words'
- Acts related to literary/dramatic/musical works, artistic work, cinematograph film, sound recording

- Characteristics of copyright

- Creation of statute: Specific statute under present law
- Some form of intellectual property: Since the product is result of investment of intellect
- Monopoly right: Restraining others
- Negative right: Prohibitory in nature
- Multiple rights: Combo. Translation, public performance, etc.
- Copyright only in form, not in idea
- Neighboring rights: Related rights to works derived from original. Recording, broadcasting.

- Indian copyright law. 1914, but actually 1957

- Creation of copyright office and board
- Definition of various categories of work
- Provisions to determine first ownership of copyright
- Term of copyright
- Provisions relating to performing rights
- Broadcasting rights
- International copyright
- Definition of infringement
- Author's special rights
- Civil and criminal remedies against infringement
- Remedies against groundless threats

- Requirements of copyright

- Sufficient judgement, skill, labor or capital must be put
- Owner of copyright has no monopoly in subject matter

- Illustrations of copyright in literary work

- Adaptation of literary work: Yes
- Abridgement of literary work: Yes
- Translation: Yes
- Report of judicial proceedings: Yes
- Head notes of law reports: Yes
- Historical works: Not really, but maybe if presentation is original
- Lecture: Only if it's in writing before it's delivered
- Letters: Yes
- Titles of books: Mostly no
- Shorthand writer's transcript: Yes
- Questionnaires, Catalogues, Dictionaries, Compilations: Yes
- I'm not writing the rest. Basically, if there has been sufficient skill and labor put into the work

- Musical work

- Song: NOPE. Lyrics: Yes, of the lyricist. Music: Yes, of the composer. Song: Only if composer and writer is same
- Remix of old song: Yes
- **Artistic work**
 - **Adaptation**, Engravings, Paintings, Drawings, Engineering Drawings, Photographs: Yes
 - Architecture: Original + Artistic Quality. Plan's copyright separate
- **Film**
 - Level of originality is not specified, but don't be dumb and infringe other stuff
 - Rights granted
 - To make a copy
 - To sell or give on hire or offer for sale/hire a copy
 - Communicate film to public
 - Actors aren't protected
 - Performer's right for 25 years
 - To record the performance
 - To reproduce the performance
 - To broadcast the performance
 - To communicate it to public otherwise than broadcast
- Ownership of copyright
 - Employee: Belongs to him
 - Apprentice: Belongs to teacher
 - Rest is obvious
- Contract OF Service vs. Contract FOR service
 - Contract of Service: A employs B to do work for him, but A directs the time, means, method of work etc. A has copyright. Also if work becomes integral part of business
 - Contract for service: A employs B to do work for him, and B decides everything. B has copyright. Also if work is only accessory to business.
- Rights conferred by copyright
 - Statutory: Copyright is creation of statute. Recognized by law. Reproduce, perform, translate, adapt, etc.
 - Negative: Stops other from exploiting.
 - Multiple: Bundle of rights
 - Economic: Since author can get economic benefit
 - Moral: Claim authorship, restrain and claim damages
- **Term of copyright**
 - Photos: 60 years
 - Films: 60 years
 - Sound recording: 60 years
 - Government works: 60 years
 - Broadcast reproduction right: 25 years
 - Performers' right: 25 years
- Licensing copyright
 - By owners
 - Compulsory license in works withheld from public: 2+ applicants needed
 - Compulsory license in unpublished Indian works
 - License to produce and publish translation

- License to reproduce and publish for certain purposes (copies unavailable in India, not been on sale for 6 months)
- Acts that constitute infringement
 - When anyone does stuff by way of trade without a license (make for sale, distribute, exhibit in public, import infringing copies)
 - Copying: Direct and indirect
 - Reproducing the work in a different medium
- Acts that don't constitute infringement
 - Fair dealing for private use
 - Reproduction of judicial proceedings
 - Reading extracts in public
 - Publication in collection for educational institutions
 - Reproduction in question papers
 - Performance in educational institutions
 - Sound in closed spaces (songs in clubs)
 - Performance to non paying audience or for religious institutions
 - ≤3 copies for public library
 - Painting, drawing, photographs of a work of architecture
- Infringement in literary, dramatic, and musical work
 - Literary
 - Dictionaries
 - Historical
 - Commentaries
 - Quotations
 - Student guides
 - Musical
 - Paid performance in public
 - Music played in restaurant
 - Artistic work
 - Photograph, drawings, 3D representation
 - Films, Sound, also similar theory
- Remedies against infringement
 - Civil
 - Injunction
 - Damages
 - Account of profit
 - Damages for conversion (of medium)
 - Criminal
 - Imprisonment
 - Fine
 - Seizure of infringing copies

EIPR Unit-5 Short Notes
Ishan Dubey

- Trademark
 - Visual representation attached to goods for the purpose of indicating their trade origin
- Statutory authorities
 - Controller-General of Patents, Designs, and Trade Marks (1958)
 - Trade Marks Registry (1999)
 - Intellectual Property Appellate Board (2003)
- Principles of registration of trademarks
 - Trader cannot claim absolute proprietary right on any word or symbol
 - Descriptive words, surnames, geographical names are not prima facie registrable
 - Interest of public is to be safeguarded
 - Provision that one mark is to denote one origin is not absolute
 - Life of trademark depends on actual use
 - It's a form of property
 - Property rights in this case are superior to similar rights
 - Law isn't coded with the aim of protecting the interest of trader only
- Rights conferred by registration of trademark (not absolute). Limitations are:
 - Use of the mark beyond the scope of conditions specified in register
 - Doesn't entitle owner to sue for infringement against other identical marks
 - Limits on effect of registered trademark
 - No infringement in some cases
 - Goods adapted to other goods/services isn't infringement
- Infringement of trademark
 - Happens if someone else uses same/similar mark for same goods/services in the course of trade
 - Essentials
 - Taking of essential feature/whole of mark with modifications
 - Must be used in the course of trade
 - Must be printed. No oral use
 - Miscellaneous. It's infringement if
 - Deceptively similar mark used
 - Substantial feature of the mark is taken
 - Inconspicuous additions to existing mark
 - Use of same mark, different name
 - Who can sue
 - Proprietor of trademark or legal successor
 - Registered user of trademark
 - Applicant for registration
 - Legal heirs of deceased
 - Joint proprietor
 - Foreigner proprietor registered in India
 - Who can be sued
 - Infringer
 - Master of infringer
 - Agents of infringers

- Types of relief
 - Injunction restraining further use of infringing mark
 - Damages or account of profits
 - Order for delivery-up, destruction, erasure of infringing labels
- Procedure of registration
 - Submission of application to Registrar
 - Reciprocal arrangements in regard to applications (convention country)
 - Four outcomes
 - Accepted as it is
 - Accepted subject to amendments
 - Accepted, but later found that it was accepted in error
 - Rejected
- Industrial Design
- Who is entitled to file application for registration of a design
 - Proprietor of new/original design
 - Not published in any country
 - Not contrary to public order or morality
 - Foreigner can apply
- Procedure of registration of design
 - Submission of application
 - With prescribed fee, in prescribed Form, in prescribed manner
 - Attach 4 copies, brief statement of novelty, class of design
 - Acceptance/objections/refusal
 - Removal of objections / appeal to Central Government
 - Within 1 month
 - Decision of Central Government
 - Registrations of design
 - Controller grants certificate of registration
- Rights conferred on a design (copyright in design)
 - Different from the copyright in unit-4
 - Right to exclusive use
 - Right to protect design from piracy
- Piracy (Infringement)
 - Publish, have it published, expose design
 - Apply or cause to apply to any class of goods covered by registration
 - Import for purpose of sale any article belonging to class in which design is registered
 - Any unauthorized application, fraudulent, obvious imitation
- Defence by the defendant
 - Plaintiff has no title to sue
 - Design not entitled to protection
 - Plaintiff's own conduct is tainted
 - Delay and Acquiescence
 - Expiry of period of registration