

Valuing Your Intellectual Property Rights

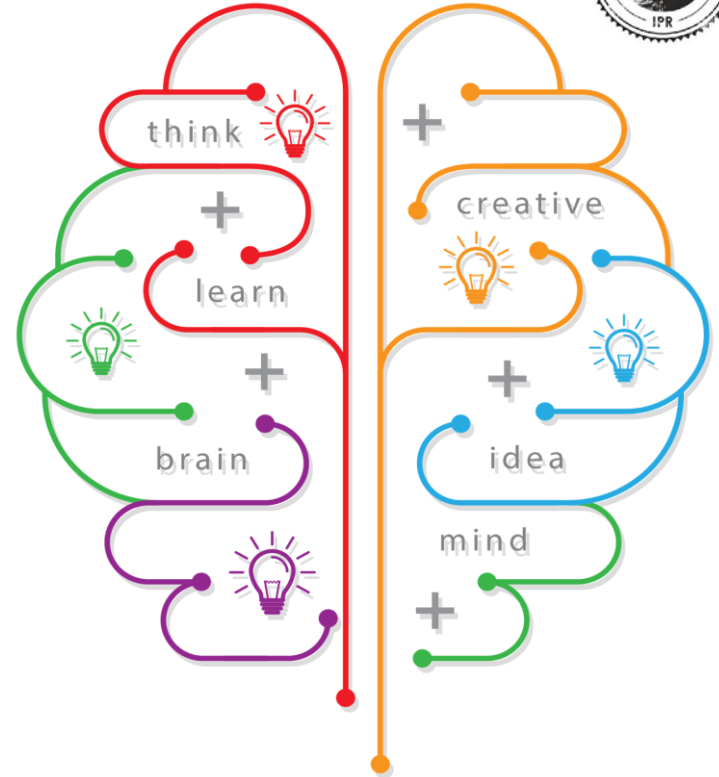
Cell for IPR Promotion and Management (CIPAM)
Department of Industrial Policy and Promotion
Government of India
Ministry of Commerce and Industry



What is Intellectual Property (IP)?



- IP means the property which is created with intellect such as inventions, books, paintings, songs, symbols, names, images, or designs used in business , etc.
- Legal rights conferred on such property are called "Intellectual Property Rights" (IPRs).
- IPRs are territorial in nature. For protection of your IP in any country, one has to seek protection separately under the relevant laws. There are special mechanisms in place in various territories for providing protection to different types of IPRs.



What are the types of IPRs?



COPYRIGHT

TRADEMARK

**GEOGRAPHICAL
INDICATION**

DESIGN

PATENT

**SEMICONDUCTOR
IC LAYOUT
DESIGN**

TRADE SECRET

PLANT VARIETY



Copyright



- Copyright is an exclusive legal right granted to creators on 'expression of an idea'
- Copyright owner has rights to reproduce, translate, adapt, perform, distribute and publicly display the work, etc.
- Registration is not mandatory since copyright comes into existence as soon as the intellectual work is created
- It is recommended to register a copyright for better enforceability, since registered copyrights have evidentiary value in Court



Works covered under copyrights



Literary including Software – Books, Essay, Compilations, Computer Programs



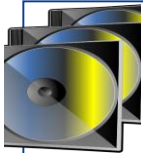
Artistic – Drawing, Painting, Logo, Map, Chart, Photographs, Work of Architecture



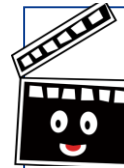
Dramatic – Screenplay, Drama



Musical – Musical Notations



Sound Recording – Compact Disc



Cinematograph Films – Visual Recording which includes sound recording



Works covered under copyrights



Literary, Dramatic, Musical or Artistic Works

Lifetime of
the author
and until 60
years from
the death of
the author



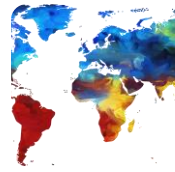
Anonymous & Pseudonymous Works

60 years from
the year the
work was first
published



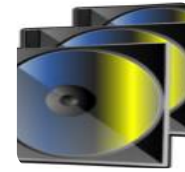
Works of Public Undertakings & Government Works

60 years from
the year the
work was first
published



Works of International Organizations

60 years from
the year the
work was first
published



Sound Recording

60 years from
the year in
which the
recording
was
published



Cinematograph Films

60 years from
the year in
which the film
was published



Trademark



- A trademark is any name, word, sound, numeral, colour, symbol or drawing (or their combination).
- Trademarks let us identify the goods made or services offered by a company or an individual.
- Trademark is registered for 10 years and can be perpetually renewed.



Essentials of a Trademark



Advisable

- Unique (E.g. Doordarshan)
- Distinctive (E.g. BHIM, BHEL)
- Non-dictionary words / Invented words
- Custom designs
- Devices or symbols (E.g. Make in India)
- Non-descriptive (E.g. Goods)

Avoid

- Adjectives (E.g. Efficient)
- Names of person or places (E.g. Rahul Kumar)
- Obscenity
- Religious or Constitutional words or symbols (E.g. OM, Ashoka Chakra)
- Common Shapes (E.g. Sphere)



How to indicate your Trademark?



TM

Trademark application has
been filed



Registered Mark

- The TM sign is used when a trademark has been filed and the registration is under process
- Once registered, ® symbol can be used which indicates that the brand name is registered now



Activity: Find the famous Trademarks?



P	P	A	M	U	L	F	D	P	D
E	L	C	S	T	A	T	A	O	E
P	M	L	H	G	E	R	I	B	T
S	C	D	O	H	L	U	X	X	T
I	A	P	R	J	A	P	D	R	O
X	D	N	L	K	M	N	I	O	L
L	B	R	I	A	I	L	E	P	P
I	U	T	C	B	A	B	O	O	L
N	R	B	K	O	B	A	T	A	N
C	Y	O	S	I	L	M	W	E	R



Activity: Find the famous Trademarks?



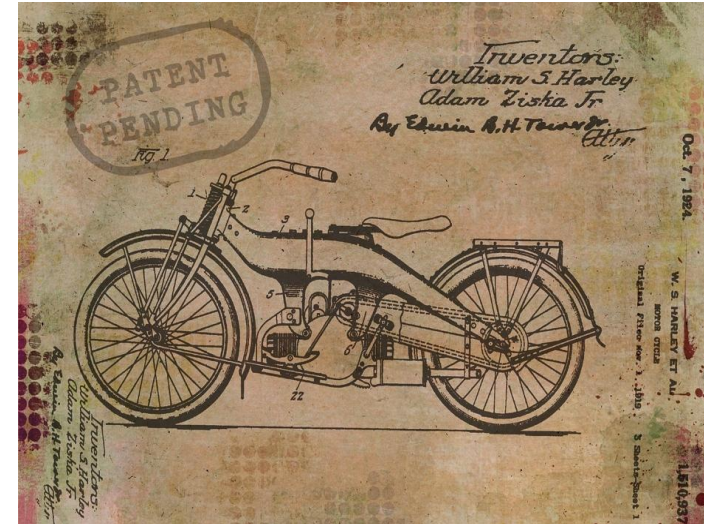
P	P	A	M	U	L	F	D	P	D
E	L	C	S	T	A	T	A	O	E
P	M	L	H	G	E	R	I	B	T
S	C	D	O	H	L	U	X	X	T
I	A	P	R	J	A	P	D	R	O
X	D	N	L	K	M	N	I	O	L
L	B	R	I	A	I	L	E	P	P
I	U	T	C	B	A	B	O	O	L
N	R	B	K	O	B	A	T	A	N
C	Y	O	S	I	L	M	W	E	R



Patent



- A 'patent' is an exclusive right granted which provides the exclusive 'right to exclude' all others and prevent them from making, using, offering for sale, selling or importing your invention.
- For an invention to be patentable –
 - it must be new
 - non-obvious to any person who is skilled in the relevant field of technology
 - must be capable of industrial application
- A patent is valid for 20 years, starting from the date of filing of the patent application and this term cannot be extended.



Non-patentable Inventions

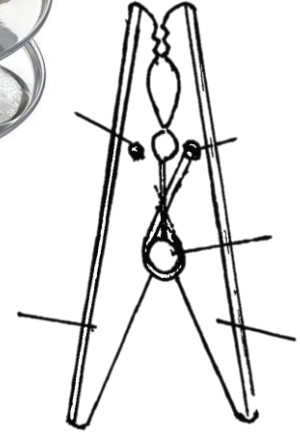


A few examples of non-patentable inventions are:

- A method of treatment of humans and animals
- Inventions that cause serious prejudice to human, animal or plant life, or health or to the environment
- Computer program per se or algorithms
- Mere discovery of a new form of known substance
- Mere admixture resulting in aggregation of properties
- mental act or method of playing game
- Presentation of abstract ideas
- Inventions containing traditional knowledge
- Presentation of abstract ideas
- Inventions contrary to natural Laws
- Mathematical or business method
- Method of agriculture
- Inventions which fall under the Atomic Energy Act



Some patented inventions



Semiconductor Integrated Circuits Layout-Design



DEFINITION

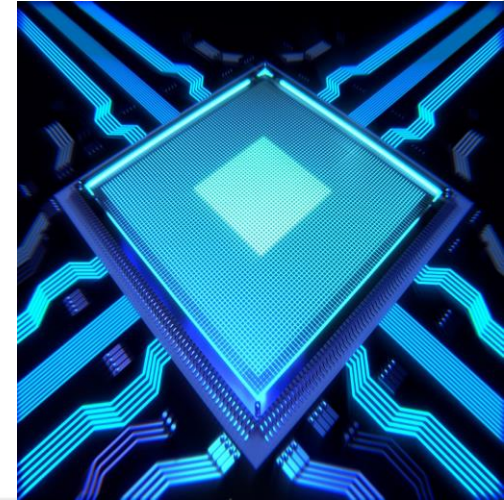
- Semiconductor Integrated Circuit: A product having transistors and other circuitry elements designed to perform an electronic circuitry function
- Layout Design: A layout of transistors and other circuitry elements including lead wires connected in a semiconductor integrated circuits

ACT

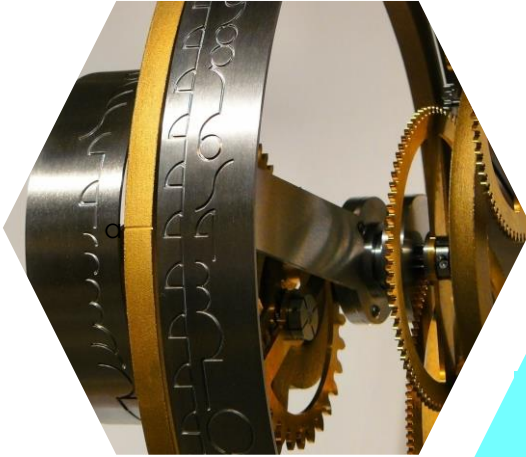
- The Semiconductor Integrated Circuits Layout-Design Act (SICLDA), 2000 deals with 'layout design' used in semiconductor integrated circuit and are a form of intellectual property
- The Act provides protection for a period of 10 years

CRITERIA FOR REGISTRATION

- Should be original
- Should be distinctive
- Should be capable of distinguishing from any other layout design
- Should not have been commercially exploited anywhere in India or in a convention country



Design



Design should be applied or applicable to any article by an industrial process

It is registered for 10 years (can extend by 5 years)

Design is a shape, pattern, arrangement of lines or color combination which is ornamental in nature that is applied to any article



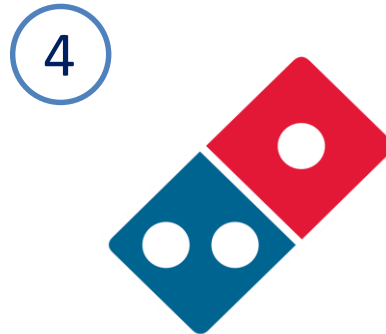
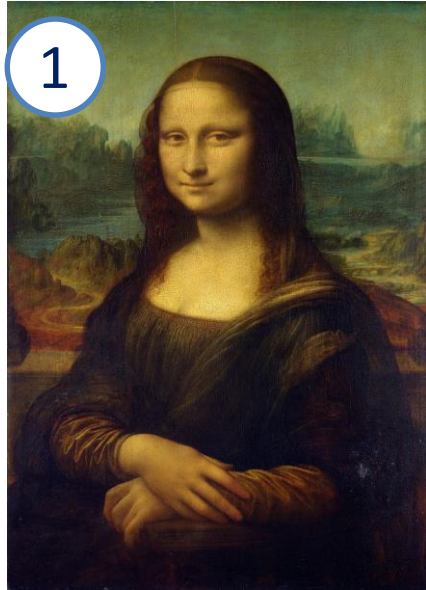
Essentials of a Design



1. Eye-catching feature
2. New or original
3. Applicable to any article by an industrial process
4. Should not be functional or useful
5. Should not be of artistic nature like painting, sculptures, etc.



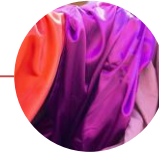
Point out the Industrial Design



Geographical Indication



Darjeeling Tea



Mysore Silk



Rajasthani Kathputlis



Naga Mircha



The Geographical Indications of Goods
(Registration & Protection) Act, 1999

Essentials of Geographical Indication



- Geographical Indication (GI) is primarily an agricultural, natural or a manufactured product (handicrafts and industrial goods) originating from a definite geographical territory
- A product is considered to be manufactured in a territory if one of the activities of either the production or of processing or preparation of the goods takes place there
- GI conveys an assurance of quality and distinctiveness which is essentially attributable to the fact of its origin in that defined geographical locality
- GI promotes economic prosperity of producers of goods produced in a geographical territory
- The registration of a GI is valid for a period of 10 years. It can be renewed from time to time for further period of 10 years each



Plant Varieties



- India's Protection of Plant Varieties and Farmers' Rights Act of 2001 is the most far-reaching legislation with regard to establishing rights for farmers to save, use, exchange and sell farm-saved seed.
- **Such protection is a unique aspect of Indian IP Regime which recognizes the farmer as cultivator, conservator and breeder**
- The Protection of Plant Variety and Farmers Right Act, 2001 grants intellectual property rights to farmers and plant breeders who cultivate or develop any new or extant plant varieties
- The Act aims to establish an effective system for the protection of plant varieties and, the rights of the breeders and to encourage the development of new varieties of plants
- A plant variety should be Novel, Distinct, Uniform and Stable to be registered



Genetic Resources & Traditional Knowledge



- Genetic resources (GRs) refer to genetic material of actual or potential value.
- Genetic material is any material of plant, animal, microbial or other origin containing functional units of heredity.
- Traditional knowledge means the knowledge, systems, innovations and practices of local communities across the globe.
- Such wisdom has been developed and accumulated over the years and has been used and passed down through several generations.
- The Biological Diversity Act, 2002 was enacted for preservation of biological diversity in India, and provides mechanism for equitable sharing of benefits arising out of the use of traditional biological resources and knowledge.



Traditional Knowledge Digital Library



Set up in 2001 by Council of Scientific and Industrial Research (CSIR) in collaboration with the MINISTRY OF AYUSH

Encourages modern research based on Traditional Knowledge

Maintains the ancient knowledge and traditionally passed verbal knowledge e.g., Knowledge about medicinal plants

Access given to several International Patent Offices

Wrong Patents in traditional knowledge are prevented from being granted - TKDL is an effective deterrent against bio-piracy

Translations available in 5 international languages i.e. English, Japanese, French, Spanish and German

3,00,000+ entries of traditional Indian medicinal systems of Ayurveda, Unani, Siddha and Yoga



Trade Secrets



- Any confidential business information which provides an enterprise a competitive edge may be considered a trade secret. Trade secrets encompass manufacturing or industrial secrets and commercial secrets
- Trade Secrets may include R&D Information, Software Algorithms, Inventions, Designs, Formulas, Financial Records, Ingredients, Lists of Customers, Devices, Methods, Consumer Profiles and Advertising Strategies or Policies of a Company, etc.
- A trade secret can be protected for an unlimited period of time
- India like many other countries such as United Kingdom, Singapore, Malaysia, New Zealand, Australia, etc. has a common-law approach to Trade Secrets i.e. Trade Secrets are protected either through contract law or through the equitable doctrine of breach of confidentiality



National IPR Policy

An India where creativity and innovation are stimulated by intellectual property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared



Objectives of National IPR Policy



- IPR Awareness: Outreach and Promotion - To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society
 - Generation of IPRs - To stimulate the generation of IPRs
- Legal and Legislative Framework - To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest
- Administration and Management - To modernize and strengthen service-oriented IPR administration
 - Commercialization of IPRs - Get value for IPRs through commercialization
- Enforcement and Adjudication - To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements
 - Human Capital Development - To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs



Cell for IPR Promotion & Management



CIPAM is a professional body to effectively implement the National IPR Policy

CIPAM to conduct targeted IPR awareness programs across the country

Strengthening enforcement through trainings of police officials and judiciary; Toolkit for Enforcement prepared

CIPAM is a national focal point for the Technology and Innovation Support Centre (TISC) by WIPO

CIPAM is working with States to establish IPR cells in universities and colleges

CIPAM is creating an online platform that will bring all IP stakeholders together

Task Force on Innovation working on improving India's rank in Global Innovation Index



IP Process Re-engineering: Patent & Trademark Rules Amended



PATENT RULES

- Refund of fees in certain cases permitted, as also withdrawal of application being permitted without any fees
- Applications can be transferred electronically from any of the Patent Office branches to another
- Expedited Examination is now permitted on certain grounds

COMMON FEATURES

- Hearing through video conferencing
- Timelines imposed to ensure speedy disposal – No. of adjournments limited
- Special provisions for start-ups

TRADEMARK RULES

- Process for determination of a well-known mark has been laid out for the first time
- 74 existing forms replaced by 8 consolidated forms
- Express provision for filing applications for sound marks
- E-filing encouraged through 10% rebate in fees
- Email now recognized as a Mode of Service
- Expedited processing of an application for registration of a trade mark right up to registration stage

**SIMPLIFIED &
STREAMLINED
PROCESSES**



Start-ups Intellectual Property Protection (SIPP) Scheme



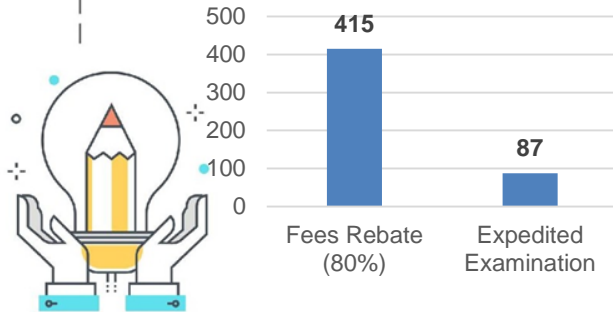
50% rebate in Trademark fees vis a vis other companies

80% rebate in Patent fees vis a vis other companies

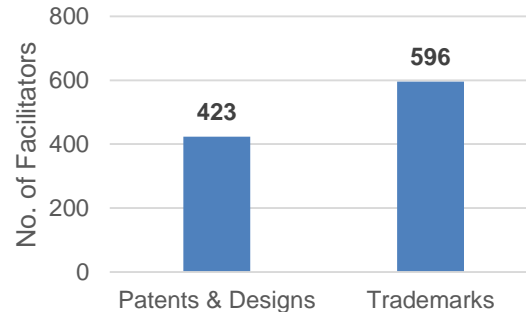
Expedited examination and disposal of patent applications.

SIPP Scheme up to 31-3-2020: Govt. bears entire cost of the facilitators who assist startups file and pursue their IPR applications.

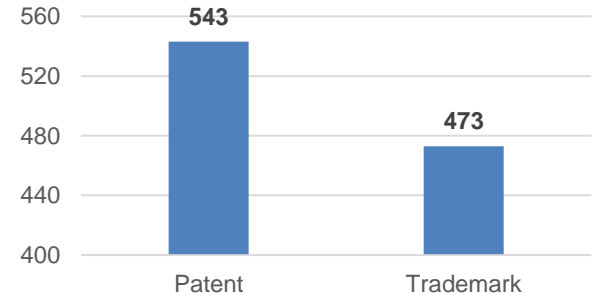
**Benefits to Start Ups
under Patent Rules
2016**



**Facilitators empaneled under
SIPP Scheme**



**Patent and TM applications
filed by Start Ups**



Faster examination – Increase in Filings



Manpower increased five fold - Technically competent patent and trademark examiners appointed

Patent filings increased by 10% (approx.) in 2016-17 vis-à-vis 2014-15

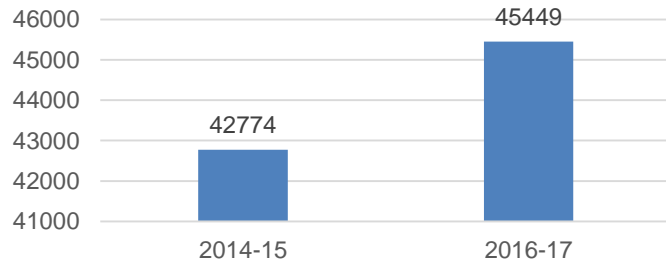
Pendency in Patent examination targeted to be brought down from the present 7 years to 18 months by 2018-19, at par with world economies

Trademark filings shot up by 40% in 2016-17 compared to 2014-15: indicator of buoyancy in economy

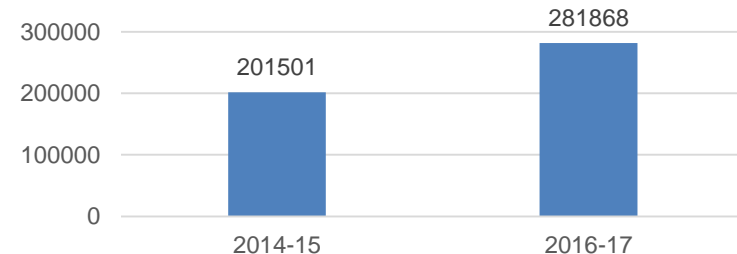
Pendency in Trademark examination already down from 13 months to just 1 month

Increase in transparency by modernization of IP offices – Application Status can be checked here: <http://ipindiaservices.gov.in/publicsearch/newpublicsearch/>

Patent Filing



Trademark Filing

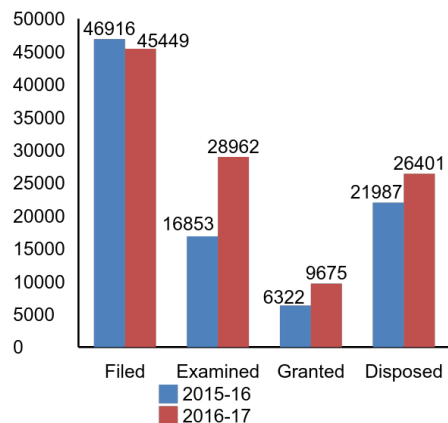


IPR TRENDS

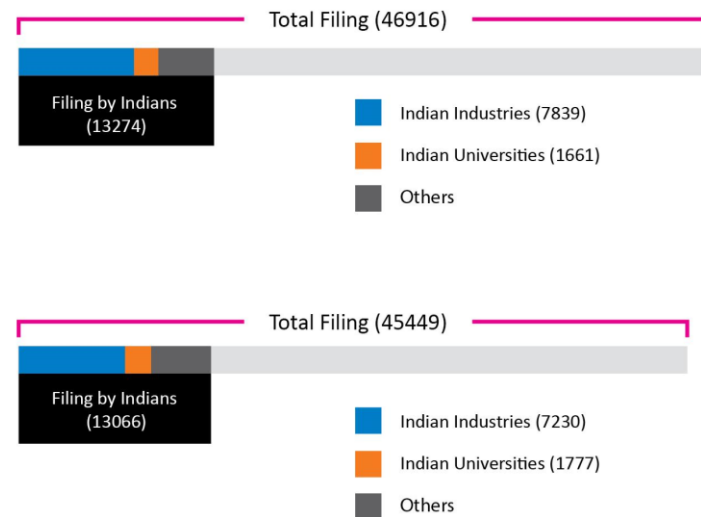
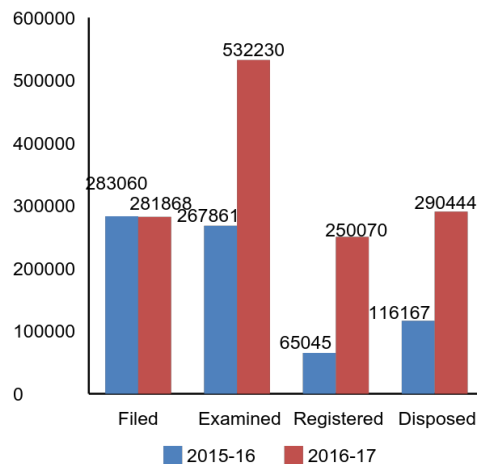
(F.Y. 2016-17 VIS-À-VIS LAST F.Y. 2015-16)



Patent Trends



Trademark Trends



India on the Global IP platform



- India has a Trade Related Aspects of Intellectual Property Rights (TRIPS) compliant, robust, equitable and dynamic IPR regime

- The Indian IPR system maintains a fine balance between private rights through IPRs and rights of the society as public interest

- India first country to ratify the Marrakesh Treaty which facilitates access to published works by visually impaired persons and persons with print disabilities

- India's patent regime prevents 'ever greening' and makes affordable generics possible - Millions of people around the world rely on affordable medicines made in India, making 'India the pharmacy of the world'

- Memorandum of Understanding (MoUs) in the field of IP signed with organisations, regions and nations such as WIPO, Japan, Europe, Singapore and UK: facilitate bilateral exchanges of best practices and cooperation to foster innovation and creativity

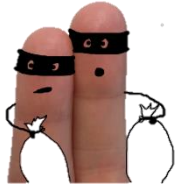
- India's ranking on Global Innovation Index (GII) shot up from 81 in 2015 to 60 in 2017



IP Infringement, Enforcement and Remedies



What is IP Infringement?



IP infringement is breach or violation of intellectual property rights. IPRs are said to be infringed when a work protected by IP laws is used, copied, distributed or otherwise exploited without having the proper permission from the owners

FAKE

Examples of IP infringement are “trademark counterfeiting” and “copyright piracy”



Counterfeiting & Piracy



'Counterfeiting' is illegally making and selling a fake products called 'counterfeits' which is an identical or similar copy of a genuine product, with the same or similar trademark, logos and color combinations that misleads people to mistake it for the real product

Piracy refers to illegal selling, distribution and use of duplicates of copyrighted content. It may be done in various forms – soft lifting, hard disk loading, client server over use, online piracy, etc.



Remedies against IP Infringement – Civil Remedies



IPRs that provide for Civil Remedies

- Copyright
- Geographical Indication
- Trademark
- Patent
- Design

Civil Remedies

- Interlocutory/Permanent Injunction
- An Award of Costs & Damages
- Delivery Up & Destruction
- Additional remedies in case of Copyright
 - Mareva Injunction
 - Anton Pillar Order
 - John Doe Order



Remedies against IP Infringement – Criminal Remedies



Criminal remedies such as Imprisonment and Fine is available in the following Acts:

Copyrights Act, 1957

Geographical Indications of Goods (Registration and Protection) Act, 1999

Biological Diversity Act, 2002

Semiconductor Integrated Circuits Layout Design Act, 2000

Trade Marks Act, 1999

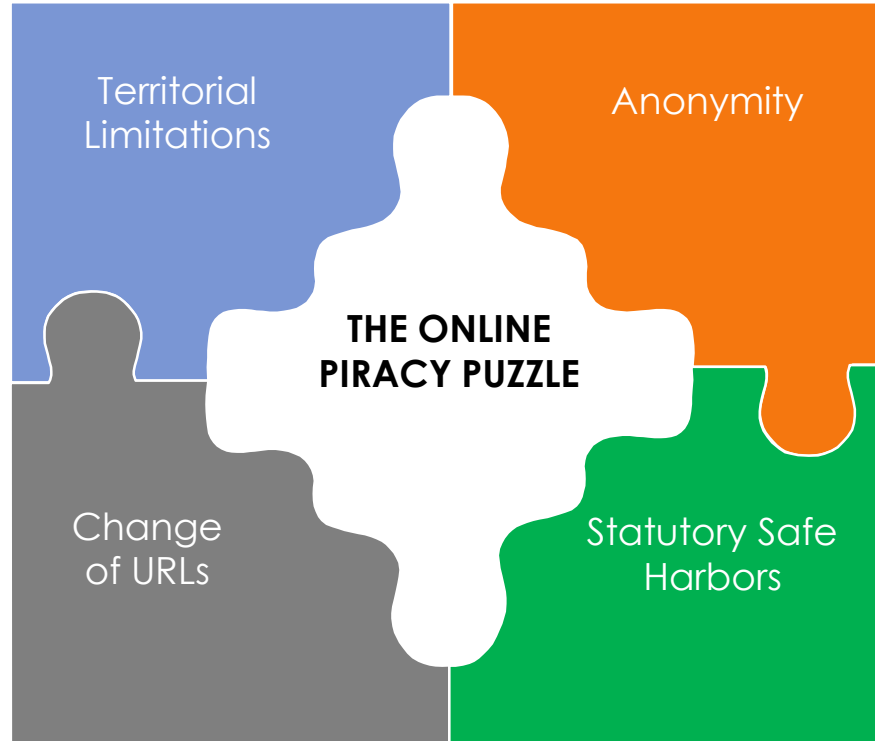
Protection of Plants & Varieties and Farmers Rights Act, 2001



Online Copyright Piracy: Enforcement Issues



There are a number of intricacies involved in taking enforcement action against online copyright piracy



IPR Enforcement Toolkit

About

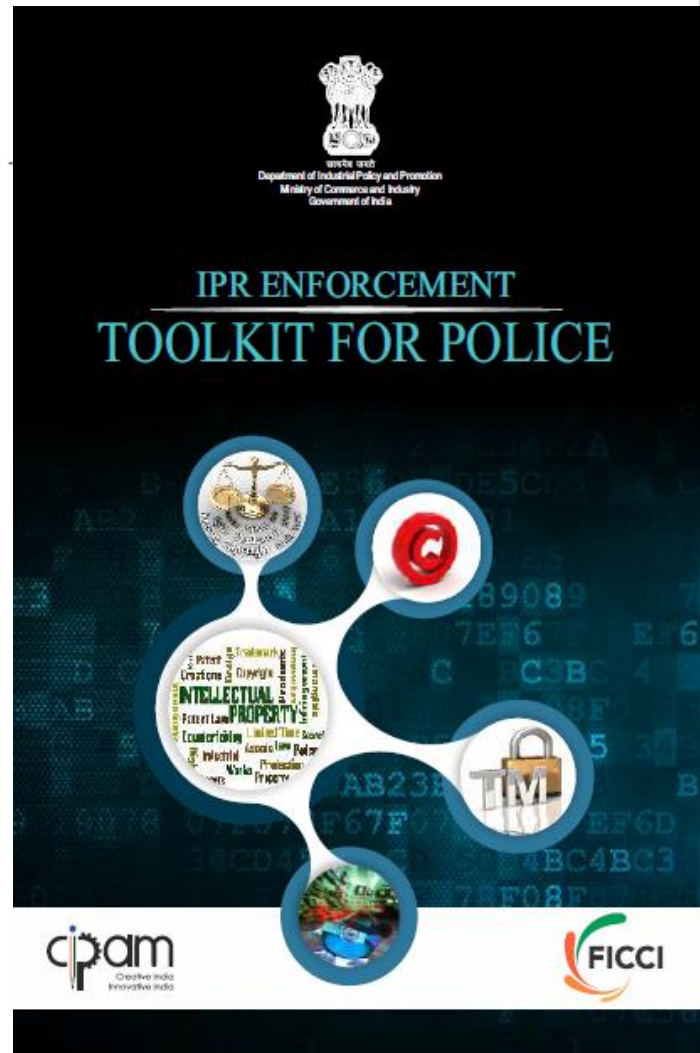
A ready reckoner for Police for IPRs enforcement in India

Objective

To aid in dealing with IP Crimes - Trade Mark counterfeiting and Copyright piracy in particular

Contents

- Criminal Offences under Trade Mark and Copyright Acts
- General Guidelines for Search And Seizure
- Checklist for Registering Complaint
- Checklist for Search And Seizure



Activity: Point out the infringements



I

Translating a book, say 'Harry Potter Series' in a local language with proper authorization from the author(s)/ publisher(s)

II

Making a copy of a software say 'Adobe Photoshop' and selling it on lower price

III

Downloading the movie - 'Raees' using torrent sites and watching on laptop

IV

Picking up photographs from Google and uploading them on your social media platforms (like Instagram) as your own

V

Photocopying a chapter from a book to research for a project

VI

Selling jeans under a label Lewi's and trying to pass it off as an original product of Levi's



IP Offices, India



SICLDR #	Delhi				
Patent Office	Kolkata (Head Office)	Delhi	Chennai	Mumbai	
Designs Wing	Kolkata				
Trade Marks Registry	Mumbai (Head Office)	Delhi	Kolkata	Chennai	Ahmedabad
Geographical Indications Registry	Chennai				
Copyrights Office	Delhi				



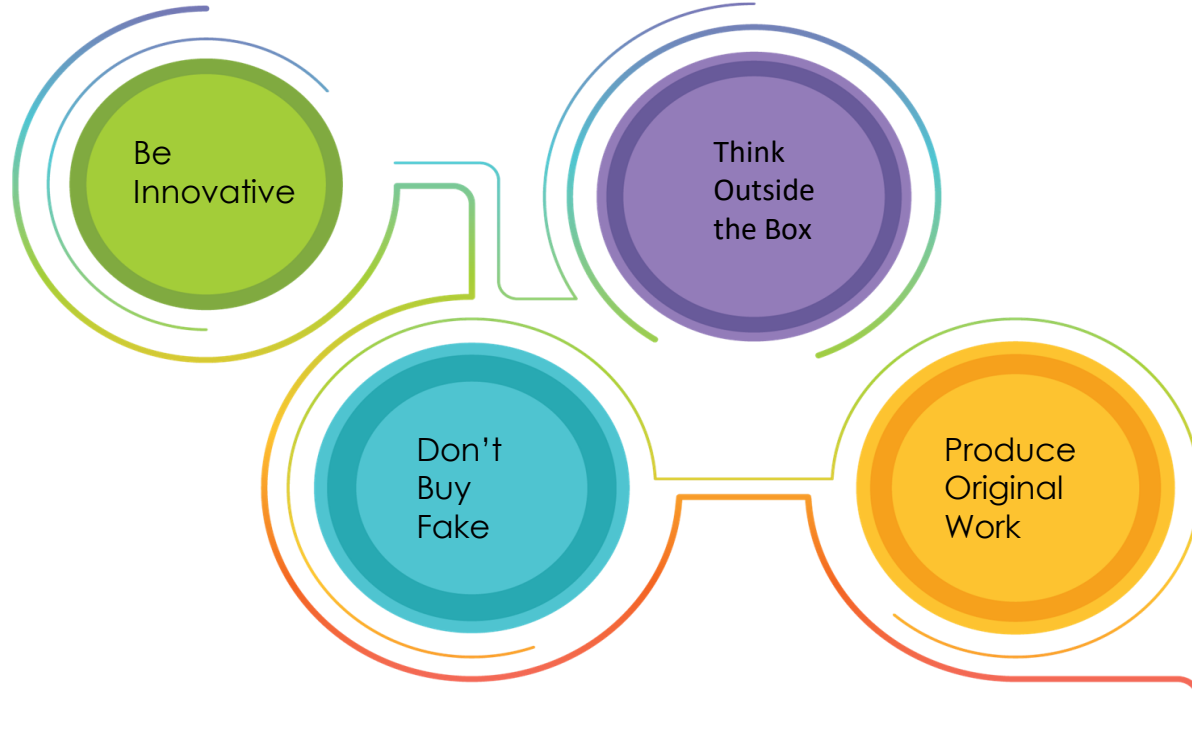
www.ipindia.nic.in

SICLDR: Semiconductor Integrated Circuits Layout Design Registry

You can, without any fees

- Search at www.ipindia.nic.in to check whether an IP application on the subject matter of your interest has been already filed or granted/registered in India
- Check the status of your filed IP application
- Check lapsed or ceased patents in your field of technology to either commercialize them or undertake further research.

How can you contribute to IP?



Some useful links



CIPAM Website

<http://cipam.gov.in/>

DIPP Website

<http://dipp.nic.in/>

CGPTDM Website

www.ipindia.nic.in/

Start-Up India Action Plan

<http://startupindia.gov.in/uploads/pdf/Action%20Plan.pdf>

TKDL

<http://www.tkdل.res.in/tkdل/langdefault/common/Home.asp?GL=Eng>

WIPO Website

<http://www.wipo.int/about-ip/en/>



Thank You

“It’s time for Indians to take up their rightful place in the global arena of creativity and innovation; not only as creators and innovators, but also as owners of IP”

**Creative India;
Innovative India**

**रचनात्मक भारत;
अभिनव भारत**

