

## UNIT – VI

### Types of Intellectual Property

**Syllabus:** Patent- Procedure, Licensing and Assignment, Infringement and Penalty, Trademark- Definition, Type, Registration, Trademark infringement, Use in marketing, example of trademarks- Domain name, Geographical Indications- What is GI, Why protect them?, Copyright- What is copyright, Industrial Designs- What is design? How to protect?, Patents and Copyrights, Patents in India

#### Patent: Procedure, Licensing and Assignment, Infringement, and Penalty

##### 1. Introduction to Patents

A **patent** is an exclusive legal right granted to an inventor for a new and useful invention. It gives the patent holder the right to **exclude others** from making, using, selling, or distributing the invention **without permission** for a certain period (typically **20 years** from the filing date).

**Patents:** A patent for an invention is the grant of a property right to the inventor, issued by the United States Patent and Trademark Office. Generally, the term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier related application was filed, subject to the payment of maintenance fees. U.S. patent grants are effective only within the United States, U.S. territories, and U.S. possessions. Under certain circumstances, patent term extensions or adjustments may be available. The right conferred by the patent grant is, in the language of the statute and of the grant itself, “the right to exclude others from making, using, offering for sale, or selling” the invention in the United States or Importing the invention into the United States. What is granted is not the right to make, use, offer, for sale, sell or import, but the right to exclude others from making, using, offering for sale, selling or importing the invention. Once a patent is issued, the patentee must enforce the patent without aid of the USPTO.

##### Why Are Patents Important?

- **Encourage Innovation** – Reward inventors with exclusive rights.
- **Economic Benefits** – Patents can be licensed or sold, generating revenue.
- **Competitive Advantage** – Prevents competitors from copying inventions.

There are three types of patents:

1. **Utility patents** may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;
2. **Design patents** may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and
3. **Plant patents** may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

## 2. Patent Procedure

The process of obtaining a patent involves multiple steps, ensuring that the invention meets legal criteria such as **novelty, non-obviousness, and industrial applicability**.

### Step 1: Patent Search

- A **prior art search** is conducted to determine if the invention is new.
- Helps avoid legal issues and ensures the invention is **unique**.

### Step 2: Drafting and Filing of Patent Application

- The inventor or a patent attorney drafts a **detailed patent specification**.
- The application includes:
  - **Title of invention**
  - **Abstract**
  - **Description of invention**
  - **Claims defining the scope of protection**
  - **Drawings (if necessary)**
- **Types of Patent Applications:**
  - **Provisional Application** – Filed to secure an early priority date.
  - **Complete Specification** – Full disclosure of the invention.

### Step 3: Examination of the Application

- The patent office conducts a **substantive examination** to check:
  - **Novelty**
  - **Inventive step**
  - **Industrial applicability**
- The applicant may need to **respond to objections** raised by the examiner.

### Step 4: Publication of the Patent

- The application is published **18 months after filing** unless a request for early publication is made.

### Step 5: Grant of Patent

- If the application meets all legal requirements, the patent is granted.

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- The **patentee receives exclusive rights** for up to 20 years.

## **3. Patent Licensing and Assignment**

### **a) Patent Licensing**

Patent licensing allows the patent owner (**licensor**) to grant permission to another party (**licensee**) to use the patent **without transferring ownership**.

**Types of Patent Licenses:**

1. **Exclusive License** – Only the licensee can use the patent; even the owner cannot use it.
2. **Non-Exclusive License** – The owner can license the patent to multiple parties.
3. **Compulsory License** – Government grants a third party the right to use the patent without the owner's consent (usually in public interest, such as for essential medicines).

**Example:** Microsoft licenses its software patents to manufacturers like Dell and HP.

### **b) Patent Assignment**

Patent assignment refers to the **transfer of ownership** from one party to another.

- It is **permanent** and legally binding.
- **Example:** A tech startup sells its patent to a large corporation.

**Types of Assignments:**

1. **Complete Assignment** – Full ownership transfer.
2. **Partial Assignment** – Transfer of ownership for a specific region or time period.

## **4. Patent Infringement**

Patent infringement occurs when a person or company **uses, makes, sells, or distributes** a patented invention **without the patent holder's permission**.

**Types of Patent Infringement:**

1. **Direct Infringement** – Unauthorized use of a patented invention.
2. **Indirect Infringement** – Assisting someone in violating a patent.
3. **Literal Infringement** – When an invention copies all elements of a patent claim.
4. **Doctrine of Equivalents** – Even if the exact elements are not copied, infringement occurs if a product performs the same function in a similar way.

## Example:

- Apple and Samsung have been involved in **multiple patent infringement lawsuits** over smartphone technologies.

## 5. Penalties for Patent Infringement

The penalties for patent infringement vary based on jurisdiction. Some common consequences include:

### a) Civil Penalties

- **Injunction** – Court orders the infringer to stop using the patented invention.
- **Monetary Damages** – The infringer may have to pay:
  - **Actual damages** (profit loss due to infringement).
  - **Reasonable royalty fees**.
- **Seizure of Infringing Goods** – Authorities may confiscate infringing products.

### b) Criminal Penalties (In Some Cases)

- In certain cases, patent infringement can lead to **criminal prosecution**.
- **Fines and Imprisonment** – Especially in cases involving **willful infringement** of patents in fields like pharmaceuticals or national security.

### c) Loss of Patent Rights

- If a patent is **not enforced**, it may become **unenforceable** over time.
- Courts may revoke patents if they are found to be **invalid or fraudulently obtained**.

## Federal Registration of Patents:

Patents are governed exclusively by federal law (35 U.S.C. 100 et seq). To obtain a patent, an inventor must file an application with the PTO (the same agency that issues trademark registration) that fully describes the invention. Patent prosecution is expensive, time consuming and complex. Costs can run into the thousands of dollars, and it generally takes over two years for the PTO to issue a patent. Patent protection exists for twenty years from the date of filing of an application for utility and patents and fourteen years from the date of grant for design patents. After this period of time, the invention falls into the public domain

and may be used by any person without permission. The inventor is granted an exclusive but limited period of time within which to exploit the invention. After the patent expires, any member of the public is free to use, manufacture, or sell the invention. Thus, patent law strikes a balance between the need to protect inventors and the need to allow public access to important discoveries.

## 6. Conclusion

Patents play a crucial role in **protecting innovation, fostering economic growth, and ensuring fair competition**. However, they also require **strategic management, enforcement, and compliance** to maximize their benefits. Companies and inventors must actively **monitor, license, and protect** their patents to stay competitive in the market.

### Summary:

- **Patent Procedure** – Involves searching, filing, examination, publication, and grant.
- **Licensing & Assignment** – Licensing allows temporary use, while assignment transfers ownership.
- **Infringement** – Unauthorized use of a patented invention.
- **Penalties** – Includes fines, damages, injunctions, and potential criminal charges.

## Trademark:

### 1. Definition of Trademark

A **trademark** is a recognizable **sign, symbol, name, logo, or slogan** that identifies and differentiates the goods or services of one business from another. It helps consumers associate a product with a specific company, ensuring brand recognition and trust.

### Key Features of a Trademark:

- **Uniqueness** – Distinctive enough to identify a brand.
- **Exclusivity** – Only the owner has the right to use it.
- **Legal Protection** – Prevents unauthorized use by others.
- **Market Differentiation** – Helps brands stand out from competitors.

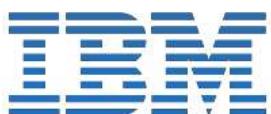
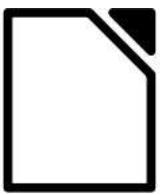
### Example:

The **Nike "Swoosh" logo** and **Coca-Cola's signature script** are trademarks that are instantly recognizable worldwide.

### General Logos:

#### The Trademark Registration Logo





In addition to words, trademarks can also consist of slogans, design, or sounds. Trademark provides guarantee of quality and consistency of the product or service they identify. Companies expend a great deal of time, effort and money/ in establishing consumer recognition of and confidence in their marks.



## 2. Types of Trademarks

Trademarks can be classified based on their form and function.

### a) Based on Representation

1. **Word Marks** – Text-based trademarks (e.g., "Google").
2. **Logo or Symbol Marks** – Visual elements or graphics (e.g., Apple's bitten apple logo).
3. **Tagline or Slogan Marks** – Catchphrases associated with a brand (e.g., McDonald's "I'm Lovin' It").
4. **Shape Marks** – Distinctive product shapes (e.g., Coca-Cola bottle shape).
5. **Color Marks** – Specific colors used for branding (e.g., Tiffany & Co.'s blue color).
6. **Sound Marks** – Unique sound signatures (e.g., Nokia's ringtone, MGM's lion roar).
7. **Smell Marks** – Unique scents (rare but possible, e.g., Play-Doh's distinct smell).

## b) Based on Nature

1. **Product Trademarks** – Used for goods (e.g., Adidas for sportswear).
2. **Service Trademarks** – Used for services (e.g., FedEx for delivery services).
3. **Collective Trademarks** – Used by a group or association (e.g., CA (Chartered Accountant) logo).
4. **Certification Trademarks** – Issued to certify quality standards (e.g., ISI mark in India).
5. **Geographical Indications (GI)** – Identify products linked to a specific location (e.g., Darjeeling Tea).

## 3. Trademark Registration Process

Trademark registration provides **legal protection** to prevent unauthorized use.

### Steps in Trademark Registration:

1. **Trademark Search** – Checking for existing trademarks to avoid duplication.
2. **Application Filing** – Submitting a trademark application with details.
3. **Examination** – Government authorities review the application for compliance.
4. **Publication** – The trademark is published for public objections.
5. **Opposition Period** – If no objections are raised, the registration proceeds.
6. **Trademark Registration Certificate** – The trademark is granted and legally protected.

### Federal Registration of trademarks:

Interstate use of trademarks is governed by federal law, namely, the United States Trademark Act (also called the Lanham Act), found at 15 U.S.C 1051et seq. In the United States, trademarks are generally protected from their date of first public use. Registration of a mark is not required to secure protection for a mark, although it offers numerous advantages, such as allowing the registrant to bring an action in federal court for infringement of the mark. Applications for federal registration of trademarks are made with the PTO. Registration is a fairly lengthy process, generally taking anywhere from twelve to twenty-four months or even longer. The filing fee is \$335 per mark (Present \$225 per class) per class of goods or services covered by the mark. A trademark registration is valid for 10 years and may be renewed for additional ten year periods thereafter as long as the mark is in used in interstate commerce. To maintain a mark the registrant is required to file an affidavit with the PTO between the fifth and sixth year after registration and every ten years to verify the mark is in continued use. Marks not in use are then available to others. A properly selected, registered and

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protected mark can be of great value to a company or individual desiring to establish and expand market share and better way to maintain a strong position in the marketplace.

## **Duration & Renewal**

- A registered trademark is **valid for 10 years**.
- It can be **renewed indefinitely** in 10-year periods.

## **4. Trademark Infringement**

Trademark infringement occurs when a third party **uses a registered trademark without permission**, leading to confusion among consumers.

### **Types of Trademark Infringement**

1. **Direct Infringement** – Exact or similar use of a trademark without authorization.
2. **Indirect Infringement** – Encouraging or enabling others to infringe a trademark.
3. **Passing Off** – Using similar branding to mislead customers.
4. **Counterfeiting** – Fake products with copied trademarks.

### **Legal Actions for Infringement**

- **Injunctions** – Court orders to stop the infringement.
- **Monetary Damages** – Compensation for losses.
- **Seizure of Goods** – Confiscation of counterfeit products.

### **Example:**

- **Adidas vs. Payless (2008)** – Payless was sued for selling shoes with Adidas' three-stripe design, resulting in a \$305 million penalty.

## **5. Use of Trademarks in Marketing**

Trademarks play a crucial role in **branding and consumer engagement**.

### **a) Brand Identity and Recognition**

- Trademarks create **instant brand recall**.
- Companies invest heavily in **protecting their brand names and logos**.

### **b) Competitive Advantage**

- Differentiates a brand from competitors.
- Consumers associate quality with familiar trademarks.

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## c) Trust and Loyalty

- Builds **customer trust** over time.
- Strong trademarks result in **repeat purchases**.

## d) Global Expansion

- Trademarked brands can enter **international markets**.
- **Example:** Starbucks and McDonald's trademarks ensure uniform branding worldwide.

## e) Licensing and Franchising

- Companies can **license trademarks** to partners.
- **Example:** Disney licenses its characters for toys and merchandise.

## 6. Examples of Trademarks

### Famous Global Trademarks

Brand	Trademark Type	Description
Nike	Logo & Slogan	"Swoosh" logo and "Just Do It"
Apple	Logo	Bitten apple logo
McDonald's	Slogan & Design	"I'm Lovin' It" & Golden Arches
Google	Word Mark	"Google" brand name
Coca-Cola	Shape & Logo	Unique bottle design & script logo
BMW	Sound & Logo	Engine sound & BMW emblem

## 7. Domain Names as Trademarks

A **domain name** is the **web address** of a business and can be trademarked if it represents a brand.

### Importance of Trademarked Domain Names

- Prevents **cybersquatting** (buying domains to resell at a higher price).
- Enhances **brand credibility**.
- **Protects businesses** from fraudulent websites.

### Example of Domain Name Disputes

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- **Tesla.com** – Tesla had to purchase the domain from a private owner after legal negotiations.
- **Google vs. Groovle.com** – Google sued the website for using a similar-sounding name.

## 8. Conclusion

Trademarks are **valuable assets** that protect brand identity and drive marketing success. Proper **registration and enforcement** ensure **legal protection and business growth**.

### Key Takeaways:

- ✓ Trademarks protect brand identity and consumer trust.
- ✓ Types include word marks, logos, slogans, shapes, and sounds.
- ✓ Registration provides exclusive rights for 10 years, renewable indefinitely.
- ✓ Infringement can lead to legal action and financial penalties.
- ✓ Trademarks are essential for marketing, branding, and competitive advantage.
- ✓ Domain names can be trademarked to prevent misuse online.

Would you like specific case studies or recent legal disputes related to trademarks?

## Geographical Indications (GI): Meaning, Importance, and Protection

### 1. What is a Geographical Indication (GI)?

A **Geographical Indication (GI)** is a **sign, name, or symbol** used to identify products that originate from a specific geographical location and **possess qualities, reputation, or characteristics unique to that region**.

### Key Features of GI:

- **Tied to Geography** – The product's uniqueness is due to its place of origin.
- **Exclusive Rights** – Only authorized producers from the region can use the GI tag.
- **Cultural and Economic Value** – Helps preserve **traditional knowledge and heritage**.

### Examples of GI Products:

Category	Product	Country
Food	Darjeeling Tea	India
Cheese	Roquefort Cheese	France
Wine	Champagne	France

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Category	Product	Country
Handicrafts	Banarasi Saree	India
Spices	Kampot Pepper	Cambodia

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## 2. Why Protect Geographical Indications?

Protecting GIs ensures **economic, cultural, and legal benefits**.

### a) Economic Benefits

- ✓ **Boosts Rural Economies** – Protects local producers and increases demand.
- ✓ **Premium Pricing** – GI products are sold at **higher prices** due to their exclusivity.
- ✓ **Encourages Tourism** – GI products attract cultural and food tourism.

**Example:**

- **Darjeeling Tea (India)** fetches higher prices internationally due to its GI status.

### b) Protection Against Misuse

- ✓ **Prevents Counterfeiting** – Unauthorized producers cannot use the name.
- ✓ **Ensures Quality Control** – Only products meeting regional standards qualify.
- ✓ **Avoids Consumer Deception** – Customers get **authentic** products.

**Example:**

- The term "**Champagne**" can only be used for sparkling wine from the Champagne region of France. Other sparkling wines must use alternative names like "**Prosecco**" or "**Cava**".

### c) Cultural and Heritage Preservation

- ✓ **Safeguards Traditional Practices** – Protects **centuries-old** techniques.
- ✓ **Preserves Identity** – GI status helps maintain cultural and regional pride.

**Example:**

- **Kanjeevaram Sarees (India)** are handwoven using traditional methods, and GI protection ensures artisans **continue their heritage**.

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## 3. How are GIs Protected?

### a) International Protection

- ✓ **TRIPS Agreement (1995)** – The WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) mandates GI protection worldwide.
- ✓ **Lisbon Agreement** – Provides international registration of GIs.
- ✓ **EU GI System** – The European Union protects food and beverages with **Protected Designation of Origin (PDO)** and **Protected Geographical Indication (PGI)**.

### b) GI Protection in India

- ✓ **The Geographical Indications of Goods (Registration & Protection) Act, 1999** regulates GI registrations in India.
- ✓ **GI Validity** – 10 years, renewable indefinitely.
- ✓ **Registered by Associations or Organizations** – Not individuals.

#### Example of GI Products in India:

1. **Agricultural** – Alphonso Mango, Basmati Rice
  2. **Handicrafts** – Pashmina Shawls, Madhubani Paintings
  3. **Manufactured Goods** – Mysore Sandalwood Oil
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### 4. Conclusion

Protecting Geographical Indications helps **local economies, preserves cultural heritage, and ensures consumer trust**. Countries must actively safeguard their GI products to maintain their authenticity and market value.

#### Key Takeaways:

- **GI protects products unique to a region.**
- **Prevents misuse, maintains authenticity, and promotes economic benefits.**
- **TRIPS Agreement mandates global GI protection.**
- **India has a strong GI registration system under the 1999 Act.**

## Copyright

### 1. What is Copyright?

**Copyright** is a legal right that **grants creators exclusive control over their original works** such as literary, artistic, musical, and dramatic creations. It ensures that the creator has the sole right to **reproduce, distribute, perform, and adapt their work** for a specific period.

Copyright is a form of protection provided by U.S. law (17 U.S.C 101 et seq) to the authors of "original works of authorship" fixed in any tangible medium of expression. The manner and medium of fixation are virtually unlimited. Creative expression may be captured in words, numbers, notes, sounds, pictures, or any other graphic or symbolic media. The subject

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matter of copyright is extremely broad, including literary, dramatic, musical, artistic, audio visual, and architectural works. Copyright protection is available to both published and unpublished works. Copyright protection is available for more than merely serious works of fiction or art. Marketing materials, advertising copy and cartoons are also protectable. Copyright is available for original working protectable by copyright, such as titles, names, short phrases, or lists of ingredients. Similarly, ideas methods and processes are not protectable by copyright, although the expression of those ideas is.

Copyright protection exists automatically from the time a work is created in fixed form. The owner of a copyright has the right to reproduce the work, prepare derivative works based on the original work (such as a sequel to the original), distribute copies of the work, and to perform and display the work. Violations of such rights are protectable by infringement actions. Nevertheless, some uses of copyrighted works are considered “fair use” and do not constitute infringement, such as use of an insignificant portion of a work for noncommercial purposes or parody of a copyrighted work.

## **Key Features of Copyright:**

- **Applies to Original Works** – Protects original expressions, not ideas.
- **Automatic Protection** – Copyright exists as soon as the work is created.
- **Limited Duration** – Usually valid for the creator’s lifetime + 50-70 years.
- **Exclusive Rights** – Owners can sell, license, or transfer their rights.

## **2. Types of Works Protected by Copyright**

Category	Examples
<b>Literary Works</b>	Books, Articles, Poems, Blogs
<b>Musical Works</b>	Songs, Lyrics, Soundtracks
<b>Artistic Works</b>	Paintings, Photographs, Sculptures
<b>Cinematographic Works</b>	Movies, Documentaries, TV Shows
<b>Software &amp; Computer Programs</b>	Operating Systems, Mobile Apps, Video Games
<b>Dramatic Works</b>	Plays, Scripts, Choreography
<b>Architectural Works</b>	Building Designs, Structural Blueprints

## **3. Why is Copyright Important?**

### **a) Encourages Creativity and Innovation**

- Ensures **financial benefits** for creators.
- Motivates artists, writers, and musicians to produce new content.

## b) Protects Against Unauthorized Use

- Prevents **plagiarism, piracy, and counterfeiting.**
- Ensures the creator has control over **how their work is used.**

## c) Economic Benefits

- Copyright industries contribute significantly to **GDP and employment.**
- Enables creators to earn revenue through **royalties and licensing.**

### Example:

- **J.K. Rowling's Harry Potter series** generates billions through books, movies, and merchandise because of copyright protection.

### Federal Registration of Copyrights:

The works are protected under federal copyright law from the time of their creation in a fixed form. Registration, however, is inexpensive, requiring only a \$30 (present \$85) filing fee, and the process is expeditious. In most cases, the Copyright Office processes applications within four to five months. Copyrighted works are automatically protected from the moment of their creation for a term generally enduring for the author's life plus an additional seventy years after the author's death. The policy underlying the long period of copyright protection is that it may take several years for a painting, book, or opera to achieve its true value, and thus, authors should receive a length of protection that will enable the work to appreciate to its greatest extent.

### 4. Duration of Copyright Protection

- **For Individuals:** Lifetime of the creator + 60 years (in India).
- **For Companies/Institutions:** 60 years from the date of publication.
- **For Films, Sound Recordings & Broadcasts:** 60 years from release.

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### 5. Copyright Infringement

Copyright infringement occurs when someone **uses a copyrighted work without permission.**

#### Forms of Infringement

- ✓ **Plagiarism** – Copying without credit.
- ✓ **Piracy** – Illegal distribution of copyrighted works (e.g., movie leaks).
- ✓ **Unauthorized Reproduction** – Selling or reproducing without a license.

#### Legal Actions for Infringement

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- ✓ **Injunctions** – Court orders to stop illegal use.
- ✓ **Monetary Damages** – Compensation for financial losses.
- ✓ **Criminal Penalties** – Fines or imprisonment in severe cases.

## Example:

- **Music Piracy Cases** – Platforms like Napster were shut down for illegally distributing music.
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## 6. Copyright vs. Other IP Rights

Feature	Copyright	Trademark	Patent
Protects	Creative works	Brand names, logos	Inventions
Duration	Life + 60 years	10 years (renewable)	20 years

**Examples** Books, movies, music Nike logo, McDonald's name Pharmaceuticals, machinery

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## 7. Conclusion

Copyright is essential for **protecting creativity, preventing unauthorized use, and ensuring economic benefits** for creators. It plays a crucial role in fields like literature, music, film, and software development.

### Key Takeaways:

- ✓ Copyright protects **original creative works** from unauthorized use.
- ✓ It **lasts for decades**, ensuring financial security for creators.
- ✓ Copyright **encourages creativity, innovation, and economic growth**.
- ✓ Infringement leads to **legal consequences** like fines and lawsuits.

Would you like details on **how to register copyright or recent copyright infringement cases?**

## Industrial Designs: Meaning, Protection, and Importance

### 1. What is an Industrial Design?

An **Industrial Design** refers to the **aesthetic or ornamental aspect** of a product, which makes it visually appealing. It includes **shapes, patterns, colors, and textures** that improve a product's **appearance and marketability**.

### Key Features of Industrial Design:

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- ✓ **Focuses on Appearance** – Not the functionality, but the look and feel.
  - ✓ **Enhances Market Value** – Attractive designs attract customers.
  - ✓ **Applies to Various Products** – Used in automobiles, furniture, packaging, etc.
  - ✓ **Exclusive Rights** – Prevents unauthorized copying or imitation.
- 

## 2. Examples of Industrial Design

### Industry      Example

**Automobiles** Unique shape of Tesla cars

**Electronics** iPhone design by Apple

**Furniture** Ergonomic chair designs

**Fashion** Luxury handbag patterns (e.g., Louis Vuitton)

**Packaging** Coca-Cola's iconic bottle shape

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## 3. How to Protect Industrial Designs?

Industrial designs are protected through **design registration** under intellectual property laws.

### a) Steps for Design Protection

1. **Novelty Check** – Ensure the design is new and original.
2. **Application Filing** – Submit design drawings and descriptions.
3. **Examination** – Authorities review for uniqueness.
4. **Publication & Opposition Period** – Open for objections.
5. **Grant of Registration** – If approved, the design gets legal protection.

### b) Duration of Protection

- In **India**: 10 years (renewable for 5 more years).
  - Under **Hague System (International Protection)**: Up to 25 years.
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## 4. Why Protect Industrial Designs?

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- ✓ **Prevents Copying** – Ensures competitors cannot replicate the design.
- ✓ **Increases Business Value** – Unique designs give competitive advantages.
- ✓ **Encourages Innovation** – Designers invest in creative product development.

### **Example:**

- **Coca-Cola's bottle shape** is trademarked, preventing imitation by competitors.
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## **5. Legal Protection & International Treaties**

- ✓ **The Designs Act, 2000 (India)** – Governs design rights in India.
  - ✓ **Hague Agreement (WIPO)** – Allows international registration of designs.
- 

## **6. Conclusion**

Industrial design protection is crucial for businesses and creators to **secure their unique product aesthetics, prevent counterfeiting, and enhance brand value**.

### **Key Takeaways:**

- ✓ **Industrial designs protect product appearance, not function.**
- ✓ **Registration ensures exclusive rights for 10-25 years.**
- ✓ **Prevents imitation and increases business competitiveness.**

## **LEGAL ASPECTS OF INNOVATION**

### **The Legal Aspects of Protecting Ideas and Creativity**

Creativity is the emotional lifeblood of entrepreneurship. Without creativity, thousands of companies would not have been launched. However, it is an element of entrepreneurial life that isn't easy to safeguard under the law.

As a general rule, a mere idea or creative concept does not qualify for patent, copyright, trade secret, or trademark protection. The right to the exclusive use of an idea is lost by voluntary disclosure unless the following three elements are present: the idea is in a concrete form; the idea is original and useful; and the idea is disclosed in a situation in which compensation is contemplated. If this test is satisfied, the idea may qualify as a "property right" and may be protected under theories of implied contract, unjust enrichment, misappropriation, breach of a fiduciary relationship, or passing off. Recovery under these circumstances usually depends upon the relationship between the submitter and the receiver of the idea, as well as the facts surrounding the disclosure.

However, as a general rule, the law of intellectual property seeks to protect and reward the creative firm, innovator, or entrepreneur for effort by prohibiting misappropriation or infringement by competitors. It is crucial, therefore, that the legal considerations to protect these "crown jewels" are incorporated into the strategic marketing plan of any emerging business. If proper steps are not taken to protect new products, services, and operational

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techniques, then it will be extremely difficult to maintain and expand the company's share of the market because others will be free to copy these ideas as if they were their own.

## Question Bank

### 1. Remembering (Knowledge-Based Questions)

1. Define a patent.
2. What are the steps in the patent registration process?
3. List the different types of trademarks.
4. What is the definition of copyright?
5. State the meaning of geographical indication (GI).
6. Identify examples of famous trademarks.
7. What is an industrial design?

### 2. Understanding (Comprehension-Based Questions)

1. Explain the significance of patent licensing and assignment.
2. Describe the process of trademark registration.
3. Differentiate between patents and copyrights.
4. Why is it important to protect geographical indications?
5. Explain how copyright protects the rights of creators.
6. Summarize the role of industrial design protection in business.
7. Illustrate how trademarks are used in marketing with an example.

### 3. Applying (Application-Based Questions)

1. Apply the concept of trademark infringement to a real-life case study.
2. Given a scenario, determine whether it should be protected under a patent or a copyright.

**Scenario 1:** A company invents a new water filtration system.

**Protection Type: Patent** (as it is a functional innovation).

**Scenario 2:** A designer creates a unique logo for a clothing brand.

**Protection Type: Copyright** (as it is an artistic work).

**Scenario 3:** A pharmaceutical firm develops a new drug formula.

**Protection Type: Patent** (as it is an innovative chemical composition).

**Scenario 4:** A game developer creates a new video game storyline.

**Protection Type: Copyright** (as it involves creative content).

3. If you invent a new machine, outline the steps you would take to secure a patent.
4. Develop an example of a new trademark and describe its potential use in branding.
5. Show how a geographical indication can enhance the value of a regional product.
6. Illustrate how copyright laws apply to digital content creation.
7. A company has developed a new AI-powered voice assistant. How should they protect their innovation—through a patent or copyright? Justify your answer.
8. A startup wants to register a unique logo and slogan for its brand. Explain the steps involved in trademark registration and its importance for the company.
9. A regional tea-growing community wants to protect its locally grown tea brand from being misused by other companies. How can geographical indications (GI) help them? Discuss with examples.
10. A software developer creates a new mobile application. What type of intellectual property protection should they seek? Explain with reasons.

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11. A pharmaceutical company has discovered a new medicine formula. Discuss the procedure for patenting the drug and the benefits of obtaining a patent.
12. An automobile company introduces an innovative car design with a unique shape. How can they protect this design legally?
13. A writer publishes a book, but later finds an online website selling unauthorized copies of their work. What legal actions can they take under copyright law?
14. A business is sued for using a name similar to an existing famous brand. How can they defend themselves in a trademark infringement case?
15. A fashion designer creates a new pattern for clothing. Should they seek copyright protection or industrial design registration? Justify your answer.
16. An entrepreneur wants to manufacture and sell a product using an existing patented technology. What are the legal ways to obtain permission for this, and what factors should they consider before proceeding?

### **4. Analyzing (Analysis-Based Questions)**

- Compare and contrast patent infringement and trademark infringement.
- Examine the penalties for violating copyright laws.
- Analyze the impact of geographical indication protection on local economies.
- Break down the differences between industrial design protection and patent protection.
- What legal and ethical challenges arise in enforcing trademark laws globally?
- Analyze the reasons why companies opt for patent licensing instead of full ownership.