Licensing Types and Issues.

License??

- A permit from an authority to own or use something, do a particular thing, or carry on a trade.

  Software License:

  A software license is usually an agreement that grants a right to use software code to someone else.

What is Licensing?

- A lot of confusion is out there about what exactly licensing means. When you license your work, you're not giving away any of your rights. You still hold the original copyright (or patent if you have one) on that work.
- What a license does is grant specific permissions for others to use that work.
- Licensing is a great alternative to just releasing your work into the public domain or granting permissions on a case-by-case basis.

- By releasing into the public domain, you relinquish any copyright, and no one is obligated to list you as the original author or contributor.
- In the latter case, you may end up spending more time dealing with individual permissions than designing or developing.
- **Open-source licenses** make it easy for others to contribute to a project without having to seek special permission. It also protects you as the original creator, making sure you at least get some credit for your contributions. It also helps to prevent others from claiming your work as their own.

The Licensing

- When a developer is considering his or her options for open-source licenses, the first stop should be the Open Source Initiative (OSI).

- The group maintains the definition of open source software and certifies licenses that adhere to it.

How is a License Born?

- In 1984, a former programmer Richard M. Stallman, founded the ‘Free Software Foundation’ [here in after FSF].
- The main technical goal of the FSF was to create an open source Unix-like operating system called ‘GNU.’ Although Stallman was never able to finish the ‘kernel’ (the “central module”) of the GNU operating system, he and other programmers associated with the FSF were able to produce extremely useful and popular pieces of open source software like the GNU EMACS and the GNU C compiler.

Conditions in order to qualify as an OSS license:

- The license must keep the ‘source code’ ‘open’ and available.
- The license must maintain the integrity of the author’s source code. Also, the license should acknowledge the authorship of the code.
- “The license must allow modifications and derived works, and must allow them to be distributed under the same terms as the license of the original software

- The license must allow ‘free redistribution’ of the open source software. This can mean that a licensee can make copies of the software and give it away.
- **However, since ‘free’ in this context means ‘freedom from constraint’ rather than ‘zero price,’** the license should allow the licensee to sell the software.
- The rights attached to the program must apply to all to whom the program is redistributed

Licensing agreements

- **Limited License (LL)**

  An agreement whereby software is purchased with limits and/or restrictions on the number of copies available for installation or use.
- **Unlimited Site License (USL)**

  An agreement whereby software is purchased with no limit on the number of copies available for installation.
- **Volume Purchase Agreement (VPA)**

  An agreement whereby software is purchased in large volume at a reduced price. A formal agreement between the University and a software manufacturer or vendor.
- **End User License Agreement(EULA)**
- An EULA is a legal contract between the manufacturer and/or the author and the end user of an application. This is mostly used for Proprietary software.

License Types

OSI fall into four distinct types:

1. **Academic Licenses**
2. **Reciprocal Licenses**
3. **Standards Licenses**
4. **Content Licenses**
5. **Perpetual licenses**
6. **Annual Licenses**

Academic Licenses

- Academic licenses are designed to provide absolute freedom.
- Representing the most ‘free’ of open source licenses, Academic licenses place no requirements whatsoever on the license user — there’s not even a requirement for the user to share modifications or redistribute them.
- **Examples: BSD, MIT and Apache licenses.**
- **Restrictions**

1. These licenses prohibit the leveraging of the original licensor’s name as an endorsement in marketing efforts.
2. Other than that, these licenses are truly intended for those who seek complete control over the software, its use, modifications, and subsequent re-releases independently or with another software package.

To distribute or communicate copies of the Original Work and Derivative Works to the public, under any license of your choice that does not contradict the terms and conditions, including Licensor's reserved rights and remedies, in this Academic Free License

Reciprocal Licenses

- Like other licenses, Reciprocal licenses grant complete rights to the software's use to the developer and end user.
- The single difference lies in the requirement that any derivatives of the software be released under the same license, and that the source code must be released. The resulting new software must also be free.
- **Example: GPL**

GPL

- The GNU General Public License (GPL) is probably one of the most commonly used licenses for open-source projects. The GPL grants and guarantees a wide range of rights to developers who work on open-source projects.
- Basically, it allows users to legally copy, distribute and modify software. This means you can:

1. **Copy the software.**
2. **Distribute the software however you want.**
3. **Charge a fee to distribute the software**
4. **Make whatever modifications to the software you want.**

Standards Licenses

- Standards licenses seek to create a base standard of software and documentation. Modified and redistributed sources usually have to be distributed as patches, so as to not modify the core.

- The goal of a standards license is to preserve an existing code base so that the originating author can come back to it and evolve it without difficulty.

Example:

For example, imagine a situation in which a Web application is created to allow importing and exporting between the various popular blog applications. A Web developer grabs the source of this new software and builds in an additional function to migrate and convert specific design elements along with data. Under a standards license, the core app would be distributed with a plug-in to enable the latter new capability.

Content Licenses

- Finally, Content licenses cover elements aside from code, such as art, copy and audio/video.
- Creative Commons.
- **Example: Academic Free License**.

Perpetual Licenses

- A perpetual license will allow the customer to use the licensed software indefinitely.
- **For the first year, the perpetual license also entitles the customer to download all updates to the software and to receive technical support.**
- After the one year period ends, the customer can choose to remain with the last version downloaded or to purchase a 1 year Updates.

Annual License

- An annual license will allow the customer to use the licensed software for one year, and entitle the customer to download all updates to the software and to receive technical support. After the one year period ends, the software will no longer function unless a new license is purchased.

WEB BROWSER

- Browser, short for *web browser*, is a software application used to enable computers users to locate and access web pages.
- An *information resource* is identified by a Uniform Resource Locator (URL) and may be a web page, image, video, or other piece of content.
- Although browsers are primarily intended to access the World Wide Web, they can also be used to access information provided by web servers in private networks or files in file systems.

Features

User interface: Most major web browsers have these user interface elements in common:

Back and *forward* buttons to go back to the previous resource and forward respectively.

A *refresh* or *reload* button to reload the current resource.

A *stop* button to cancel loading the resource. In some browsers, the stop button is merged with the reload button.

A *home* button to return to the user's home page.

An address bar to input the Uniform Resource Identifier (URI) of the desired resource and display it.

A search bar to input terms into a search engine. In some browsers, the search bar is merged with the address bar.

Features

Privacy and security

Most browsers support HTTP Secure and offer quick and easy ways to delete the web cache, cookies, and browsing history.

Standards support

Early web browsers supported only a very simple version of HTML. With the rapid development of commercial web browsers Modern web browsers support a combination of HTML and XHTML and others.

Extensibility

A browser extension is a computer program that extends the functionality of a web browser. Every major web browser supports the development of browser extensions.

Different types of browser

- Text based Browser
  - LYNX 
- GUI based Browser
  - IE 
  - Mozilla 
  - Firefox 
  - Safari 
  - Opera 
  - Konqueror 

Details of web browsers

- **Internet Explorer**

  Internet Explorer (IE) is a product from software giant Microsoft. This is the most commonly used browser in the universe.
- **Netscape**

  Netscape is one of the original Web browsers. This is what Microsoft designed Internet Explorer to compete against.
- **Mozilla**

  Mozilla is an open-source Web browser, designed for standards compliance, performance and portability.
- **Firefox**

  Firefox is a new browser derived from Mozilla. It was released in 2004 and has grown to be the second most popular browser on the Internet.
- **Konqueror**

  Konqueror is an Open Source web browser with HTML 4.01 compliance, supporting Java applets, JavaScript, CSS 1, CSS 2.1, as well as Netscape plugins.

Details of web browsers

- **Safari**

  Safari is a web browser developed by Apple Inc. and included in Mac OS X. It was first released as a public beta in January 2003. Safari has very good support for latest technologies like XHTML, CSS2 etc.

- **Opera**

  Opera is smaller and faster than most other browsers, yet it is full- featured. Fast, user-friendly, with keyboard interface, multiple windows, zoom functions, and more.

- **Lynx**

  Lynx is a fully-featured World Wide Web browser for users on Unix, VMS, and other platforms running cursor-addressable, character-cell terminals or emulators.

Web Servers

Basic Definition

Server: provides services

Client: requests for services

Service: any resource

(e.g., data, file, control, object, CPU time, display device, etc.)

Specific types of clients include web browsers.

Specific types of servers include web servers, ftp servers, application servers, database servers, mail servers, file servers, print servers.

Web Server

- Web server can refer to either the hardware (the computer) or the software (the computer application) that helps to deliver content that can be accessed through the Internet.
- The most common use of web servers is to host web sites but there are other uses such as data storage or running enterprise applications.

Types of web servers

- Apache HTTP Server 

- IIS 

- lighttpd 

- Sun Java System Web Server 

- jigsaw (W3C's Server) 

Details of Web Servers

- **Apache HTTP Server**

  This is the most popular web server in the world developed by the Apache Software Foundation. Apache web server is an open source software and can be installed on almost all operating systems including Linux, Unix, Windows, FreeBSD, Mac OS X and more. About 60% of the web server machines run the Apache Web Server.

- **IIS**

  The Internet Information Server (IIS) is a high performance Web Server from Microsoft. This web server runs on Windows NT/2000 and 2003 platforms (and may be on upcoming new Windows version also). IIS comes bundled with Windows NT/2000 and 2003; Because IIS is tightly integrated with the operating system so it is relatively easy to administer it.

Web Servers cont…

- **lighttpd**

  The **lighttpd**, pronounced *lighty* is also a free web server that is distributed with the FreeBSD operating system. This open source web server is fast, secure and consumes much less CPU power. Lighttpd can also run on Windows, Mac OS X, Linux and Solaris operating systems.

- **Sun Java System Web Server**

  This web server from Sun Microsystems is suited for medium and large web sites. Though the server is free it is not open source. It however, runs on Windows, Linux and Unix platforms. The Sun Java System web server supports various languages, scripts and technologies required for Web 2.0 such as JSP, Java Servlets, PHP, Perl, Python, Ruby on Rails, ASP and Coldfusion etc.

- **jigsaw (W3C's Server)**

  comes from the World Wide Web Consortium. It is open source and free and can run on various platforms like Linux, Unix, Windows, Mac OS X Free BSD etc. Jigsaw has been written in Java and can run CGI scripts and PHP programs.

HTTP

- HTTP Request Response Protocol
- Client side scripting
- Server side scripting

Copyright ©

- Copyright is a bundle of rights granted to a creator providing him with exclusive rights over his original artistic and literary creation.
- It is not necessary that a copyright be registered, it is attached automatically to any original artistic work.
- When the idea of a creator is converted to a material form, the same immediately gets protected under the copyright.
- For a work to be copyrighted, it is necessary that the work is original work of literature, drama, music, or any other art having artistic value.

- The bundle of rights granted to the copyright owner includes the rights to reproduce, copy, publish, communicate, and translate the copyrighted work.
- Such a right is a natural right granted to the owner of the artistic work immediately on the making of the same.

What are the Benefits of Copyright Registration?

- Copyright registration is essential when some creative work is done and acclamation/protection to its creator is to be given legally.
- Also, it restricts others to use the copyrighted work for a commercial or domestic purpose and a person cannot use it without prior permission of the owner.
- Website link- https://copyright.gov.in/

What Documents are Required for Copyright Registration?

- Particulars of the Applicant (ID and Address proof of the applicant along with the Nationality)
- Name, address, and nationality of the author of the work
- Disclosure of the applicant's interest in the copyright - whether he/she is the author of the work or the representative of the author.
- Copies of the original work.

- In case for business purpose-Incorporation certificate is required.
- Details of the nature of the work
- Class, Title & Description of the Work
- Language of the Work
- Date of Publication - Publication in internal magazines or a research paper submitted to a professor does not count as publication.
- Apart from the basic documents required for copyright registration, submit documents as per copyright categorization.

What is the Registration Procedure for Filing the Copyright Registration?

- **Step-1-**

Creating User ID and Password Before filing the application form for Copyright registration, the applicant needs to use the User ID and password for login. If the applicant is not registered while applying, then he/she is required to opt for New User Registration.

- **Step-2-Filing Application Form**

An applicant can apply either manually in the copyright office or through an e-filing facility available on the official website (copyright.gov.in). Here, the applicant can be an author of the work/owner of an exclusive right for the work/an authorized agent.

After login, an applicant needs to click on “Click for online Copyright Registration” and shall fill the online “Copyright Registration Form” along with all the requisite documents. The Registrar will issue a dairy number to the applicant, once the Copyright application is filed.

- **Step 3-Examination of Application** Once the application is filed; the very next step is to examine the copyright application. Once the dairy number is issued, a minimum of 30 days waiting period is provided where the copyright examiner can review the application.

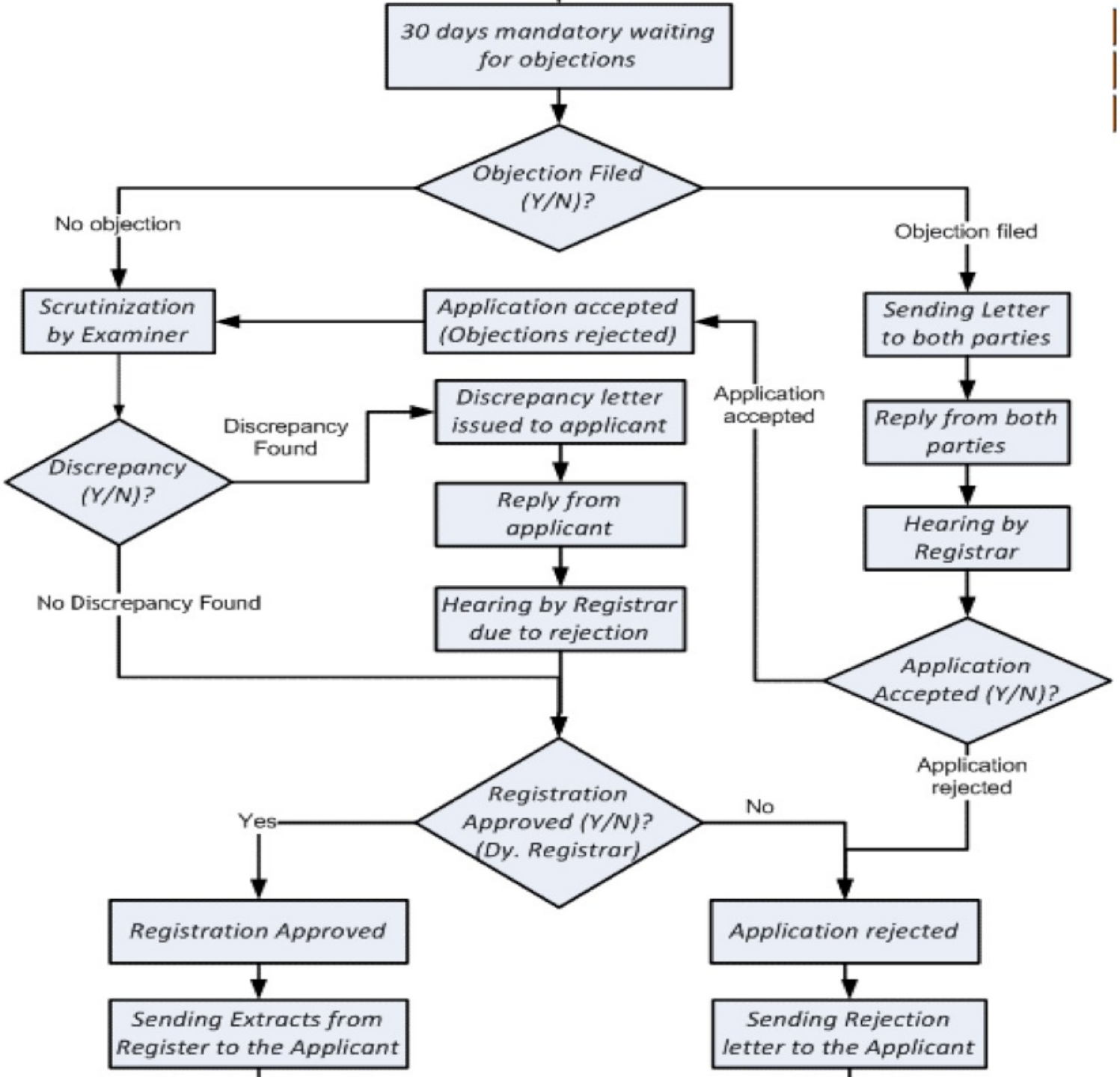
After examination, the process of Copyright Registration gets divided into two segments:-

- If Objections are Raised
  If the objection is raised by someone against the applicant, the letter is sent to both the parties, and they are called to be heard by the registrar. If the objection is rejected upon hearing, the applicant can ask for scrutiny and the discrepancy procedure is followed
- If No Objections are Raised
  If no objections are raised, the examiner consents to review and scrutinize the application to find any disparity. In case no discrepancy arises, and all the essential documents are provided along with the application, the applicant is allowed to proceed further with the next step

- **Step 4: - Issuance of Registration Certificate**

The last step is the issuance of the copyright registration certificate. In the Registration step, the Registrar might ask for more information and documents. If the registrar is completely satisfied with the application made by the applicant, he will enter the details of the copyright application into the register of copyrights and issue a certificate of registration.

Note-The Copyright registration completes when the applicant is issued the Extracts of the Register of Copyrights (ROC).


30 days mandatory waiting for objections
Objection Filed (Y/N)?
No objection
Objection filed
Scrutinization by Examiner
Application accepted (Objections rejected)
Sending Letter to both parties
Discrepancy (Y/N)?
Discrepancy Found
Discrepancy letter issued to applicant
Application accepted
Reply from both parties
Reply from applicant
Hearing by Registrar
No Discrepancy Found
Hearing by Registrar due to rejection
Application Accepted (Y/N)?
Application rejected
Registration Approved (Dy. Registrar)
Yes
No
Registration Approved
Application rejected
Sending Extracts from Register to the Applicant
Sending Rejection letter to the Applicant

What is the Validity Period for Copyright Registration?

- **In case of Published Works** The duration of the copyright artistic works is valid up to the life of the artist + 70 years.
- **In the case of Unpublished Works** Copyright lasts until the work is first published to a span of the life of the artist + 70 years.

Note: - As per the changes made *From 1 January 2019, the duration of copyrighted art is the same for both published and unpublished works.

CopyLeft 

- Most of the creative works, including software programs and codes, comes within the domain of copyright protection and therefore can be copyrighted.
- However, it is to be noted that software and programming is an area where already existing programs many-a-times are used as a base to build new software or program.
- It is for this reason, many software owners tend to grant a license to its users a license allowing them to modify and alter their work**. Such permission and license can be referred to as Copyleft.**

- Copyleft can be said to be a specific kind of a license that allows free use of copyrighted material but under certain terms and conditions, granted by the owner of the copyright himself.

For instance, software having a copylefted license can be modified, used, distributed, or reproduced provided the source code kept open and available to the public

- Copyleft is a license that provides original work to a third person giving him certain rights like that of copying and modifying and any new work carved out based on such original work shall have a copyleft license in a similar manner.

- The main objective of a copyleft license is to provide people with opportunities to use and modify an original work, and later grant a similar set of rights to all other interested people. Thus any person who receives a copylefted work and then modifies the same, he cannot restrict the rights to himself alone over the modified work.
- To conclude Copyleft is an option derived within the domain of copyright laws itself, providing a little bit of freedom and liberty, that allows users to modify and distribute the software and the program, which was surely not possible with the traditionally copyrighted programs.

Copyleft vs. Copyright

Copyleft

An arrangement whereby a work may be used, modified, and distributed freely on condition that anything derived from it is bound by the same condition

Copyright

The exclusive legal right to use, copy, and distribute a creative work

Intellectual Property Rights

- Intellectual property, in basic terms, refers to specific types of intangible assets which have been created (owing to application of one's mental faculties).
- The requirements for obtaining registration for intellectual properties may vary as per the type of asset under consideration.
- The ownership of intellectual property rights affords various rights for protection and commercialization of such assets (which are protected by the law of intellectual property).

Types-

- **The Copyrights Act, 1957 (“Copyright Act”)**
- Trademarks
- Patents;
- Geographical Indications;
- Designs;
- Semiconductor integrated circuit layouts
- Plant varieties

The Copyrights Act, 1957 ("Copyright Act")

- The Copyright Act, under section 17, clearly states that the author of the original work (for which protection under copyright has been obtained) shall be the first owner of the work. Further, the owner has the right to license the copyright of their work to third-parties through a written agreement.

The Trade Marks Act, 1999 ("Trade marks Act")

- The Trade Marks Act, under section 2(zb) defines a 'trade mark' as 'a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colour"
- In simpler words, a trademark provides protection for symbols, colours, shapes, words, etc. representing and relating to a good or a service.

- The primary requirements for registration of a trademark includes that it should consist of a mark capable of distinguishing the goods/services from those of others and that it is capable of graphical representation.
- The Trade Marks Act provides for absolute grounds of refusal of registration such as –
- (a) the mark not having a distinctive character;
- (b) a mark being deceptive and confusing to the public;
- (c) if a mark is hurtful to religious sentiments;
- (d) the mark is offensive, scandalous, or obscure, etc. In addition to the absolute grounds of refusal, the statute also provides for relative grounds of refusal of registration (viz. similarity with pre-existing marks).

- Further, India is a signatory to the Madrid Protocol under which a trademark can be applied for and registered internationally. However, the prerequisite for filing and registering an international application (under the Madrid Protocol) in a foreign jurisdiction is that the mark needs to be first filed in India.
- A protection afforded from a trademark registration is imperative as it protects the brand name, logo, sound, shape, etc., and distinctively identifies the goods/services to the brand bringing uniqueness to the mark. Also, the validity of a trademark registration is for an initial period of 10 (ten) years which can renewed perpetually for successive period of 10 years (subject to timely filing of renewal application

The Patents Act, 1970 (“Patents Act”)

- A ‘Patent’ is an intellectual property right which protects any new invention. It is an exclusive right that protects the rights of the inventor and prevents other people to unauthorizedly use and misappropriate the registered patent.
- A patent is granted for a term of 20 (twenty) years from the date of filling of the application.

- It is important to note that patent for a new invention is registered only if the invention is ‘novel’ and ‘original’ i.e. it has not been introduced in the public domain in India or anywhere in the world; is ‘capable of industrial application’ which refers to the ability of the invention to be used in an industry; and is an invention that requires to employ a process of ‘inventive steps’, which is defined as ‘a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art’, under the Patents Act.

- The Patents Act bestows each inventor, whose patent has been registered, with certain rights, namely:

1. with respect to a patent for a product, the right to prevent third parties form using, selling, making, importing, etc. the product without prior consent; and
2. with respect to a process for which a patent is obtained, the right to prevent third parties from using, selling, offering, etc. a product obtained from that process, without the prior consent of the original inventor.

The Design Act, 2000 (“Design Act”)

- A ‘design’ under the Designs Act [section 2(d)] means and includes ‘only the features of shape, configuration, pattern, ornaments or composition of lines or colours, applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to an are judged solely by the eye’.

- An application for registration of an industrial design is to be made to the Controller- General of Patents, Designs and Trade Marks.
- However, a design shall only be considered for registration if –

(a) it is novel and an original innovation i.e., it has not been produced before or reproduced by anyone;

(b) it has not been disclosed to the public anywhere in India or outside the jurisdiction of India; and

(c) it can be easily distinguished from other known designs.

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

- Many goods in India are widely popular owing to their place of origin. For instance, 'Darjeeling tea' is unique and popular owing to many factors including but not limited to its origin, the skill set of the tea farmers of Darjeeling and the weather prevailing in that area. Other such examples of products which have a bearing of the place of origin (or factors specific to the place of origin includes Banarsi Saree; Basmati Rice, etc).

- A ‘Geographical Indication’ is defined as ‘an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality as the case may be’.
- The GI Act covers only goods such as agricultural goods, food stuff, handicraft goods, manufactured goods, and natural goods.

- An application for registering a good under the GI Act requires a statement explaining how the geographical indication affects to the origin of the good in terms of the quality, characteristics, and reputation of the good; the class of goods; particulars with regards the appearance of the geographical indication and the map of the territory/area/country where the good has originated.

The Protection of Plant Varieties and Farmer's Rights Act, 2001 ("Plant Varieties Act")

- The objective of the Protection of Plant Varieties and Farmer's Right Act, 2007, is to recognize rights of Indian farmers and to provide protection to plant varieties in order to encourage the growth and development of more plant varieties.
- In 1994, India became a member to the Trade Related Aspect of Intellectual Property Rights Agreement (TRIPS) under which all members are required to accommodate and provide for the protection of plant varieties [Article 27(3)(b) of TRIPS]. All plant varieties that have been registered and awarded protection are entered and recorded into the National Register of Plant Varieties.

- The Plant Varieties Act permits any breeder, farmer and any person as authorized, to apply for registration of a new plant variety.
- A new plant variety is registrable if it satisfies the conditions of ‘novelty, distinctiveness, uniformity and stability’. To elaborate, the condition of novelty requires that at the date of filing the application (for protection), the plant variety must not be sold.

- The requirement of uniformity means that all essential characteristics of the plant variety must be uniform. Lastly, the plant variety being registered for is required to be ‘stable’, meaning that the essential characteristics of the plant variety must remain unchanged after repeated propagation of such plant variety.

The Semiconductor Integrated Circuits Layout- Design Act, 2000 ("SICLD Act")

- A 'semiconductor integrated circuit' is defined as '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'.

- Under the SICLD Act, all layout-designs capable of being registered are required to be original; commercially unexploited anywhere in India and in any convention countries; inherently distinctive and inherently distinguishable from other registered layout- designs.
- An application for registration of design layouts has to be in writing and is required to be filed before the Registrar in the Semiconductor Integrated Circuits Layout-Design Registry present in the territorial limits of the principal place of business of the applicant.