**NAME-HIMANSHU PRAJAPATI**

**ROLL NO-18/IT12**

**ASSIGNMENT 1**

**Q1) Discuss about major introduction of IPR and its major forms .**

**Ans)** The intellectual property right is a kind of legal right that protects a person’s artistic works, literary works, inventions or discoveries or a symbol or design for a specific period of time. Intellectual property rights are monopoly rights that grant temporary privileges to their holders for the exclusive exploitation of income rights from cultural expressions and inventions. Intellectual property owners are given certain rights by which they can enjoy their Property without any disturbances and prevent others from using them, although these rights are also called monopoly rights of exploitation, they are limited in geographical range, time and scope.

As a result, intellectual property rights can have a direct and substantial impact on industry and business, as the owners of IPRs one can enforce such rights and can stop the manufacture, use, or sale of a product to the public. IP protection encourages publication, distribution, and disclosure of the creation to the public, rather than keeping it a secret and to encourage commercial enterprises to select creative works for exploitation.

**Major forms**:

## Copyright

Copyright law deals with the protection and exploitation of the expression of ideas in a tangible form. Copyright has evolved over many centuries with respect to changing ideas about creativity and new means of communication and media. In the modern world, the law of copyright provides not only a legal framework for the protection of the traditional beneficiaries of copyright, the individual writer, composer or artist, but also the publication required for the creation of work by major cultural industries, film; Broadcast and recording industry; And computer and software industries.

## Patent

Patent law recognizes the exclusive right of a patent holder to derive commercial benefits from his invention. A patent is a special right granted to the owner of an invention to the manufacture, use, and market the invention, provided that the invention meets certain conditions laid down in law. Exclusive right means that no person can manufacture, use, or market an invention without the consent of the patent holder. This exclusive right to patent is for a limited time only.

## Trademark

A trademark is a badge of origin. It is a specific sign used to make the source of goods and services public in relation to goods and services and to distinguish goods and services from other entities. This establishes a link between the proprietor and the product. It portrays the nature and quality of a product. The essential function of a trademark is to indicate the origin of the goods to which it is attached or in relation to which it is used. It identifies the product, guarantees quality and helps advertise the product. The trademark is also the objective symbol of goodwill that a business has created.

## Geographical indication

It is a name or sign used on certain products which corresponds to a geographic location or origin of the product, the use of geographical location may act as a certification that the product possesses certain qualities as per the traditional method. Darjeeling tea and basmati rice are a common example of geographical indication. The relationship between objects and place becomes so well known that any reference to that place is reminiscent of goods originating there and vice versa.

## Industrial design

It is one of the forms of IPR that protects the visual design of the object which is not purely utilized. It consists of the creation of features of shape, configuration, pattern, ornamentation or composition of lines or colours applied to any article in two or three-dimensional form or combination of one or more features. Design protection deals with the outer appearance of an article, including decoration, lines, colours, shape, texture and materials. It may consist of three-dimensional features such as colours, shapes and shape of an article or two-dimensional features such as shapes or surface textures or other combinations.

**ASSIGNMENT 2**

**Q2) Explain the procedure for grant of patent.**

**Ans) Filing**

 An applicant chooses a filing route, i.e., national, regional or international, and files an application. The initial filing is considered the “priority filing” from which further successive national, regional or international filings can be made within the “priority period” of one year under the Paris Convention for the Protection of Industrial Property.

​​

**Formal examination**

The patent office ensures that all administrative formalities have been complied with, e.g., that all relevant documentation is included in the application, and that all filing fees have been paid.

**Prior art search**

In many countries, but not all, the patent office carries out a search of the prior art, i.e., of all relevant technological information publicly known at the time of filing of the patent application. Using extensive databases and expert examiners in the specific technical field of the application, a “search report” is drafted, which compares the technical merits of the claimed invention with that of the known prior art.

**Publication**

In most countries, the patent application is published 18 months after the priority date, i.e., after the first filing date.

**Substantive examination**

If a prior art search report is available, the examiner checks that the application satisfies the requirements of patentability, i.e., that the invention is novel, inventive and susceptible to industrial application, compared to the prior art as listed in the search report. The examiner may either grant the patent application without amendments, may change the scope of the claims to reflect the known prior art, or may refuse the application.

**Grant/refusal**

The examiner may either grant the patent application without amendments, may change the scope of the claims to reflect the known prior art, or may refuse the application.

**Opposition**

Within a specified period, many patent offices allow third parties to oppose the granted patent on the grounds that it does not in fact satisfy patentability requirements.

**Appeal**

Many offices provide the possibility of appeal after the substantive examination or after the opposition procedure.

**ASSIGNMENT 3**

**Q3) Discuss about right of patent.**

#### Ans) **Rights of a patentee**

Rights are conferred upon the patentee so rights and obligations regarding the Patent are not infringed. Section 49 of Patent Act, 1970 defines the rights of Patentee towards his Patents. These rights prevent his patent from the third parties and making the patentee easier to buy, sell or produce his patent. Also, the patent right is not an absolute right.  The patent maintains equal balance between the induvial rights of patentee and the interest of general public. Following are the major rights of the patentee;

#### **Right to assign or license the Patent (Section 70)**

This right gives the patentee total freedom to do many things with his patent like buying, selling, using or even exploring the patent. In this the Patentee in form of company or person has the total access over his patent to buy, sell, import the patent and his rights. This right can make the patent as well as the patentee make a great reach through out everywhere and can be introduced to many audiences at a large.

#### **Right to sue for infringement of patent**

This right can be exercised anytime by the patentee if the patentee observes any infringement or violation of any right in the case of his patent and its interest. This right can help him to prevent the patentee from the 3rd party users to use/charge the patent without knowing the patentee. He can sue the license holder of his patent if the patentee observes any infringement from the part of license holder of his whether if may be modification or unlawful use of the patent.

#### **Right to surrender the Patent to another (Section 63)**

Here the patent holder wishes to decide to surrender or handover the patent he is permitted do so. The patentee can do so anytime by sending a formal notice in a prescribed manner over the time, including to inform the license holder and its user. This can be done to protect the interest of others.

#### **Right to make a convention application**

Herein, a basic or convention application can be made by the Patentee under the section 135 of Patent Act,1970 for protection of his patent in other countries in case of international instrumentation between India and other foreign countries. Generally, this right is dependent on the principle of ‘Reciprocity & National treatment’.

#### **Right to be issued duplicate patent (Section 154)**

If a patent holder loses, destroyed or its production is explained non satisfactorily to the controller then the patentee has a right to apply for duplicate patent.

**ASSIGNMENT 4**

**Q4) Write about administration of patent system.**

### Ans) Patent administration

The CGPDTM reports to the Department for Promotion of Industry and Internal Trade (DPIIT) under the [Ministry of Commerce and Industry](https://en.m.wikipedia.org/wiki/Ministry_of_Commerce_and_Industry_(India)) and has five main administrative sections:

* [Patent](https://en.m.wikipedia.org/wiki/Patent) Office
* [Designs](https://en.m.wikipedia.org/wiki/Design) Registry
* [Trademarks](https://en.m.wikipedia.org/wiki/Trademark) Registry
* [Geographical indications](https://en.m.wikipedia.org/wiki/Geographical_indication) Registry
* [Rajiv Gandhi National Institute of Intellectual Property Management](https://en.m.wikipedia.org/w/index.php?title=Rajiv_Gandhi_National_Institute_of_Intellectual_Property_Management&action=edit&redlink=1) (NIIPM)
* Patent Information System

The patent office is headquartered at [Kolkata](https://en.m.wikipedia.org/wiki/Kolkata) with branches in [Chennai](https://en.m.wikipedia.org/wiki/Chennai), New Delhi and [Mumbai](https://en.m.wikipedia.org/wiki/Mumbai), but the office of the CGPDTM is in Mumbai. The office of the Patent Information System and National Institute for Intellectual Property Management is at [Nagpur](https://en.m.wikipedia.org/wiki/Nagpur). The Controller General (CG), who supervises the administration of the Patents Act, the Designs Act, and the Trade Marks Act, also advises the Government on matters relating to these subjects. O.P. Gupta is the current CG and took charge on 16 November 2015. Under the office of CGPDTM, a Geographical Indications Registry has been established in Chennai to administer the [Geographical Indications](https://en.m.wikipedia.org/wiki/Geographical_Indications) of Goods (Registration and Protection) Act, 1999.

The Indian Patent Office has 526 Patent Examiners, 97 Assistant Controllers, 42 Deputy Controllers, 1 Joint Controller, and 1 Senior Joint Controller, all of whom operate from four branches. Although the designations of the Controllers differ, all of them (with the exception of the Controller General) have equal authority in administering the Patents Act. An Indian [Patent Examiner](https://en.m.wikipedia.org/wiki/Patent_Examiner) is mandated to search for prior art and for objections under any other ground as provided in the Patent's Act, then to report to the Controller, who has the power to either accept or reject Examiners' reports. Unlike the system at the [USPTO](https://en.m.wikipedia.org/wiki/USPTO) /EPO/JPO, Examiners at IPO have only recommending power and the controllers are empowered by statute either to accept or refuse their recommendations. Examiners' reports to the Controller are not open to the public unless courts allow it (section 144 of the Patents Act). A Parliamentary committee has recommended repealing S144.

### Patent duration

Term of every patent in India is 20 years from the date of filing of patent application, irrespective of whether it is filed with provisional or complete specification. However, in case of applications filed under PCT the term of 20 years begins from the International filing date accorded under PCT.

Since the rights granted by an Indian Patent Office extends only throughout the territory of the India and ceases to have effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country (according to its law) either through :[PCT route](https://en.m.wikipedia.org/wiki/Paris_Convention_for_the_Protection_of_Industrial_Property) or through conventional filing of application.

### 