

**Ganpat University – Institute of Computer Technology**

**Course on: Entrepreneurship Development (2HS309)**

# **Intellectual Property and its Protection**

**By Karmjitsinh Bihola and Adv Shubhangi Tiwari,**

**Innodesk Designovation Services**

**Design Thinker, Innovation Strategist, Start-up Ecosystem Enabler**



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# Intellectual Property and their Rights

Adv Shubhangi Tiwari  
For Innodesk Designovation

# Intellectual Property

Intellectual property rights are the rights given to persons **over the creations of their minds.**

They usually give the creator an **exclusive right** over the use of his/her creation for a certain period of time.

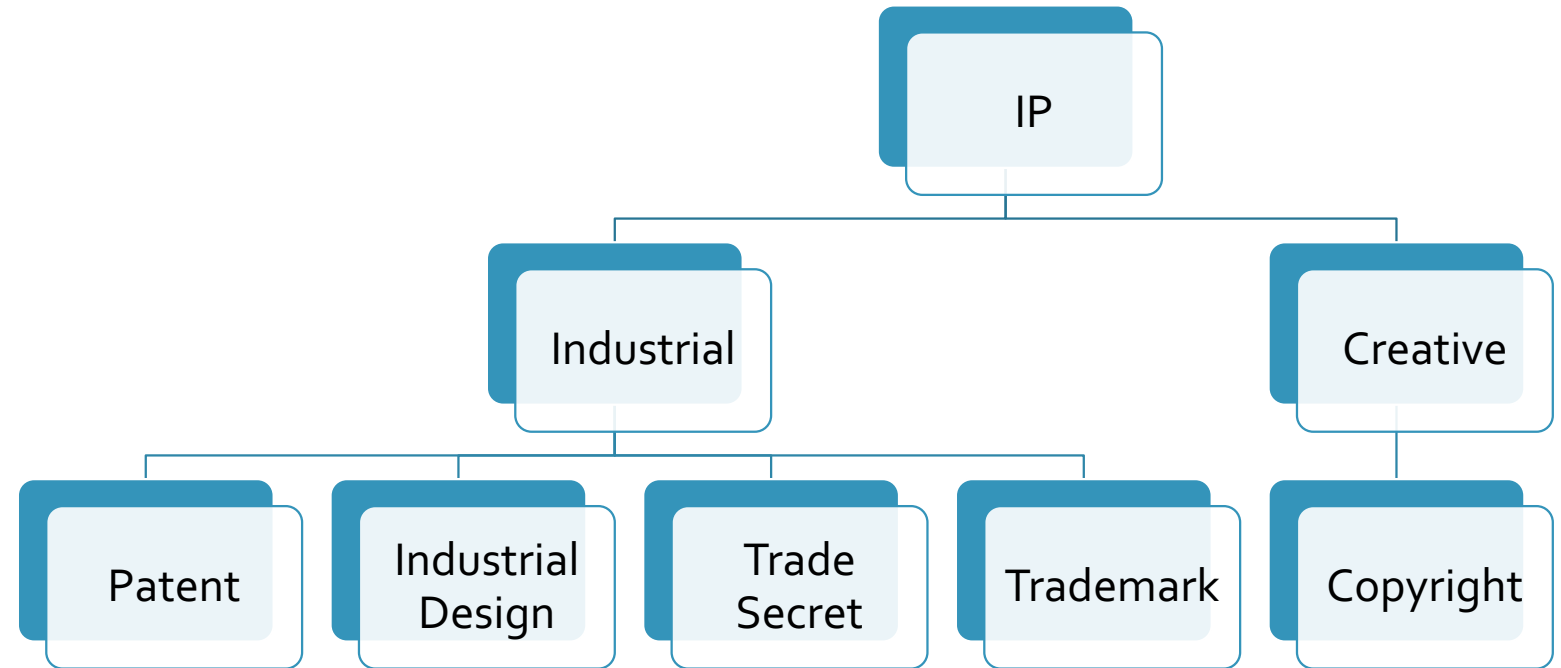
# Why is IP important?

- Recognition, Acknowledgement of Intellectual Labour
- Push to create more intellectual products
- Commercial Exploitation
- Exclusivity
- Brand Name

# IP Bundle of Rights

- Right to commercially exploit, lease
- Right to Reproduce
- Right to Derivative work
- Right to Public Performance
- Right to Public Display

# Industrial and Creative IP



# Patent, Industrial Design, Trade Secret and Trademark

Chair with AI, that scans your spine and posture to give you the best incline possible



Product: Patentable  
Design: Industrial Design  
The Details: Trade Secret  
Name of the Brand: Trademark



# Patented? Really?

- Post- It notes
- Toilet Paper
- Safety Pin
- Board Games

# Apple vs Samsung



# Apple vs Samsung

## *Samsung Copying iPhone*

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Apple iPhone 4



Samsung Galaxy S

# Apple vs Samsung

- Launch of the first iPhone in 2007
- A series of similar looking Samsung phones were launched in 2011
- Among the many patents that were filed, some of them independently or collectively “covered a black rectangular front of the mobile with corners which were round and included a raised rim along with a rectangular shape speaker slot above the display and a circular button below the display and another patent, covered the grid of the phone with 16 icons of different colours on a black screen”

# Patent

A Patent is an exclusive right granted to the inventor, to exclude others from using his invention in any manner without his permission.

It is pertinent to note that this invention can either be a product or a process, that encompasses a novel or innovative solution and that the same is industrially applicable.

2(1)(j) Invention: New Product or process involving an inventive step and capable of industrial application

# Essentials of a Patent

- Product or process or both
- Patentable Subject Matter
- Novelty
- Involve an inventive step
- Capable of Industrial application

# Essentials of a Patent

## New

- Unpublished work
- Without prior knowledge or prior public use

## Inventive Step

- Involves technical advancement as compared to existing knowledge
- Non-obvious to a person skilled in the art

## Industrial Application

- Capable of being used
- Capable of being mass produced

# Infringement of Patent Rights

## Injunction

- Court order to not use the patent
- Interim or permanent

## Damages

- Monetary in nature, could be otherwise



# Do's and Dont's

- File for patent before publicly disclosing, even to your investors. May affect the novelty of your invention
- Discuss it with trustworthy people, only after binding them under a confidential agreement
- If you are working on an invention using the Company's resources, make sure you find out who the gets the ownership.  
Big Bang Theory- Vortices.
- Timing is important- you need to file for a patent before anyone else. Even a sketch/ blueprint is sufficient for a provisional application and then you have a year to complete

# Do's and Dont's

- An IPR specialist lawyer may help you find what part of your invention may be patentable, if it is not entirely patentable
- Patents can be international or national
- Improvements on patented inventions need license or you could ask for cross-licensing.  
Facebook-bug reporters are paid off.
- Marking products with their patent numbers let you obtain greater damages

# Cost of Filing

## Filing Application Process

- Natural Person, Startup or Small Entity: Rs. 1600
- Others: Rs. 8000

On the whole: Rs.40,000- 60,000.

Over a 4-6 years of time.

# Timeline of Patent Filing 4-6 years

- Provisional Application
- Complete Application
- Publication
- Pre-Grant Opposition
- Request for Examination (with 48 months/ on priority)
- First Examination Report given by the Patent Office
- Objection's hearing
- Patent is granted
- Post-Grant Opposition (one year)
- 20 years later, annual renewal application

Which Brand,  
again?



Which Brand,  
again?

**The quick brown fox jumps  
over the lazy dog**



# Trademark

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises.

Trademarks date back to ancient times when artisans used to put their signature or "mark" on their products.

Needless to mention, a trademark could be a signature tune, a specific colour combination, a specific font.

# Trademark

Benefits:

- to make a brand name
- to assure of a quality product
- To identify the source



# Trademark

## Injunction

- Court order to not use the Trademark
- Interim or permanent

## Damages

- Monetary Compensation

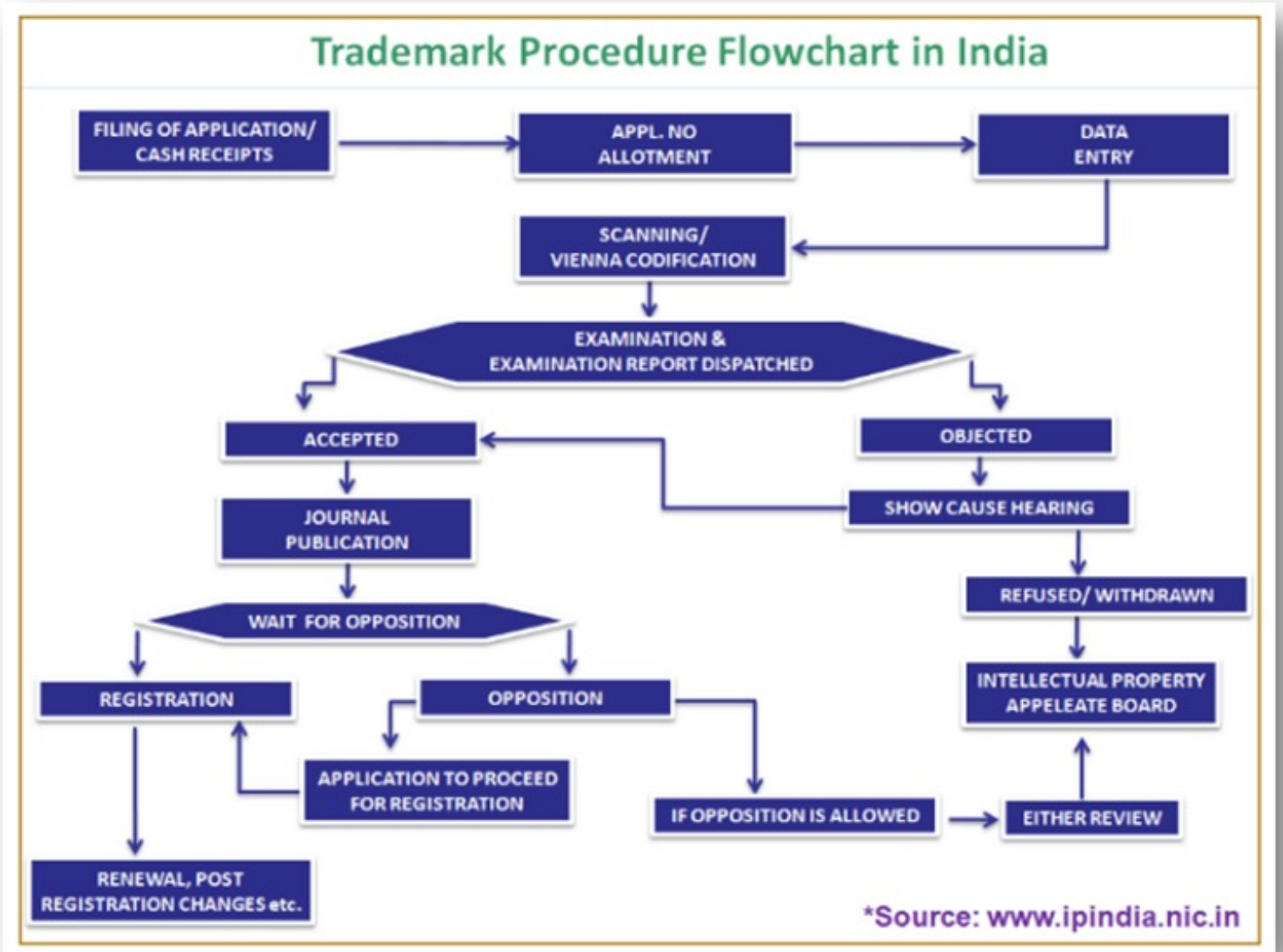
## Accounts of Profit

- Profit gained from passing off or illegally using the Trademark

## Criminal Proceedings

- Fine 50,000-2,00,000 INR
- Imprisonment 6 months to 3 years

# Trademark Filing Process



# Trademark

Application for Registration of Trademark

Individual/Start-up/Small Enterprise: Rs. 4500

In all other cases: (for each class and for each mark): Rs. 9,000

# Dos and Dont's

- Run a clearance search
- Use coined terms, Kodak, Xerox, Flipkart
- Use arbitrary marks, Apple for Electronics, Amazon for bookshop (initially)
- Unique Surnames- though a lot depends on the Country, Bose in US, Yamaha in Japan, Mahindra and Tata in India
- Important practice to use it as an adjective, like Kodak film, Kleenex Tissues.

# Trademark Genericide

- Get me a Xerox of those papers
- I don't know what IDC means, googling it.
- Monaco, Cheeslings and Hide seek are brands. Parent Company?

# Copyright

Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings.

Software programs are covered under this.  
Software as a service (SaaS) start-ups need to copyright their software in order to claim its infringement.

# Copyright

Not an idea, but the expression of that idea is copyrightable.

Eg: Lyrics, Podcast Script, Dance Choreography

Increase in copyright protection, especially after the content creator market boom- leading to copyrighting of tiktok dance sequences and hashtags

# Copyright

## Injunction

- Court order to not use the trademark
- Interim or permanent

## Damages

- Monetary Compensation

## Accounts of Profit

- Profit gained from illegally using the Copyright

## Criminal Proceedings

- Fine 50,000-2,00,000 INR
- Imprisonment 6 months to 3 years



# Cost of Filing

Literary, Dramatic, Musical or Artistic Work: Rs.500/- per work

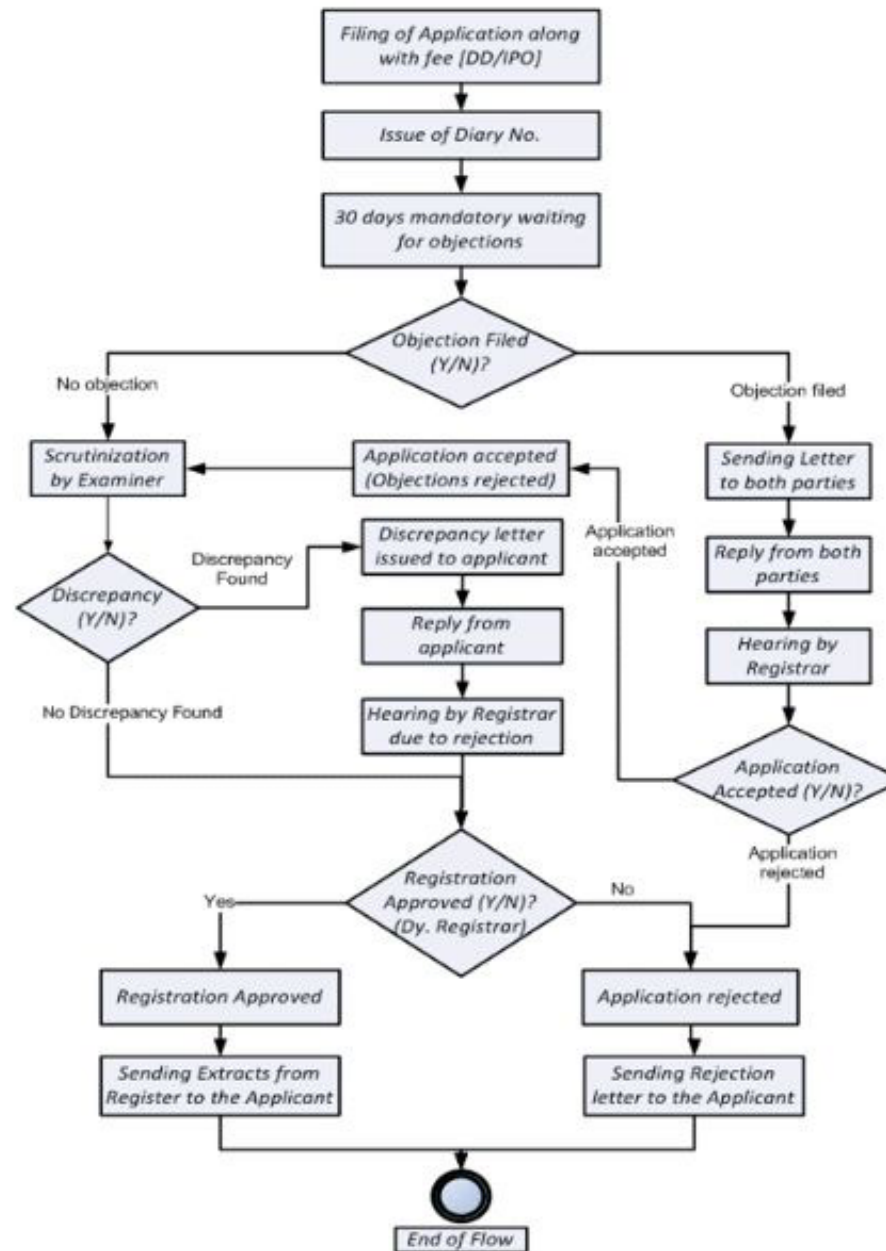
If the above can be used in relation to a good or service: Rs. 2,000/- per work

Cinematograph Work: Rs. 5,000/- per work

Sound Recording: Rs. 2,000/- per work

# Copyright Filing

## Copyright Registration Workflow



Thank  
you



innodesk1@gmail.com



91 - 909 909 0464

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