



UNIT IV – INTELLECTUAL PROPERTY RIGHTS

The creator or inventor is expecting exclusive rights against any misuse or use of their work without prior permission/information. Individuals related to areas such as literature, music, invention, etc., can be granted rights, which can then be used in the business practices.

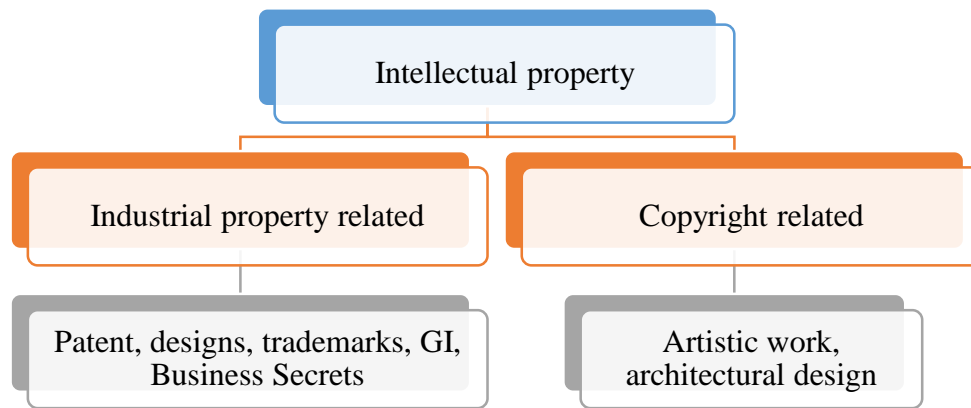
Intellectual property	
	<p>Intellectual property is a category of property that includes intangible creations of the human intellect. It is an intangible creation of the human mind, translated into a tangible form that is assigned certain rights of property</p>
	<p>Intellectual property include an author's copyright on a book or article, a distinctive logo design representing a soft drink company and its products, unique design elements of a web site, or a patent on the process to manufacture chewing gum</p>

Intellectual property Rights

Intellectual property Rights (IPR)	
<p>Intellectual property rights (IPR) can be defined as the legal rights given to creator/inventor over the creation of their minds. The rights will be granted over the use of his/her creations for a certain period of time.</p>	

Categories and Types of Intellectual Property

Various forms of IPRs are fall into one of the two categories:



Agencies responsible for IPR Registrations

<p>National IPR Agency</p> <p>The office of the Controller General of Patents, Designs and trademarks (CGPDTM), a subordinate Office under The Department for Promotion of Industry and Internal Trade (DPIIT), carries out statutory functions related to grant of Patents and registration of Trademarks, Designs and Geographical Indications.</p>	<p>International IPR Agency (INTA)</p> <p>INTA is a not-for-profit international association composed chiefly of trademark owners and practitioners.</p> <p>World Intellectual Property Organization (WIPO)</p> <p>A specialized agency of the United Nations whose purposes are to promote intellectual property throughout the world and to administrate 23 treaties (Present 26 treaties) dealing with intellectual property</p>
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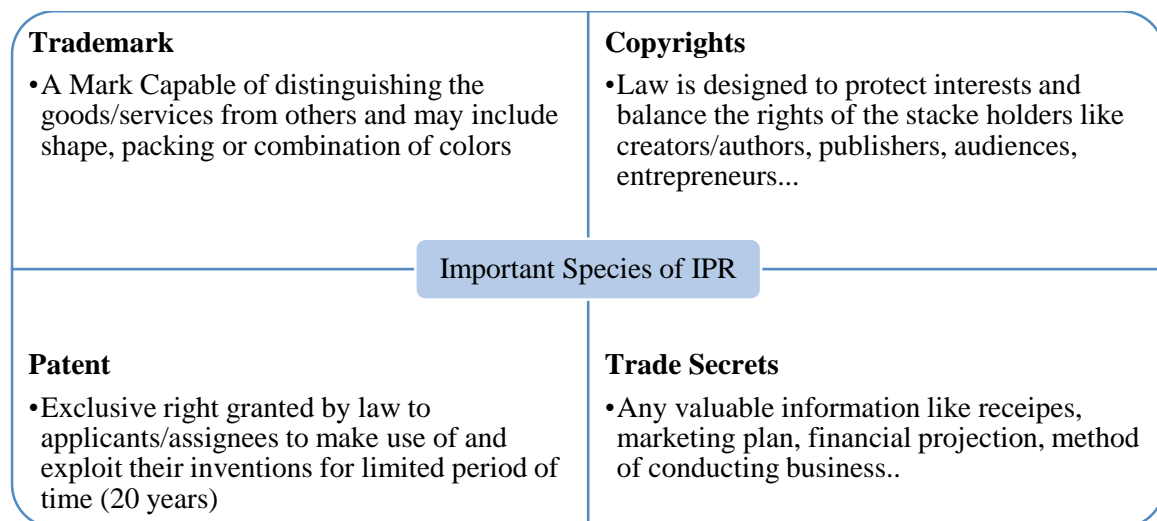
Intellectual Property shall include the rights relating to

- Literary, artistic and scientific works
- Performances of performing artists, phonograms, and broadcasts
- Inventions in all fields of human endeavour
- Scientific discoveries
- Industrial designs – trademarks, service marks and commercial names and designations
- Protection against unfair competition
- and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”

Types of Intellectual property

- Patents
- Copyrights
- Trademarks
- Industrial designs
- Geographical indications of goods (GI)
- Trade Secrets

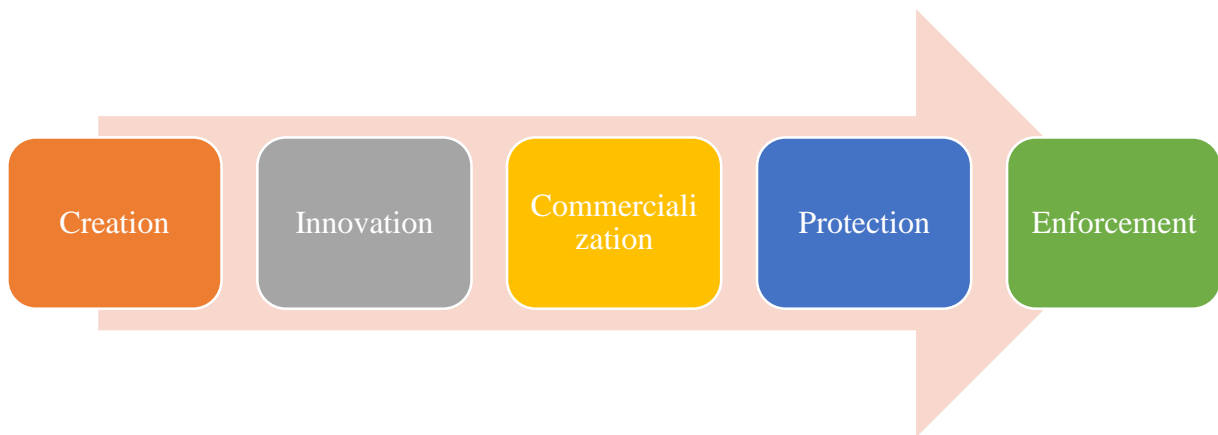
Important Species of IPR



Geographical Indications (GI)

It is originating from a definite geographical territory. It is used to identify agricultural, natural or manufactured goods produced, processed or prepared in that particular territory due to which the product has special quality, reputation and/or other characteristics

IP activities include



Trademarks

A trademark or service mark is a word, name, symbol, or device used to indicate the source, quality and ownership of a product or service

- It is a recognizable sign, design or expression which identifies products or service of a particular source from those of others.
- A trademark may be located on a package, a label, a voucher or on the product itself.
- In addition to words, trademarks can also consist of slogans, design, or sounds

Functions of trademarks

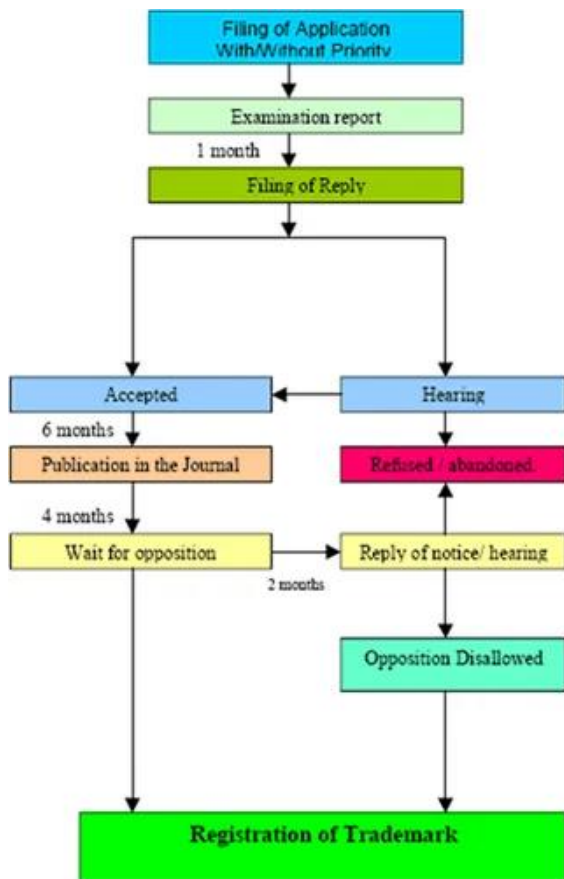
- It provides guarantee of quality and consistency of the product or service they identify. Companies expend a great deal of time, effort and money/ in establishing consumer recognition of and confidence in their marks
- It assists consumer in making decisions about the purchase of goods
- Provides legal protection and guard against fraud
- Advertisement about product/service

Types of trademarks

 <p>Word Marks Text based name of product /service</p>	 <p>Logos and Symbols</p>	 <p>Series Mark</p>
 <p>Service Marks</p>	 <p>Certification Mark</p>	 <p>Shape Design</p>
 <p>Geographical Indicators</p>	 <p>Collective Marks</p>	

Registration Process

The registration of trademarks is performed at Controller General of Patents, Designs and Trademarks office. The process is highlighted via flowchart, which starts with trademark search to know if there are similar trademarks available



Penalties for Trademark Infringement

Penalties for Trademark Infringement person may face criminal charges along with civil charges.

Civil proceedings may award

- Temporary / Permanent injunction
- Damages in the amount of the profits gained from the infringement
- Destruction of goods using the infringing mark
- Cost of legal proceedings

Criminal proceeding may punish

- Imprisonment for a period not less than six months that may extend to three years
- A fine that is not less than Rs 50,000 that may extend to Rs 2 lakh.

Copyrights

Copyright is a right of use given by the law to the creator of literary, dramatic, musical, artistic work, software etc... for a limited period of time

- In India all the law related to copyright is regulated by the copyright Act 1957
- amendment was brought in 2012

Copyright rights

The copyright owner is exclusively entitled to exercise the following rights under the copyright laws.

- the right to reproduce (copy) the work
- the right to prepare derivative works
- the right to distribute copies of the work
- the right to perform the work, and
- the right to display the work

Need for Copyright	What items can be protected
<ul style="list-style-type: none">• Reward for creative efforts• Shall not steal• Exclusive right for limited time• Prevent copying or reproduction• Encourage dissemination of copyright works	<ul style="list-style-type: none">• Literary• Artistic work• Musical work• Cinematography• Sound recording• Photograph• Computer generated work

Copyright Exception

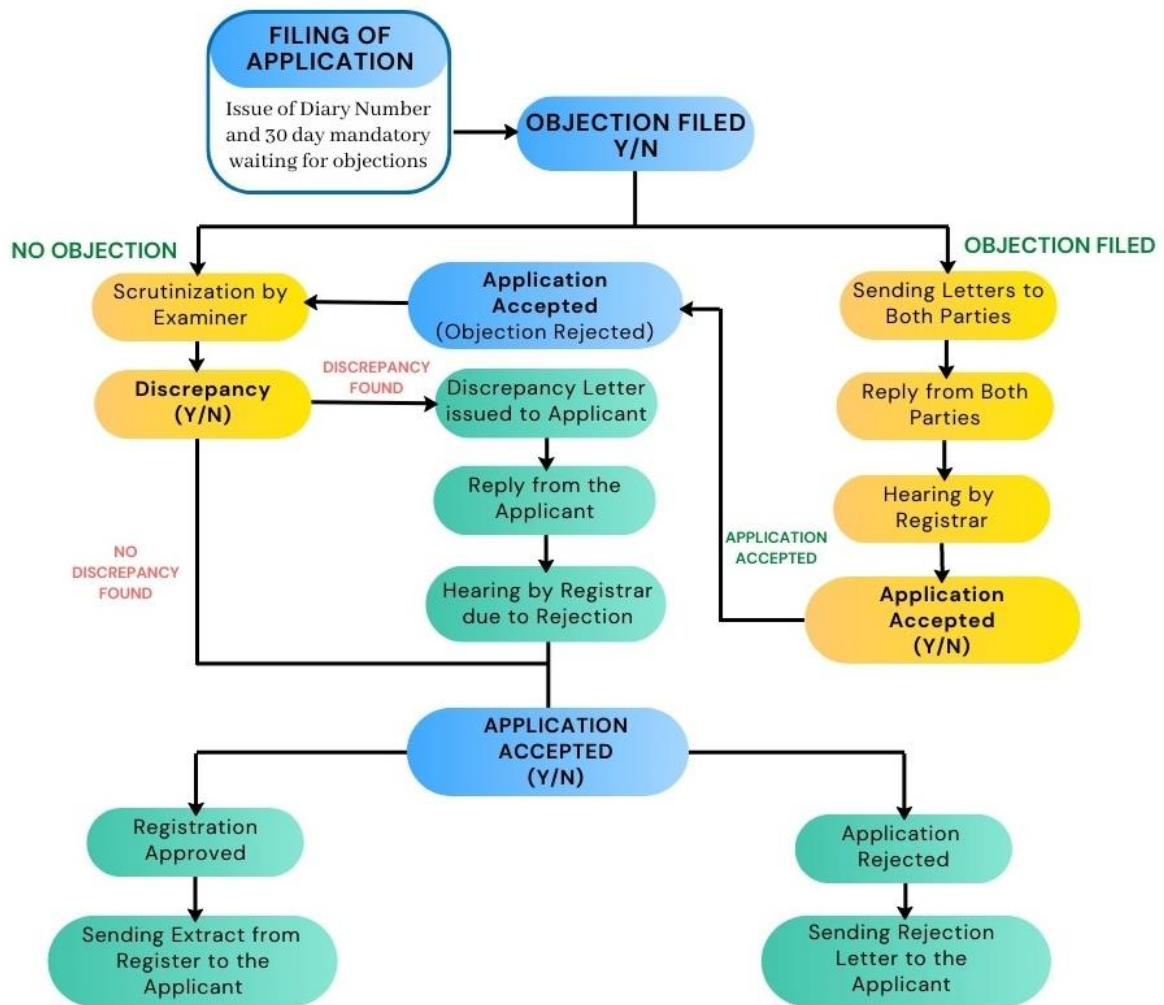
- Newspaper: Employer- publishing rights, Author –other rights
- Photograph, cinema, painting –person who pay money
- Lectures delivered in public
- Govt. work or public undertaking work or work of international organization
- Question paper – setters

- Music – composer or owner?
- Private use along with research
- Criticism or review
- Reporting on current events for any print publication
- Reproduction of the court case or of a report of the judicial proceeding.
- Publishing or reprinting a musical, literary, dramatic, or artistic work in a document created by the legislative secretariat.
- The recreation of any literary, musical, or dramatic work in a certified copy created or provided according to any current legislation

Performer's rights

- Recording, broadcasting and communicating to the public of a live performance
- Presumption of transfer of performer's right to cinematographic film producer
Reverse thinking
- Duration : 25 years

Copyright registration process



Benefits of copyrights

- Legal protection
- Creation of asset
- Restricts unauthorized usage
- Prima face evidence
- Branding and owners publicity
- Establishing credibility in market

Overview of IPR

Type	Subject Matter	Protection Characteristics
Patents	Process, machine, manufacture, composition of matter & improvements – includes software	Limited time monopoly over subject matter in issued claims
Trade Secrets	Formula, pattern, compilation of data, device not known in industry	State law protection as long as secure <ul style="list-style-type: none"> • Federal Industrial Espionage Act
Copyright	Creative expression in work	Exists Immediately
Trademark	<ul style="list-style-type: none"> • Source of origin of goods/services • Branding • Properly used as adjective • Independent of technology 	Common law and Registration <ul style="list-style-type: none"> • Potential infinite life • Good will value