

# **INTELLECTUAL PROPERTY RIGHTS**

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# INTELLECTUAL PROPERTY RIGHTS

- Intellectual property is the product of the human intellect including creativity concepts, inventions, industrial models, trademarks, songs, literature, symbols, names, brands etc. Intellectual Property Rights do not differ from other property rights.
- They allow their owner to completely benefit from his/her product which was initially an idea that developed and crystallized. They also entitle him/her to prevent others from using, dealing or tampering with his/her product without prior permission from him/her. He/she can in fact legally sue them and force them to stop and compensate for any damages.

**Intellectual property rights (IPR)** can be defined as the rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time

- Intellectual property right include :
  - Patents
  - Copyright
  - Industrial design rights
  - Trademarks, plant variety rights
  - Trade dress, geographical indications
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- The term "industrial property" is sometimes used to refer to a large subset of intellectual property rights including patents, trademarks, industrial designs, utility models, service marks, trade names, and geographical indication

# World Trade Organization

## World Trade Organization (WTO)

- WTO is the only international organization dealing with the
- global rules of trade between nations.
- It came into existence in 1995 by an international treaty signed by the member states of the General Agreement on Tariffs and Trade (GATT).
- The stated objective of the WTO is to ensure that trade flows as
- smoothly, productively and freely as possible.
- The headquarters of WTO is at **Geneva, Switzerland**.

# Functions of WTO

- **Its main functions of WTO are :**
  - Administering WTO trade agreements
  - Acting as forum for trade negotiations
  - Handling trade disputes
  - Monitoring national trade policies
  - Technical assistance and training for developing countries
  - Co-operation with other international organizations

# World Intellectual Property Organization

- The **World Intellectual Property Organization** is an international agreement by WTO. WIPO was created in 1967 "to encourage creative activity, to promote the protection of intellectual property throughout the world.
- WIPO currently has 192 member states, administers 26 international treaties and is headquartered in Geneva, Switzerland.
- There are three major functions of WIPO :
  - Registration activities
  - Promotion of inter-governmental cooperation
  - Promotion of substantive activities

# Trade Related aspects of Intellectual Property Rights (TRIPS)

## Trade Related aspects of Intellectual Property Rights (TRIPS)

- It is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of Intellectual Property (IP) regulations for all the members of WTO.
- The TRIPS agreement introduced intellectual property law into the international trading system for the first time and remains the most comprehensive international agreement on intellectual property to date.



- **National Intellectual Property Rights Policy (12<sup>th</sup> MAY 2016)**

- The main focus of this policy is related to :

**Creative India, Innovative India’.**

- Based on this the government has been promoting initiatives to encourage creativity, innovation and entrepreneurship through missions like,
- **‘Make in India’,**
- **‘Atal Innovation Mission’,**
- **‘Start-Up India’, and**
- **‘Stand-Up India’**

# MAXIMUM PERIOD OF PROTECTION OF VARIOUS IP RIGHTS

- **PATENT** : 20 years (renewed every year)
- **PLANT VARIETIES** : 18 years, 15 years (renewed after 6th year/9th year)
- **GEORAPHICAL INDICATIONS** : No limit(renewed every 10th year)
- **TRADEMARK** : No limit (renewed every 10th year)
- **COPYRIGHT** : Life time of the author plus 60 years /60 years from the date of publication)
- **INDUSTRIAL DESIGNS** : 10 +5 year(renewed after 10th year)

# Patent

- their successor-in-title, giving the owner the right to exclude others from limited period of time, in exchange for the public disclosure of the
- An invention is a solution to a specific technological problem, which may requirements: it has to be new, not obvious and there needs to be an i t
- To enrich the body of knowledge and stimulate innovation, it is an obligation for patent owners to disclose valuable information about their inventions to the public.

- **TYPES OF PATENTS**

- Utility Patents
- Design Patents
- Plant Patents
- **Utility Patents:** are issued for any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement.
- Valid for twenty (20) years from the date of filing or the earliest priority date.
- **Design Patents:** are issued for novel, non-obvious, ornamental design in an article of manufacture, in other words, for its appearance.
- The term of patents is about fourteen years from the date of grant.

- **Plant Patents:** are issued for new varieties of plants which have been asexually reproduced.

The new variety must be novel, distinct and non-obvious and the plants discovered in nature are not patentable.

## **REQUIREMENTS FOR PATENTABILITY**

Must be useful

Must be novel/new

Must be non obvious

# **BENEFITS OF PATENT PROTECTION**

- Prevents theft of the invention
- Expand Market Share
- Higher Profit Margins
- Encourage Settlement
- Reduce Competition

- **Are all inventions Patentable? No.**

- ***The following inventions are not Patentable :***

- An invention which is contrary to well established natural laws
- The mere discovery of a scientific principle or the formulation of an abstract theory.
- A method of Agriculture or Horticulture
- An invention if already known to the public or is in use
- An invention if already patented anywhere in the world
- If someone else has filed the application for patent prior to you for the same invention.

- **EXAMPLE FOR PATENT**

- Monsanto brought Glyphosate to the market in 1974 under the trade name **Roundup**, and Monsanto's last commercially relevant United States patent expired in 2000.





- **TRADITIONAL KNOWLEDGE (TK)**

- The knowledge continually developed, acquired, used, practiced, transmitted and sustained by communities / individuals through generations is called Traditional Knowledge (TK).
- In India traditional knowledge including existing oral knowledge cannot be protected under the provisions of the existing IPR laws / acts, as mentioned herein above

## **BIO-PIRACY OF TRADITIONAL KNOWLEDGE**

The commercial exploitation or monopolization of biological or genetic material, as medicinal plant extracts, usually without compensating the indigenous peoples or countries from which the material or relevant knowledge is obtained.

# Geographical Indications

- Geographical Indications are intended to designate product quality, highlight brand identity, and preserve cultural traditions
- It is a name or sign used on certain products which corresponds to a specific geographical location or origin (e.g. a town, region, or country).

# **GEOGRAPHICAL INDICATIONS IN INDIA**

- India, as a member of the World Trade Organization (WTO), enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999 has come into force with effect from 15th September 2003.
- The Central Government of India has established the Geographical Indications Registry with all India jurisdiction in Chennai.
- It is being administered by the Controller General of Patents, Designs and Trade Marks - who is the Registrar of Geographical Indications.





# Trade mark

- A **trade mark** (popularly known as brand name) in layman's language is a visual symbol which may be a word signature, name, device, label, numerals or combination of colours used by one undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking.



- A trademark may be designated by the following symbols

SERVICE MARK

Unregistered Trademark

Registered trademark

**According to Section 2 (zb) of the Trade Marks Act, 1999,** “trade mark means a distinguishing the goods or services of one person from those of others and may

- word, letter, numeral, shape of goods, packaging or combination of colours or

## **TRADEMARK REGISTRATION**

- Under the Indian trademark law the following are the types of trademarks that
  - **Product trademarks:** are those that are affixed to identify goods. rk  
for a broadcasting service, retails outlet, etc. They are used in advertising for services.
  - services in connection with which it is used in the course of trade and which are certified quality or other specific features
- **Collective trademarks:** are registered in the name of groups, associations or activities to indicate their membership of the group

# ADVANTAGES OF TRADEMARK REGISTRATION

- Protects your hard earned goodwill in the business
- Protects your Name / Brand Name from being used in a same or similar fashion, by any other business firm, thus discourages others from cashing on your well built goodwill
- Gives your products a status of Branded Goods.
- Gives an impression to your customers that the company is selling some standard Products or Services
- The exclusive right to the use of the trade mark in relation to the goods or services in respect of which the trade mark is registered.
- To obtain relief in respect of infringement (misuse by others) of the trade mark.
- Power to assign (transfer) the trade mark to others for consideration



# COPYRIGHT

**A copyright** is an author's legal ownership of a creative work.

Examples of such creative works include a writing, a pictorial work, a three dimensional sculptural work, a musical composition.

## WHAT IS PROTECTED BY COPYRIGHT?

- "Original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

## CONDITIONS FOR COPYRIGHT

- **Must be original work:** Authorship must be original and cannot simply be copied or reproduced from another author.
- **Must be fixed in a tangible medium:** Cannot reside in the author's mind, but must be transferred from the author's mind onto a fixed tangible medium, such as a writing, a sculpture, a musical work, etc.

- **PROTECTABLE WORKS**

- Blueprints
- Sound recordings
- Architectural works
- Fictitious characters
- Compilations
- Derivative works

- **RIGHTS UNDER COPYRIGHT LAW**

- to reproduce or copy the work;
- to prepare derivative works;
- to distribute copies to the public;
- to perform in public (such as for a play, a musical composition);
- the right to display the work in public

# INDUSTRIAL DESIGN

- In a legal sense, an industrial design constitutes the ornamental or aesthetic aspect of an
- An industrial design may consist of three dimensional features, such as the shape of an article,

## **WHAT IS A REGISTRABLE INDUSTRIAL DESIGN?**

To be registrable an industrial design must be new at the date an application for its registration is filed.

A design is considered to be new only if it has not been made available or disclosed to the public in any way whatsoever in Malaysia or elsewhere before the filing date of the application and it is not on the record the Register of Industrial Designs.



- **HOW TO FILE AN APPLICATION FOR THE REGISTRATION OF AN INDUSTRIAL DESIGN?**

- **Filing an application to register a design requires:-**

- A completed application form (ID Form 1) in Malay or English;
- One copy of representation of the article to which the design is applied (drawings or photograph);
- A statement of novelty in respect of the industrial designs to which the design is applied. (However a statement of novelty is not required when registering wallpaper, lace or textile articles); and payment in full of the appropriate filing fee.









THANK YOU