ANNAMACHARYA INSTITUTE OF TECHNOLOGY &SCIENCES
(AN AUTONOMOUS INSTITUTION)
RAJAMPET-516126: A.P; INDIA

DEPARTMENT OF MECHANICAL ENGINEERING

LECTURE NOTES

Technical Paper Writing &IPR

[23A0365T]

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ANNAMACHARYA INSTITUTE OF TECHNOLOGY AND SCIENCES RAJAMPET
(An Autonomous Institution)
Department of Mechanical Engineering

Title of the Course: Technical paper writing and IPR
Category: Mandatory Course
Couse Code: 23A0365T
Branch/es: Mechanical Engineering
Year & Semester: III Year II Semester

Lecture Hours	Tutorial Hours	Practice Hours	Credits
2	0	0	0

Course Objectives:
1. To enable the students to practice the basic skills of research paper writing.
2. To make the students understand the importance of IP and to educate them on the basic concepts of Intellectual Property Rights.
3. To practice the basic skills of performing quality literature review.
4. To help them in knowing the significance of real life practice and procedure of Patents.
5. To enable them learn the procedure of obtaining Patents, Copyrights, & Trade Marks.

Course Outcomes:
At the end of the course, the student will be able to
1. Identify key secondary literature related to their proposed technical paper writing.
2. Explain various principles and styles in technical writing.
3. Use the acquired knowledge in writing a research/technical paper.
4. Analyse rights and responsibilities of holder of Patent, Copyright, Trademark, International Trademark etc.
5. Evaluate different forms of IPR available at national & international level & Develop skill of making search of various forms of IPR by using modern tools and techniques.

Unit 1 **08**
Principles of Technical Writing: styles in technical writing; clarity, precision, coherence and logical sequence in writing-avoiding ambiguity- repetition, and vague language -highlighting your findings-discussing your limitations -hedging and criticizing -plagiarism and paraphrasing.

Unit 2 **08**
Technical Research Paper Writing: Abstract- Objectives-Limitations-Review of Literature- Problems and Framing Research Questions- Synopsis.

Unit 3 **08**
Process of research: publication mechanism: types of journals- indexing-seminars- conferences- proof reading –plagiarism style; seminar & conference paper writing; Methodology-discussion-results- citation rules.

Unit 4 **09**
Introduction to Intellectual property: Introduction, types of intellectual property, international organizations, agencies and treaties, importance of intellectual property rights.
Trade Marks: Purpose and function of trademarks, acquisition of trade mark rights, protectable matter, selecting and evaluating trade mark, trade mark registration processes.

Unit 5 **08**
Law of copy rights: Fundamentals of copy right law, originality of material, rights of reproduction, rights to

perform the work publicly, copy right ownership issues, copy right registration, notice of copy right, international copy right law.
Law of patents: Foundation of patent law, patent searching process, ownership rights and transfer. Patent law, intellectual property audits.

Prescribed Textbooks:

1. Deborah. E. Bouchoux, Intellectual Property Rights, Cengage Learning India, 2013
2. Meenakshi Raman, Sangeeta Sharma. Technical Communication:Principles and practices.Oxford

Reference Books:

1. R.Myneni, Law of Intellectual Property, 9th Ed, Asia law House, 2019
2. Prabuddha Ganguli,Intellectual Property Rights Tata Mcgraw Hill, 2001
3. P.Naryan,Intellectual Property Law, 3rd Ed ,Eastern Law House, 2007
4. Adrian Wallwork. English for Writing Research PapersSecond Edition. Springer Cham Heidelberg New York ,2016
5. Dan Jones, Sam Dragga, Technical Writing Style

Online Learning Resources:

- https://theconceptwriters.com.pk/principles-of-technical-writing/
- https://www.ewh.ieee.org/soc/emcs/acstrial/newsletters/summer10/TechPaperWriting.html
- https://www.ewh.ieee.org/soc/emcs/acstrial/newsletters/summer10/TechPaperWriting.html
- https://www.manuscriptedit.com/scholar-hangout/process-publishing-research-paper-journal/
- https://www.icsi.edu/media/website/IntellectualPropertyRightLaws&Practice.pdf
- https://lawbhoomi.com/intellectual-property-rights-notes/
- https://www.extension.purdue.edu/extmedia/ec/ec-723.pdf

CO-PO Mapping:

Course Outcomes	Engineering Knowledge	Problem Analysis	Design/Development of solutions	Conduct investigations of complex problems	Modern tool usage	The engineer and society	Environment and sustainability	Ethics	Individual and team work	Communication	Project management and finance	Life-long learning	**PSO1**	**PSO2**
23A0365T.1	2	1	-	-	2	-	-	-	1	-	-	2	2	1
23A0365T.2	2	-	-	-	-	-	1		3	-	-	2	1	-
23A0365T.3	3	-	-	-	2		1		3	-	-	2	2	1
23A0365T.4	2	2	-	1		2	2		1	-	-	2	1	2
23A0365T.5	3	2	-	2	3		2	1	2	-	-	3	2	2

UNIT IV:

Introduction to Intellectual Property Rights: Introduction, types of intellectual property, international organizations, agencies and treaties, Importance of intellectual property rights.
Trademarks: Purpose and function of trademarks, acquisition of trade mark rights, protectable matter, selecting and evaluating trade mark, trade mark registration process.

INTRODUCTION TO INTELLECTUAL PROPERTY RIGHTS

Intellectual property Right (IPR) is a term used for various legal **entitlements** which attach to certain types of information, ideas, or other intangibles in their expressed form. The holder of this legal entitlement is generally entitled to exercise various exclusive rights in relation to the subject matter of the Intellectual Property. The term intellectual property reflects the idea that this subject matter is the product of the mind or the intellect, and that Intellectual Property rights may be protected at law in the same way as any other form of property. Intellectual property laws vary from jurisdiction to jurisdiction, such that the acquisition, registration or enforcement of IP rights must be pursued or obtained separately in each territory of interest. 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

Intellectual property is an intangible creation of the human mind, usually expressed or translated into a tangible form that is assigned certain rights of property. Examples of 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.

Intellectual Property Rights

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 (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

Categories of Intellectual Property

IPRs in both categories seek to address certain failures of private markets to provide for an efficient allocation of resources

IP is divided into two categories for ease of understanding:

1. Industrial Property
2. Copyright

Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and

Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs

Intellectual property shall include the right relating to:

- Literary, artistic and scientific works;
- Performance of performing artists;
- Inventions in all fields of human endeavor;
- Scientific discoveries;
- Industrial designs;
- Trademarks, service marks and etc.;
- Protection against unfair competition.

What is a property?

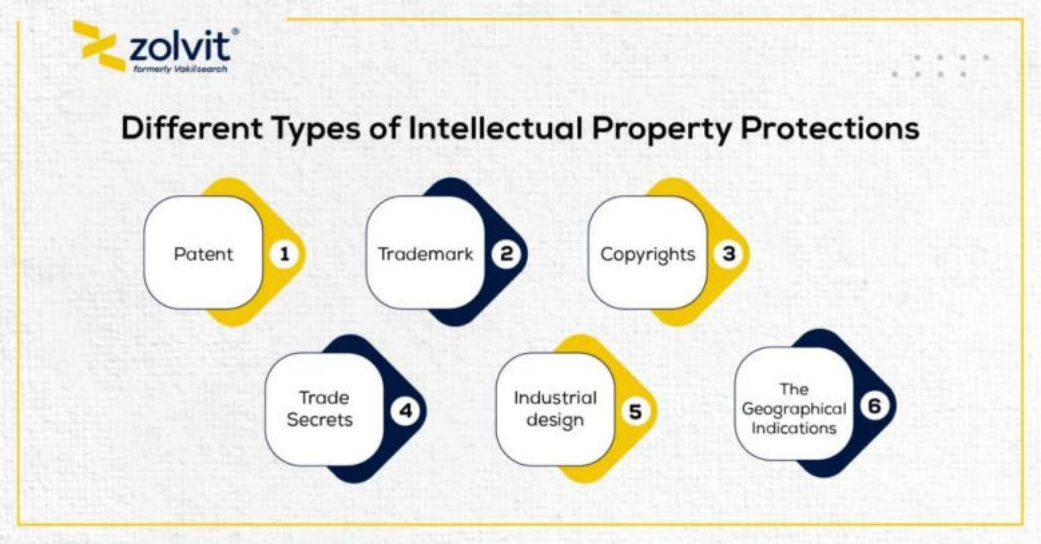
Property designates those things that are commonly recognized as being the possessions of an individual or a group. A right of ownership is associated with property that establishes the good as being "one's own thing" in relation to other individuals or groups, assuring the owner the right to dispense with the property in a manner he or she deems fit, whether to use or not use, exclude others from using, or to transfer ownership.

Properties are of two types - tangible property and intangible property i.e. one that is physically present and the other which is not in any physical form. Building, land, house, cash, jewelry are few examples of tangible properties which can be seen and felt physically. On the other hand, there is a kind of valuable property that cannot be felt physically as it does not have a physical form. Intellectual property is one of the forms of intangible property which commands a material value which can also be higher than the value of a tangible asset or property.

TYPES OF INTELLECTUAL PROPERTY

The different types of Intellectual Property Rights are:

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



Important Species of IPR

Out of the different types of Intellectual Property Rights the following are the most important species of IPR

1. PATENTS

Patent is a grant for an invention by the Government to the inventor in exchange for full disclosure of the invention. A patent is an exclusive right granted by law to applicants / assignees to make use of and exploit their inventions for a limited period of time (generally 20 years from filing). The patent holder has the legal right to exclude others from commercially exploiting his invention for the duration of this period. In return for exclusive rights, the applicant is obliged to disclose the invention to the public in a manner that enables others, skilled in the art, to replicate the invention. The patent system is designed to balance the interests of applicants / assignees (exclusive rights) and the interests of society (disclosure of invention).

Meaning of 'Invention' under Patent

Law Sec.2(1)(J) - Invention" means a new product or process involving an inventive step and capable of industrial application

There are **three** types of patents:

Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;

Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and

Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant

2. TRADEMARKS: A trade mark is a word, phrase, symbol or design, or combination of words, used in the course of trade which identifies and distinguishes the source of the goods or services of one enterprise from those of others.

According to section 2, sub-section (1) of the Trade Marks Act 1999, ”Trade Mark” means 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 colors.

Trade mark registration is an effective and economic way of ensuring your brand is protected. Registration provides a safeguard against third party infringement and often acts as an effective deterrent against third parties considering or contemplating infringement. Failure to protect brand may reduce its value, and could damage your business' reputation. It is also important to be attentive to the activities of your competitors. If you suspect or witness your brand being infringed it is best to take action as soon as possible. The longer the infringing activity exists, the more difficult to maintain the registered trademark and chances of trademark becoming generic.

Genericide is the term used to describe the death of a trademark that results from the brand name becoming the name of the object itself.

3. TRADE SECRETS

A trade secret consists of any valuable business information. The business secrets are not to be known by the competitor. There is no limit to the type of information that can be protected as trade secrets; For Example: Recipes, Marketing plans, financial projections, and methods of conducting business can all constitute trade secrets. There is no requirement that a trade secret be unique or complex; thus, even something as simple and nontechnical as a list of customers can qualify as a trade secret as long as it affords its owner a competitive advantage and is not common knowledge. If trade secrets were not protectable, companies would no incentive to invest time, money and effort in research and development that ultimately benefits the public. Trade secret law thus promotes the development of new methods and processes for doing business in the marketplace.

Protection of Trade Secrets: Although trademarks, copyrights and patents are all subject to extensive statutory scheme for their protection, application and registration, there is no federal law relating to trade secrets and no formalities are required to obtain rights to trade secrets. Trade secrets are protectable under various state statutes and cases and by contractual agreements between parties. For Example: Employers often require employees to sign confidentiality agreements in which employees agree not to disclose proprietary information owned by the employer. If properly protected, trade secrets may last forever. On the other hand, if companies fail to take reasonable measures to maintain the secrecy of the information, trade secret protection may be lost. Thus, disclosure of the information should be limited to those with a “need to know” it so as to perform their duties, confidential information should be kept in secure or restricted areas, and employees with access to proprietary information should sign nondisclosure agreements. If such measures are taken, a trade secret can be protected in perpetuity. Another method by which companies protect valuable information is by requiring employee to sign agreements promising not to compete with the employer after leaving the job. Such covenants are strictly scrutinized by courts, but generally, if they are reasonable in regard to time, scope and subject matter, they are enforceable

5.GEOGRAPHICAL INDICATIONS

GI is an indication, 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.

6. COPYRIGHTS

1847 is the First Copyright law Enactment in India during British Regime. The term of copyright was for the lifetime of the author and 60 years counted from the year following the death of the author

Copyright law is designed to protect interests and balance the rights of the following stake holders

- Authors/ Creators
- Publishers/ Entrepreneurs
- Users /Audiences

Indian Copyright Act is the one of the best Copyright enactments in the world.

The Copyright Act 1911, while repealing earlier statues on the subject, was also made applicable to all the British colonies including India. In 1914, the Indian Copyright Act was enacted which modified some of the provisions of Copyright Act 1911 and added some new provisions to it to make it applicable in India. Copyright Act, 1911 was in existence in India till the new Copyright Act, 1957 was introduced in India Post Independence. In India, the Copyright Act, 1957 (as amended in 1999), the Rules made there under and the International Copyright Order, 1999 govern Copyright and neighboring rights. This Act has been amended five times i.e. 1983,1984,1992,1999 and most recently in 2012.

What can be protected under Copyright?

Literary, Dramatic, Artistic, Musical, Cinematographic, Photographic and Sound Recording works.

Literary works such as novels, poems, plays, reference works, newspapers and computer programs; databases; films, musical compositions, and choreography; artistic works such as paintings, drawings, photographs and sculpture; architecture; and advertisements, maps and technical drawings.

EVOLUTION OF IP ACTS AND TREATIES

The evolution of international IP acts through different treaties and the formation of World Intellectual Property Organization (WIPO) is given below in brief.

1883 – Paris Convention (France)

The Paris Convention for the Protection of Industrial Property is born. This international agreement is the first major step taken to help creators ensure that their intellectual works are protected in other countries. The need for international protection of intellectual property (IP) became evident when foreign exhibitors refused to attend the International Exhibition of Inventions in Vienna, Austria in 1873 because they were afraid their ideas would be stolen and exploited commercially in other countries. The Paris Convention covers:

- Inventions (patents)
- Trademarks
- Industrial designs

1886 – Berne Convention (Switzerland)

Following a campaign by French writer Victor Hugo the Berne Convention for the Protection of Literary and Artistic Works is agreed. The aim is to give creators the right to control and receive payment for their creative works on an international level. Works protected include:

- Novels, short stories, poems, plays;
- Songs, operas, musicals, sonatas; and
- Drawings, paintings, sculptures, architectural works.

1891 – Madrid Agreement (Spain)

With the adoption of the Madrid Agreement, the first international IP filing service is launched: the Madrid System for the international registration of marks. In the decades that follow, a full spectrum of international IP services will emerge under the auspices of what will later become WIPO.

1893 – BIRPI established

The two secretariats set up to administer the Paris and Berne Conventions combine to form WIPO's immediate predecessor, the United International Bureau for the Protection of Intellectual Property – best known by its French acronym, BIRPI. The organization, with a staff of seven, is based in Berne, Switzerland.

1970 – BIRPI becomes WIPO

The Convention establishing the World Intellectual Property Organization (WIPO) comes into force and BIRPI is thus transformed to become WIPO. The newly established WIPO is a member state-led, intergovernmental organization, with its headquarters in Geneva, Switzerland.

1974 – WIPO joins the UN

WIPO joins the United Nations (UN) family of organizations, becoming a specialized agency of the UN. All member states of the UN are entitled, though not obliged, to become members of the specialized agencies.

1974 – WIPO joins the UN (193 Member Countries in UN today)

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1978 – PCT System launched

The PCT international patent system begins operation. The PCT expands rapidly to become WIPO's largest international IP filing system today.
The Patent Cooperation Treaty (PCT) makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application.
TRIPS Agreement

India along with other emerging nations graced a signatory to the Treaty of TRIPS of the World Trade Organization (WTO) in 1995 with a matter that agreement will allow free

flow of trade, investment and eliminate the restrictions enduring in the norm of Intellectual Property.
The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual property (IP) regulation as applied to nationals of other WTO Members. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organization (WTO).
The TRIPS Agreement aims for the transfer of technology and requires developed country members to provide incentives for their companies to promote the transfer of technology to least-developed countries in order to enable them to create a sound and viable technological base

AGENCIES RESPONSIBLE FOR IPR REGISTRATIONS

(a) **National IPR Agencies:**

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. The registration of copyrights is administered by the Registrar of Copyright Office, working under the CGPDTM. It functions out of offices situated in Delhi, Kolkata, Mumbai, Chennai and Ahmadabad, while the Central IP Training Academy is at Nagpur.

The appropriate office of the patent office shall be the head office of the patent office or the branch office as the case may be within whose territorial limits. Residence of applicant or Domicile; or their place of business; or the place where the invention actually originated.

The CGPDTM supervises the functioning of the following IP offices:

i. The Patent Offices (including the Design Wing) at Chennai, Delhi, Kolkata & Mumbai.

ii. The Patent Information System (PIS) and Rajiv Gandhi National Institute of Intellectual Property Management (RGNIIPM) at Nagpur.

iii. The Trademarks Registry at Ahmadabad, Chennai, Delhi, Kolkata & Mumbai.

iv. The Geographical Indications Registry (GIR) at Chennai.

v. The Copyright Office at Delhi.

vi. The Semiconductor Integrated Circuits Layout-Design Registry at Delhi.

Office Territorial Jurisdiction

Patent Office Branch, Chennai: The States of Telangana, Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the Union Territories of Pondicherry and Lakshadweep
Patent Office Branch, Mumbai: The States of Maharashtra, Gujarat, Madhya Pradesh, Goa and Chhattisgarh and the Union Territories of Daman and Diu & Dadra
and Nagar Haveli.
Patent Office Branch, New Delhi: The States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttaranchal, Delhi and the Union, Territory of Chandigarh.
Patent Office, Kolkata: The rest of India

Intellectual Property Appellate Board (IPAB):
Intellectual Property Appellate Board (IPAB) has been established in the year 2003, under Section 84 of the Trade Marks Act, 1999. The Board hears appeals against the decision of Controller of Patents (under the Patents Act, 1970), Registrar of Trade Marks (under the Trade Marks Act, 1999) and Geographical Indication cases (under the Geographical Indication & Protection Act, 1999). The Copyright Board and Plant Varieties Protection Appellate Tribunal function under the ambit of IPAB in accordance with their respective Acts and Rules.

(b) **International IPR Agencies:**

There are a number of international organizations and agencies that promote the use and protection of intellectual property.

International Trademark Association (INTA)

INTA is a not-for-profit international association composed chiefly of trademark owners and practitioners. It is a global association. Trademark owners and professionals dedicated in supporting trademarks and related IP in order to protect consumers and to promote fair and effective commerce. More than 4000 (Present 6500 member) companies and law firms more than 150 (Present 190 countries) countries belong to INTA, together with others interested in promoting trademarks. INTA members have collectively contributed almost US $ 12 trillion to global GDP annually. INTA undertakes advocacy work throughout the world to advance trademarks and offers educational programs and informational and legal resources of global interest. Its head quarter in New York City, INTA also has offices in Brussels, Shanghai and Washington DC and representative in Geneva and Mumbai. This association was founded in 1878 by 17 merchants and manufacturers who saw a need for an organization. The INTA is formed to protect and promote the rights of trademark owners, to secure useful legislation (the process of making laws), and to give aid and encouragement to all efforts for the advancement and observance of trademark rights.

World Intellectual Property Organization (WIPO)

WIPO was founded in 1883 and is specialized agency of the United Nations whose purposes are to promote intellectual property throughout the world and to administer 23 treaties (Present 26 treaties) dealing with intellectual property. WIPO is one of the 17 specialized agencies of the United Nations. It was created in 1967, to encourage creative activity, to promote the protection of Intellectual Property throughout the world. Around 193 nations are members of WIPO. Its headquarters in Geneva, Switzerland, current Director General of WIPO is Francis Gurry took charge on October 1, 2008.

IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS

IPR is a significant tool in today's era. The risk of an innovation getting infringed without the knowledge of the inventor stands very high. With the increase in the importance of IP, instances of IP crimes have become the part and parcel of the digitized era sometimes even leading to failure of businesses. Companies rely on adequate protection of their patents, trademarks, and copyrights, while customers make use of IP to ensure that they purchase secure, assured goods. An IP asset is like any other physical property offering commercial benefits to businesses. In a web-based world, IP protection is much more relevant as it is comparatively simpler than ever to reproduce any specific template, logo, or functionality.

Intellectual property rights are more important because today we are highly-connected to digital landscape. With all of the good the rise of the internet has done for the sharing of information and ideas, it has unfortunately become easier for ideas and works to be stolen, which can be damaging to both national economies and innovation.

Intellectual Property Rights (IPRs) are crucial for encouraging innovation, creativity, and economic growth by giving creators exclusive rights to their inventions, brands, and works, allowing them to profit, build reputation, and attract investment while preventing unauthorized copying. They safeguard business assets, create unique market identities, and facilitate revenue streams through licensing or sales, ensuring creators are rewarded for their R&D, which benefits society through new products and services.

Key Importance Areas

- **Encourages Innovation & Creativity**: By granting temporary monopolies, IPRs (like patents) motivate inventors and artists to invest time and money, knowing they can recoup costs and earn rewards, fostering continuous development.
- **Drives Economic Growth**: Strong IP protection attracts investment, creates jobs, builds new markets, and boosts GDP through IP-intensive industries, benefiting national economies.
- **Safeguards Business Assets**: Trademarks protect brand identity, logos, and designs, preventing counterfeiting and building customer trust and loyalty.
- **Generates Revenue Streams**: IP assets can be licensed, sold, or used as collateral for loans, creating significant income for businesses and creators.
- **Provides Legal Protection**: Offers legal tools (patents, copyrights, trademarks) to stop infringement, giving owners control over their creations and the right to take action against misuse.
- **Aids Marketing & Branding**: Helps businesses differentiate products, attract customers, and build a strong, unique market presence.
- **Supports Startups & SMEs**: Gives smaller firms powerful tools to compete with larger companies by protecting their unique ideas and establishing market identity.

In essence, IPRs provide the legal framework that turns ideas and creativity into valuable assets, rewarding creators and fueling societal progress.

TRADEMARK

DEFINITIONOF TRADEMARK: A trade mark is a word, phrase, symbol or design, or combination of words used in the course of trade which identifies and distinguishes the source of the goods or services of one enterprise from those of others.

As stated above, the definition of "trade mark" under Section 2(1) is “A mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from others and may include shape of goods, their packaging and combination of colours and covers both goods and services”.
“Mark” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colors or any combination thereof”. [Section 2(1)].

PURPOSE AND FUNCTION OF TRADEMARKS:

A trade mark (popularly known as brand name in layman’s language) is a visual symbol which may be a word to indicate the source of the goods, a signature, name, device, label, numerals, or combination of colors used, or services, or other articles of commerce to distinguish it from other similar goods or services originating from another. It is a distinctive sign which identifies certain goods or services as those produced or provided by a specific person or enterprise. Its origin dates back to ancient times, when craftsmen reproduced their signatures, or "marks" on their artistic or utilitarian products. Over the years these marks evolved into today's system of trade mark registration and protection. The system helps consumers identify and purchase a product or service because its nature and quality, indicated by its unique trade mark, meets their needs. A trade mark provides protection to the owner of the mark by ensuring the exclusive right to use it or to authorize another to use the same in return for payment. The period of protection varies, but a trade mark can be renewed indefinitely beyond the time limit on payment of additional fees. Trade mark protection is enforced by the courts, which in most systems have the authority to block trade mark infringement.

In a larger sense, trademarks promote initiative and enterprise worldwide by rewarding the owners of trademarks with recognition and financial profit. Trade mark protection also hinders the efforts of unfair competitors, such as counterfeiters, to use similar distinctive signs to market inferior or different products or services. The system enables people with skill and enterprise to produce and market goods and services in the fairest possible conditions, thereby facilitating international trade.

Trademarks perform two critical functions in the market place:

- **They provide assurance that goods are of a certain quality and consistency, and**
- **They assist consumers in making decisions about the purchase of goods.**

The main purpose of trademark is to show the difference about the quality of goods and service. For example: If a trademark such as NIKE could be counterfeited (imitating) and used by another on inferior merchandise (goods), there would be no incentive for the owners of the NIKE mark to produce high-quality shoes and to expend money establishing consumer recognition of the products offered under the NIKE marks.

The value inherent in achieving consumer loyalty to a particular product or service through the maintenance of consistent quality of the products or service offered under a mark is called goodwill.

- They identify one maker’s goods or services and distinguish them from those offered by others.
- They indicate that all goods or services offered under the mark come from a single producer, manufacturer, or “source”
- They indicate that all goods or services offered under the mark are of consistent quality and
- They serve as an advertising devices of that consumers link a product or service being offered with a mark.

TYPESOF MARKS

There are four different types of marks. They are:

- Trademark
- Service mark
- Certification mark
- Collective mark

Trademark

The term trademark thus refers to some physical and tangible good and servicemark refers to an intangible service, in common usage the term trademark is often used to refer to marks for both goods and service. The key point in this legal description is that a trademark is a visual mark that may use any combination of letters and imagery to aid a company in differentiating itself from other entities.

The purpose of a trademark is to visually represent a person, company, or product and trademark should be designed to provide easy and definite recognition. The term mark will be used as a synonym for both trademark and servicemarks. The federal statute ((law) an act passed by a legislative body) governing trademark law, the U.S. Trademark Act (Lanham Act, found at 15 U.S.C 1051etseq.) itself states that the term mark includes any trademark, servicemark, collectivemark, or certificatemark.

Service mark

A service mark is the same as a trademark, but instead of a particular product, it identifies and differentiates the source of a service. A service mark is nothing but a mark that distinguishes the services of one proprietor/owner from that of another. Service marks do not represent goods, but the services offered by the company.

They are used in a service business where actual goods under the mark are not traded. Companies providing services like computer hardware and software assembly, restaurant and hotel services, courier and transport, beauty and health care, advertising, publishing, etc. are now in a position to protect their names and marks from being misused by others. The rules governing for the service marks are fundamentally the same as any other trademarks.

Certification mark:

A certification mark is a word, name, symbol, device, or combination thereof used by one person to certify that the goods or services of others have certain features inregard to quality material mode of manufacture or some other characteristic (or that the work done on the goods or services was performed by members of a union or other organization). For example: Hallmark, ISO mark and in U.S Under writers Laboratory seals of approval (Underwriters Laboratory is the large stand best known independent, not for profit testing laboratory in the world based in Northwood, Illinois, UL conducts safety and quality tests on abroad range of products, from firedoor's to CCTV cameras seals of approval).

Collective Mark:

A collective mark is one used by a collective member's hip organization, such as a labor union, fraternity, or professional society, to identify that the person displaying the mark is a member of the organization. These are the trademarks used by a group of companies and can be protected by the group collectively. Collective marks are used to inform the public about a particular characteristic of the product for which the collective mark is used. The owner of such marks may be an association or public institution or it may be cooperative. Collective marks are also used to promote particular products which have certain characteristics specific to the producer in a given field. Thus, a collective trademark can be used by a more than one trader, provided that the trader belongs to the association.

ACQUISITIONOF TRADEMARKRIGHTS

In a global scope, obtaining a trademark right through Use or through Registration are two major legislative models of system for the grant of trademark rights.

- By Use
- By Registration

The “use” model is based on the objective facts of trademark use, and decides the ownership of a trademark according to the time that the trademark was first used.

While the “registration” model grants trademark rights according to registration and the first applicant will obtain the trademark right.

In history, the earliest trademark legislations all took “use” principle, for instance, the first statue of trademark-Law of Manufacturing Signs and Trademarks concerning the Content of Use and Non-examination Principle enacted by France in 1857 took the “use” model.

However, since there are many defects of the “use” principle, France abandoned this principle which was already implemented for more than one hundred years in 1964 and shifted to adopt the “registration” model which was succeeded by the current Code of Intellectual Property. Article 712-1 of the code provides: “trademark rights shall be obtained through registration”.

In India one can acquire and claim a Trademark only by Registration and not by Use:

The registration of a trade mark confers on the registered proprietor of the trade mark the exclusive right to use the trade mark in relation to the goods or services in respect of which the trade mark is registered. While registration of a trade mark is not compulsory, it offers better legal protection for an action for infringement. As per Section 17 of the Act, the registration of a trade mark confers the following rights on the registered proprietor:

- It confers on the registered proprietor 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.
- It entitles the registered proprietor to obtain relief in respect of infringement of the trade mark in the manner provided by the Trade Marks Act, 1999 when a similar mark is used on (a) same goods or services, (b) similar goods or services, (c) in respect of dissimilar goods or services.
- Registration of a trade mark forbids every other person (except the registered or unregistered permitted user) to use or to obtain the registration of the same trade mark or a confusingly similar mark in relation to the same goods or services or the same description of goods or services in relation to which the trade mark is registered.

- After registration of the trade mark for goods or services, there shall not be registered the same or confusingly similar trade mark not only for the same goods or services but also in respect of similar goods or services by virtue of Section 11(1) of Trade Marks Act, 1999.
- Moreover, after registration of the trade mark for goods or services, there shall not be registered the same or confusingly similar trade mark even in respect of dissimilar goods or services by virtue of Section 11(2) in case of well-known trademarks.
- Registered trade mark shall not be used by anyone else in business papers and in advertising. Use in comparative advertising should not take undue advantage of the trade mark. Such advertising should not be contrary to honest practices in industrial or commercial matters. The advertising should not be detrimental to the distinctive character or reputation of the trade mark.
- There is a right to restrain use of the trade mark as trade name or part of trade name or name of business concern dealing in the same goods or services. The registered trade mark continues to enjoy all the rights which vest in an unregistered trade mark. By registration the proprietor of an unregistered trade mark is converted into proprietor of the registered trade mark. An application for registration may be based on a trade mark in use prior to such application and such a trade mark is already vested with rights at Common law from the time the use of the mark was commenced.

SELECTING AND EVALUATING TRADEMARK

Selecting a Mark:

The selection of mark occurs in a variety of ways companies hold contests and encourages employees to create a mark for a new product line or service. Companies engage sophisticated research. Branding firms that will conduct surveys and create a mark and a logo or design for the company.

Once the mark is selected, it must be screed and evaluated for use and registrability, if failed then it leads to wastage in expenditure of time and money in advertising, using and applying for a mark that is rejected for registration by the PTO or, in the worst case scenario, might subject the owner to damages for trade mark infringement and unfair competition.

Once a mark is selected, it should be carefully scrutinized to ensure that it will not be excluded from protection under the Lanham Act.

- Firstly they have check whether the mark contains scandalous (giving offence to moral sensibilities and injurious to reputation)
- Whether consent from a living person will be required,
- Whether the mark is generic,
- Whether it is statutorily protected
- Whether the mark is descriptive of some feature of the goods and services offered under the mark,
- It also see that the mark includes foreign terms
- Many law firms specializing in trademark work use a questionnaire form or datasheet to gather questionnaire form or datasheet together basic information from clients about their marks.

Evaluating Trademark:

Trademarks are not only used to provide legal protection to a company's name, design, word, etc. rather are intangible assets. Evaluating the exact value of the trademark is challenging.

Till a decade or two ago, no one used to evaluate the value of their intangible assets of the company. However now, brands create the reputation of a product; motivates the purchasing power; and makes the product different from other generic products. In fact, almost every brand fetches a good amount of value. But evaluating the exact value of the trademark is a big challenge, and one must know the correct way to evaluate it.

Valuating intangible assets of your company like trademark or patent is a complex task which can turn your head upside down, and thus makes the selling transaction adversative. But the need to evaluate a brand is essential for many business activities, like a merger or acquisition; sale or purchase of the trademark or if you want to sell your company.

The first step in evaluating the trademark is to examine the historical prospects of the trademark like the total cost invested in it; profit margin associated with the products and the time it was first used, etc.

After considering these options, one must follow the methodologies and different approaches as listed below:

The Income Approach:

The most crucial element on which a trademark's value is determined is the income generating power of the business. The more the earning power, the higher the value of the brand would be.Through future estimates of economic benefit, cash flows and risks involved, and converting this analysis into simple information; the income approach enables you to evaluate your company trademark.

Market Approach:

In this method, the price of similar marks is considered and compared. It uses market-based indicators of value and takes similar marks into account; it analyses royalty rates and transaction prices to determine what the market is paying for similar intangible assets. In this approach, market trends are considered, and other transactions are analyzed.

Cost Approach:

Cost approach considers the implicit as well as explicit cost incurred in creating the Trademark. Cost approach also covers the cost accrued in promoting the company and its brand promotion. A particular focus on forecasts of market transactions is employed and estimated time and cost that would be required to make a similar trademark are considered.

Other Factors

Along with the ones listed above, there are other factors which a company should consider while evaluating a trademark or trademarks and to maximize their values:

- Qualitative and quantitative characteristics of the trademark.
- If there is any contract assigned or associated with the trademark.
- Sustainability of the trademark in the market in future.
- Market position a trademark holds in the current business.
- The capital structure of the company and its modifications according to the needs.

Trademark carries a significant value in the business, and a company should evaluate its brand and know the exact value of their intangible assets. A company should work towards the goal of enhancing the value of trademark and other intangible assets for long-term profits.

TRADEMARK REGISTRATION PROCESS:

- Investing your time and money to build a particular brand and seeing the same brand name being used by another, robbing you of your hard-earned brand reputation is not an agreeable state of affairs.
- Many a time, trademark (TM) owners end up in protracted litigation because when the time was right, they did not do trademark registration in India of their brand name.
- Trademark registration process of the brand name is not a difficult task.
- A few simple steps, as explained below and you would have the much-needed legal protection of your brand name registration in India.

A trademark application can be made by:

- Private firms
- Individuals
- Companies- (LLP)Limited Liability Partnership, OPC(One Person Company), Private limited, Public, Partnership, etc.
- NGO's

Note: In the case of NGOs and LLP companies the trademark has to be applied for registration in the name of the concerned business or a company.

Any person, pretending to be the proprietor of a trademark used or intended to be applied by him, may apply in writing in a prescribed manner for registration. The application must include the trademark, the goods or services, name and address of the candidate with power of attorney, the time of use of the mark. The application must be in English or Hindi. It must be registered at the appropriate office.

Step 1: Trademark Search

- Many entrepreneurs do not comprehend the importance of a TM search.
- Having a unique brand name in mind is not good enough reason to avoid a TM search.
- TM search helps you to know if there are similar trademarks available and it gives you a fair picture of where your trademark stands, sometimes, it also gives you a forewarning of the possibility of trademark litigation.
- Why waste your money in time-consuming trademark litigation later when you can choose to avoid it in the first place?

Step 2: Filling & Filing Trademark Application

- Based on the nature of product a class is chosen among 45 classes of trademark.
- Once the chosen brand name or logo is not listed in the Trademark Registry India, then we can opt for registering the same.
- The first step is to file a trademark application at the Trademark Registry India through online / offline.
- Once the application is filed, an official receipt is immediately issued for future reference with TM application number.

Step 3: Examination

- The examination might take around 12-18 months.
- The examiner might accept the trademark absolutely, conditionally or object.
- If accepted unconditionally, the trademark gets published in the Trademark Journal.
- If not accepted unconditionally, the conditions to be fulfilled or the objections would be mentioned in the examination report and a month's time would be given to fulfill the conditions or response to the objections.
- Once such response is accepted, the trademark is published in the Trademark Journal.
- If the response is not accepted, one can request a hearing. If in the hearing, the examiner feels that the trademark should be allowed registration, it proceeds for publication in the Trademark Journal.

Step 4: Publication

- The step of publication is incorporated in the trademark registration process so that anyone who objects to the registering of the trademark has the opportunity to oppose the same.
- If, after 3-4 months from publication there is no opposition, the trademark proceeds for registration.
- In case there is opposition; there is a fair hearing and decision are given by the Registrar.

Step 5: Registration Certificate

- Once the application proceeds for trademark registration, following publication in Trademark Journal, a registration certificate under the seal of the Trademark Office is issued.

Step 6: Renewal

- The trademark can be renewed perpetually after every 10 years. Hence, your logo or brand name registration can be protected perpetually.

While filing for the trademark registration, the documents required to provide are as follows:

Identity and business proofs: The trademark owner or the person who is approved by the trademark owner requires presenting their identity proof. It can be your Aadhar Card, Driving License, Passport, Ration card, or Voter's ID.

Using Logo with Tagline: If a trademark application is prepared for a tagline with only words, then there is no requirement for a logo. In cases where a logo is applied, then it must be submitted in black and white format. The number of words in the logo must exactly be the same as specified in the application for a trademark.

Brand Name & Logo: The logo must have the brand name.

User Affidavit: If a particular user data is to be claimed, the user affidavit is expected to be submitted.

Proof of TM use: To demand specific user date, documentary proof like invoices, registration certificates, etc. with the brand name must be given.

MSME or Start-up Recognition: A partnership firm or corporate entities can give a certificate of registration under MSME or Start-up India scheme to get a 50% rebate on the Government fee Signed Form TM – 48: M-48 is a lawful document that enables the attorney to file the trademark on your behalf with the trademark registry. The document will be made by LW professionals for the signature.

UNIT II:

Law of Copy rights: Fundamentals of copy right law ,Originality of material, rights of production ,right to perform the work publicly, copyright ownership issues, copyright registration ,notice of copy right , International copyright law.
Law of patents: Foundation of patent law, patent searching process, ownership rights and transfer. Patent law, Intellectual property audits.

Introduction:

In ancient days creative persons like artists, musicians and writers made, composed or wrote their works for fame and recognition rather than to earn a living, thus, the question of copyright never arose.The importance of copyright was recognized only after the invention of printing press which enabled the reproduction of books in large quantity practicable.

Copyright –Definition:

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. Its latest amendment was brought in 2012
A copyright is an exclusionary right. It conveys to its owner the right to prevent others from copying, selling, performing, displaying, or making derivative versions of a work of authorship.

Exclusive copyright rights

The entire bundle of rights that a copyright owner is exclusively entitled toexercise under the copyright laws. These rights consists of:

- 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.

COPYRIGHT ACT, 1957: Copyright Act refers to laws that regulate the use of the work of a creator, such as an artist or author.

This includes copying, distributing, altering and displaying creative, literary and other types of work. Unless otherwise stated in a contract, the author or creator of a work retains the copyright.

Copyright does not ordinarily protect titles by themselves or names, short word combinations, slogans, short phrases, methods, plots or factual information.

NEED FOR COPYRIGHT:

- It gives you the exclusive right to reproduce or copy the work or change its form.
- Registration informs the world that you own the work
- If you succeed in an infringement suit, you are entitled to money damages.

Indian perspective on Copyright Protection :

The Copyright Act, 1957 provides copyright protection in India. It confers copyright protection in the following two forms:

(a) Economic rights of the author

(b) Moral Rights of the author (i) Right of Paternity (ii) Right of Integrity

TERM OF COPYRIGHT: It varies according to the nature of work - 60 years, in India.

- Literary, dramatic, musical or artistic work (other than a photograph), when published during the lifetime of the author, copyright subsists during the lifetime of the author, plus 60 years.
- In the case of photographs, cinematograph films and sounds recordings; the term is 60 years from the date of publication.
- When the first owner of copyright is the government or a public undertaking, the term of copyright is 60 years from the date of publication.

The Fundamentals of Copyright

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. In fact, it is a bundle of rights including, inter alia, rights of reproduction, communication to the public, adaptation and translation of the work. It means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever (Kartar Singh Giani v. Ladha Singh & Others AIR 1934 Lah 777). Section 14 of the Act defines the term Copyright as to mean the exclusive right to do or authorise the doing of the following acts in respect of a work or any substantial part thereof, namely

In the case of literary, dramatic or musical work (except computer programme):

(i) reproducing the work in any material form which includes storing of it in any medium by electronic means;

(ii) issuing copies of the work to the public which are not already in circulation;

(iii) performing the work in public or communicating it to the public;

(iv) making any cinematograph film or sound recording in respect of the work; making any translation or adaptation of the work. Further any of the above mentioned acts in relation to work can be done in the case of translation or adaptation of the work.

In the case of a computer programme:

(i) to do any of the acts specified in respect of a literary, dramatic or musical work; and

(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme. However, such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.

In the case of an artistic work:

(i) reproducing the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;

(ii) communicating the work to the public;

(iii) issuing copies of work to the public which are not already in existence;

(iv) including work in any cinematograph film; making adaptation of the work, and to do any of the above acts in relation to an adaptation of the work.

ORIGINALITYOFMATERIAL

There are three basic requirements for copyright ability:

- A work must be original
- A work must be fixed in a tangible form of expression; and
- A work must be a work of authorship

To be eligible for copyright protection, material must be original, meaning that it must have been independently created and must possess a modicum of creativity. The requirement of originality should not be confused with novelty, worthiness, or aesthetic appeal. The requirement is rather that the material must be an independent product of the author and not merely some copy or minimal variation of an existing work. A work can be original even if it is strikingly similar or identical to that of another. The Copyright Act only requires originality, meaning independent creation by the author.

Originality does not signify novelty; a work may be original even though it closely resembles other works so long as the similarity is fortuitous, not the result of copying.

To illustrate, assume that two poets, each ignorant of the other, compose identical poems. Neither work is novel, yet both are original, and, hence, copyrightable. "Originality" thus does not mean "first"; it merely means "independently created" rather than copied from other works.

Rights of Reproduction:

Themostfundamentaloftherightsgrantedtocopyrightownersistherighttoreproducethe work

- Aviolationofthecopyrightactoccurswhetherornottheviolatorprofitsbythereproduction
- Only the owner has the right to reproduce the work
- Secretly taping a concert, taking pictures at a performance, or recording all violate the owner's right to reproduce
- The suggestion of congress, in 1978 a group of authors, publishers and users established a not-for-profit entity called Copyright Clearance Center[CCC]
- CCC grants licenses to academic, government and corporate users to copy and distribute the works
- It collects royalty fees, which are distributed to the authors
- Companies that photocopy articles from journals and magazines often enter into licensing arrangements with the CCC so they can make copies.

Rights to perform the work publicly

- Section 106 [5] of the Copyright Act provided that in the case of all copyrighted works other than sound recording & works of architecture, the copyright owner has the exclusive right to display the work publicly.
- A display is "public"under the same circumstances in which a performance is "public". Namely if it occurs at a place open to the public (or) at a place where a substantial number of persons outside of the normal circle of a family

Copyright Ownership Issues [17U.S.C. §201(a)]:

- Copyright in a work protected under the copyright activists [provide with power and authority] in the author or authors of the work

> Ownership of a physical object is separate and distinct from ownership of the copyright embodied in the material object

- Issues about ownership arise when more than one person creates a work
- Unless copyright has been explicitly conveyed with those physical articles, the original authors generally retain all other rights associated with the works.

Joint Works[intent to create a unitary whole]

- A joint work is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.
- One copyright exists in the created works
- Joint authors are those who "mastermind" or "super mind" the creative effort.

Ownership Rights in Joint Works

- If individual are authors of a joint work, each owns an equal undivided interest in the copyright as a tenant in common, [each has the right to use the work, prepare derivative works, display it without seeking the other coauthor's permission].
- If profits arise out of such use, an accounting must be made so, that each author shares in the benefits or proceeds.
- The death of a coauthor, his or her rights pass to heirs who then own the rights in common with the other coauthor.

Ownership in Derivative or Collective Works

- The author of the original book has rights only to his or her work and cannot reproduce or perform the derivative work without permission.
- If a work such as a book is created by one person who intends it to be complete at the time and illustrations are later added to it by another, the work cannot be a joint work because there was no intention of the parties to create a unitary whole at the time of their creation.
- The author of the derivative work cannot create further works based on the original book without permission and cannot reproduce the original work without permission.
- Multipleownershiprightsmayalsoariseifseparatelycopyrightableworksarecompiled into a collection.

For Example: If essays written by Jerry Seinfeld, Ellen DeGeneres, and Paul Reiser are collected into a humor anthology by Bill Jones (with permission of the original authors), the original authors retain their exclusive rights (such as rights to reproduce, distribute, and perform) in their respective essays. No join work is created because there was no intent at the time the separate essays were created to merge them into a unitary whole. No derivative work is created because the original works have not been transformed in any way and nothing new has been added to them. The anthology by the compiler, Bill Jones, is a collective work and pursuant to section 201(c) of the act, Jones acquires only the right to reproduce and distribute the contributions as part of the particular collective work or any revision of the collective work

Works Made for Hire

- The general rule is that the person who creates a work is the author of that work and the owner of the copyright therein, there is an exception to that principle: the copyright law defines a category of works called **works made for hire**.
- If a work is "made for hire", the author is considered to be the employer or commissioningpartyandnottheemployeeortheactualpersonwhocreatedthework
- The employer or commissioning party may be a company or an individual.
- There are two types of works that are classified as works made for hire; works prepared by an employer within the scope of employment and certain categories of specially ordered or commissioned works.

Copyright Registration

- A work is "created" when it is fixed in a copy or phonorecord for the first time.
- Although not required to provide copyright protection for a work, registration of copyright with the Copyright Office in expensive, easy and provides several advantages, chiefly, that registration is a condition precedent for bringing an infringement suit for works of US origin.
- To register a work, the applicant must send the following three elements to the Copyright Office: a properly completed application form, a filing fee, and a deposit of the work being registered.
- Registration may be made at any time within the life of the copyright

THEAPPLICATIONFORCOPYRIGHTREGISTRATION

- The following persons are entitled to submit an application for registration of copyright:
- the author (either the person who actually created the work or, if the work is one made for hire, the employer or commissioning party)
- the copyright claimant (either the author or a person or organization that has obtained ownership of all of the rights under the copyright originally belonging to the author, such as a transferee)
- the owner of exclusive right, such as the transferee of any of the exclusive rights of copyright ownership (for example, one who prepares a movie based on an earlier book may file an application for the newly created derivative work, the movie); and
- the duly authorized agent of the author, claimant, or owner of exclusive rights (such as an attorney, trustee, or any one authorized to act on behalf of such parties)

Application Forms

- The Copyright Office provides forms for application for copyright registration.
- Each form is one8½ by 11" (inches) sheet, printed front and back.
- An applicant may use photocopies of forms
- The Copyright Office receives more than 6,00,000 applications each year, each application must use a similar format to ease the burden of examination.
- The type of form used is dictated by the type of work that is the subject of copyright.

For example: One form is used for literary works, while another is used for sound recording. Following are the forms used for copyright application.

- **Form TX** (Literary works, essays, poetry, textbooks, reference works, catalogues, advertising copy, compilations of information, and computer programs)
- **Form PA** (Pantomimes, choreographic works, operas, motion pictures and other audio-visual works, musical compositions and songs.
- **Form VA** (Puzzles, greeting cards, jewellery designs, maps, original prints, photographs, posters, sculptures, drawings, architectural plans and blueprints.
- **Form SR** (Sound recording)
- **Form SE** (periodicals, newspapers magazines, newsletter, annuals and Journals. Etc.

Notice of copyright

- Since March 1, 1989 (the date of adherence by the United States to the Berne Convention), use of a **notice of copyright** (usually the symbol © together with the year of first publication and copyright owner's name) is no longer mandatory, although it is recommended and offers some advantages.
- Works published before January 1, 1978, are governed by the 1909 copyright Act.
- Under that act, if a work was published under the copyright owner's authority without a proper notice of copyright, all copyright protection for that work was permanently lost in the United States.
- With regard to works published between January 1, 1978, and March 1, 1989, omission of a notice was generally excused if the notice was omitted from a smaller number of copies, registration was made within five years of publication, and a reasonable effort was made to add the notice after discovery of its omission.

International Copyright Law

- Developments in technology create new industries and opportunities for reproduction and dissemination of works of authorship.
- A number of new issues have arisen relating to the growth of electronic publishing, distribution, and viewing of copyrighted works.
- Along with new and expanded markets for works comes the ever-increasing challenge of protecting works form piracy or infringement.
- Copyright protection for computer programs
- Copyright protection for Automated Databases
- Copyright in the Electronic Age
- The Digital Millennium Copyright Act

PATENTS

A patent is a government granted right for a fixed time period to exclude others from making, selling, using, and importing an invention, product, process or design, or improvements on such items. These exclusive, monopoly rights are powerful, and in return the inventor is required to describe the invention in writing. The end result is simply a written description, accompanied by diagrams and drawings, that explains the invention. The public benefits because anyone can read the details of the invention and improve upon it. Importantly, the patent not only allows the public to gain an understanding of the invention, but also defines its limits. Once the patent term expires (generally 20 years from the application filing date), the technology covered by the patent becomes a part of the public domain and is essentially free to use by the public.

FOUNDATION FOR PATENT LAW

The main motive behind patent was to encourage scientific research, new technology and industrial progress. Patent law grants a monopoly to the inventor to use their patented product and allow the use of the same to someone with prior permission against certain consideration.Patent confers the right to manufacture, use, offer for sale, sell or import the invention for the prescribed period to the inventor. In short, the patent owner has the exclusive right to prevent or stop others from commercially exploiting the patented invention. Patent protection means that the invention cannot be commercially made, used, distributed, imported or sold by others without the patent owner's consent. It protects against infringement of the patent i.e. if someone tries to replicate the invention or invents against an existing patent the original inventor can enforce their right against such duplicate product.

There is some evidence that some form of patent rights was recognized in Ancient Greece. In 500 BCE, in the Greek city of Sybaris (located in what is now southern Italy), "encouragement was held out to all who should discover any new refinement in luxury, the profits arising from which were secured to the inventor by patent for the space of a year." Athenaeus, writing in the third century CE, cites Phylarchus in saying that in Sybaris exclusive rights were granted for one year to creators of unique culinary dishes.

In England, grants in the form of letters patent were issued by the sovereign to inventors who petitioned and were approved: a grant of 1331 to John Kempe and his company is the earliest authenticated instance of a royal grant made with the avowed purpose of instructing the English in a new industry. These letters patent provided the recipient with a monopoly to produce particular goods or provide particular services.

The first extant Italian patent was awarded by the Republic of Venice in 1416 for a device for turning wool into felt. Soon thereafter, the Republic of Florence granted a patent to Filippo Brunelleschi in 1421. Specifically, the well-known Florentine architect received a three-year patent for a barge with hoisting gear, that carried marble along the Arno River.

Patents were systematically granted in Venice as of 1450, where they issued a decree by which new and inventive devices had to be communicated to the Republic in order to obtain legal protection against potential infringers. The period of protection was 10 years. These were mostly in the field of glass making. As Venetians emigrated, they sought similar patent protection in their new homes. This led to the diffusion of patent systems to other countries.

The Venetian Patent Statute, issued by the Senate of Venice in 1474, and one of the earliest patent systems in the world.

King Henry II of France introduced the concept of publishing the description of an invention in a patent in 1555. The first patent "specification" was to inventor Abel Foullon for "Usaige & Description de l'holmetre", (a type of rangefinder.) Publication was delayed until after the patent expired in 1561. Patents were granted by the monarchy and by other institutions like the "Maison du Roi" and the Parliament of Paris. The novelty of the invention was examined by the French Academy of Sciences. Digests were published irregularly starting in 1729 with delays of up to 60 years. Examinations were generally done in secret with no requirement to publish a description of the invention. Actual use of the invention was deemed adequate disclosure to the public.

The English patent system evolved from its early medieval origins into the first modern patent system that recognised intellectual property in order to stimulate invention; this was the crucial legal foundation upon which the Industrial Revolution could emerge and flourish.

James Puckle's 1718 early autocannon was one of the first inventions required to provide a specification for a patent.Important developments in patent law emerged during the 18th century through a slow process of judicial interpretation of the law. During the reign of Queen Anne, patent applications were required to supply a complete specification of the principles of operation of the invention for public access. Patenting medicines was particular popular in the mid- eighteenth century and then declined. Legal battles around the 1796 patent taken out by James Watt for his steam engine, established the principles that patents could be issued for improvements of an already existing machine and that ideas or principles without specific practical application could also legally be patented.

This legal system became the foundation for patent law in countries with a common law heritage, including the United States, New Zealand and Australia. In the Thirteen Colonies, inventors could obtain patents through petition to a given colony's legislature. In 1641, Samuel Winslow was granted the first patent in North America by the Massachusetts General Court for a new process for making salt.

Towards the end of the 18th century, and influenced by the philosophy of John Locke, the granting of patents began to be viewed as a form of intellectual property right, rather than simply the obtaining of economic privilege. A negative aspect of the patent law also emerged in this period - the abuse of patent privilege to monopolise the market and prevent improvement from other inventors. A notable example of this was the behavior of Boulton & Watt in hounding their competitors such as Richard Trevithick through the courts, and preventing their improvements to the steam engine from being realized until their patent expired.

During the British reign in India, the Act VI of 1856 granted protection of inventions based to inventors of new manufacturers for a period of 14 years. It underwent many modifications thereafter and in 1911 Indian Patents & Designs Act was enacted. Then again modifications took place and the present Patents Act, 1970 came into force in the year 1972, amending and consolidating the existing law relating to Patents in India. The Patents Act, 1970 was again amended by the Patents (Amendment) Act, 2005(1), wherein product patent was allowed against all fields of technology including food, drugs, chemicals and microorganisms. The new law allows compulsory grant of patent except in prohibited cases as done earlier. The new amendment of 2005 also included pre-grant and post-grant opposition. A patent application in India can be filed either individually or jointly, by true and first inventor of the assignee.

PATENT SEARCH

Patent search is a search of the patent database to determine if there are any patent application similar or identical to an invention that is to be patented. Patent search can be done to improve the chances of obtaining a patent registration or to find information about new inventions that have patent protection.

Before filing a patent application, a patent search can help with different objectives like:

- Determining the probability of having a patent granted to a proposed invention.
- Determining the claims to be filed in the patent application.
- Determining the freedom to operate.
- Determining whether a granted patent can be invalidated.
- Knowing more about similar inventions and status of similar patent filings.

The Seven Steps in a Preliminary Search of U.S. Patents and Published Patent Applications

1. Brainstorm terms to describe your invention based on its purpose, composition and use.

2. Use these terms to find initial relevant Cooperative Patent Classifications using the USPTO website's Classification Text Search Tool (https://www.uspto.gov/web/patents/classification/) Enter the keyword or keywords you wish to search in the Search Tool box. For example, if you were trying to find CPC Classifications for patents related to umbrellas, you would enter "umbrella". The default search system is CPC, Cooperative Patent Classification, so the button "All CPC" is selected. Click on the "Search" button. Scan the resulting classification's Class Schemes (class schedules) to determine the most relevant classification to your invention. If you get zero results in your Classification Text search, consider substituting the word(s) you are using to describe your invention with synonyms, such as the alternative terms you came up with in Step 1.

3. Verify the relevancy of CPC classification you found by reviewing the CPC Classification Definition linked to it (if there is one).

4. Retrieve U.S. patent documents with the CPC classification you selected in the PatFT (Patents Full-Text and Image) database (http://patft.uspto.gov). Review and narrow down the most relevant patent publications by initially focusing on the front page information of abstract and representative drawings.

5. Using this selected set of most relevant patent publications, review each one in-depth for similarity to your own invention, paying close attention to the additional drawings pages, the specification and especially the claims. References cited by the applicant and/or patent examiner may lead you to additional relevant patents.

6. Retrieve U.S. published patent applications with the CPC classification you selected in Step 3 in the AppFT (Applications Full-Text and Image) database (http://appft.uspto.gov). Use the

same search approach used in Step 4 of first narrowing down your results to the most relevant patent applications by studying the abstract and representative drawings of each on its front page. Then examine the selected published patent applications closely, paying close attention to the additional drawings pages, the specifications and especially the claims.

7. Broaden your search to find additional U.S. patent publications using keyword searching in PatFT or AppFT databases, classification searching of non-U.S. patents on the European Patent Office's Worldwide Espacenet patent database (http://worldwide.espacenet.com) and searching non-patent literature disclosures of inventions using the free electronic and print resources of your nearest Patent and Trademark Resource Center (http://www.uspto.gov/ptrc).

Patent search in India

There is no cost for doing a patent search in India. A patent search can be done through the Patent database of India available at: http://ipindiaservices.gov.in/publicsearch.

Depending on the status of a patent application, a patent search can be done under two publication types: published or granted. The user can choose the desired publication type by clicking on the checkbox. The user can view many categories like

- Application Date
- Title
- Abstract
- Complete Specification
- Application Number
- Patent Number
- Applicant Number
- Patent Number
- Applicant number
- Applicant Name
- Inventor Name
- Inventor Country
- Inventor Address
- Filing office
- PCT Application Number
- PCT Publication number

The entire category has a drop down box from which the user has access to change the category. There is a search box next to every category where the user can enter the keyword of the patent that he wants to view. By entering a query in more than one box, the applicant can run very precise patent searches. Once the required keywords are entered in the respective boxes, there is a captcha code the user has to clear.

Patent Information

Once the code is entered, there are a number of relevant patent results for the patent search query that the user has entered. On selecting an application, the document opens with the Application Number, Title, Application Date and Status. The user can get further details about the patent by clicking on the Application Number, Title, Application Date and Status. Through patent search, the applicant can find the following information about the patent:

- Invention title
- Publication Number
- Publication Date
- Publication Type
- Application Number
- Application Filing Date
- Priority Number
- Priority Country
- Priority Date
- Field of Invention

Classification

Inventor Name, Address, Country, Nationality
Applicant Name, Address, Country, Nationality

When each column is selected, the patent application's details about that section can be known by the user. When a user selects application number details like Invention Title, Publication number, date, type, etc. There are separate columns that give the user the inventor's and the applicant's Name, Address, Country, and Nationality.

Meaning of Transfer of Patent Rights/Law

Transfer of patent rights is the process by which the ownership or interest in a patent is legally reassigned from one party to another. This transfer can occur through various mechanisms such as assignments, licences or by operation of law. In an assignment, the original patent holder (assignor) transfers their ownership rights to another party (assignee), who then gains the ability to enforce the patent.
Licensing involves granting permission to another party to use the patent under agreed terms without transferring ownership. Transfers can also happen through legal processes such as inheritance or company mergers. The transfer must comply with legal requirements to be valid, often involving written agreements and official registration.

Purpose of Transfer of Patent Rights

The purpose of transferring patent rights is to facilitate the commercialisation, utilisation and broader dissemination of innovations. For inventors and companies, transferring rights can provide financial benefits through sales, licensing fees or royalties, thereby recouping the costs of research and development. It enables entities without manufacturing capabilities or market access to bring inventions to market through partnerships or licensing agreements.

Forms and Nature of Transfer of Patent Rights

The grant of a patent confers upon the patentee the exclusive right to prevent others from making, using, exercising or selling the patented invention without permission. There are several ways a patentee can deal with a patent:

1. Assignment
2. Licences
3. Transmission by Operation of Law

1.Assignment

Assignment involves transferring the proprietary rights of the patent from the patentee (assignor) to another party (assignee). The Indian Patents Act does not define "assignment," but it is generally understood to include the following:

Legal Assignment: This involves transferring an existing patent or agreeing to transfer a patent. The assignee can enter their name as the patent owner. A patent created by deed can only be assigned by a deed and the legal assignee acquires all rights associated with the patent. The process involves:
Drafting a Deed: The deed should detail the rights being transferred and any conditions attached.
Execution: Both parties must sign the deed in the presence of witnesses.
Registration: The executed deed must be registered with the patent office.
Equitable Assignment: An equitable assignment occurs when the patentee agrees to transfer a defined share of the patent to another person. The assignee in this case cannot register as the proprietor of the patent but can have notice of their interest entered in the register.
Mortgage: A mortgage involves transferring patent rights wholly or partially to an assignee in return for a sum of money. Upon repayment, the patent rights are restored to the assignor. The mortgagee's name can be entered in the register as the mortgagee but not as the proprietor. The key steps include:
Agreement: Drafting a mortgage agreement detailing the terms, including repayment schedules and conditions for reverting rights.
Execution and Registration: Similar to assignments, the agreement must be executed and registered.
Repayment and Reversion: Upon repayment, the rights revert to the patentee and the mortgagee's interest is removed from the register.

2. **Licences**

The Patents Act allows patentees to grant licences to others to make, use or sell the patented invention. Licences can be:

Voluntary Licence: These are granted by the patentee without government intervention. The terms are mutually agreed upon by the licensor and licencee. The process involves:
Negotiation and Agreement: The licensor and licencee negotiate terms, including scope, duration and royalties.
Written Agreement: The terms are documented in a written contract, signed by both parties.
Execution: The licence becomes effective upon execution and the licencee can use the patent as agreed.
Statutory Licence: These are granted by the government, often in the public interest, such as compulsory licences under specific conditions.
Exclusive/Limited Licence: An exclusive licence grants the licencee the sole right to use the patent, excluding even the patentee. A limited licence restricts the rights to specific conditions like time, place or purpose.
Express/Implied Licence: An express licence is explicitly stated in writing, while an implied licence is inferred from circumstances, such as purchasing a patented product implying permission to use it.
3. Transmission by Operation of Law
When a patentee dies, their interest in the patent passes to their legal representative. Similarly, in cases of company dissolution or bankruptcy, the patent rights are transferred by operation of law.
Transmission by operation of law occurs in cases such as:

Death of Patentee: The patent rights pass to the legal representative of the deceased.
Company Dissolution: The patent rights are transferred as part of the liquidation process.
Bankruptcy: The patent rights may be sold or transferred to settle debts.