

Value added course **Intellectual Property Rights**

Chapter - 1



What we are going to discuss

Introduction on IPR

Why we learn IPR

Kinds of IPR

IPR in India

IPR in abroad

Major International agreements

Intellectual Property (IP) - Introduction

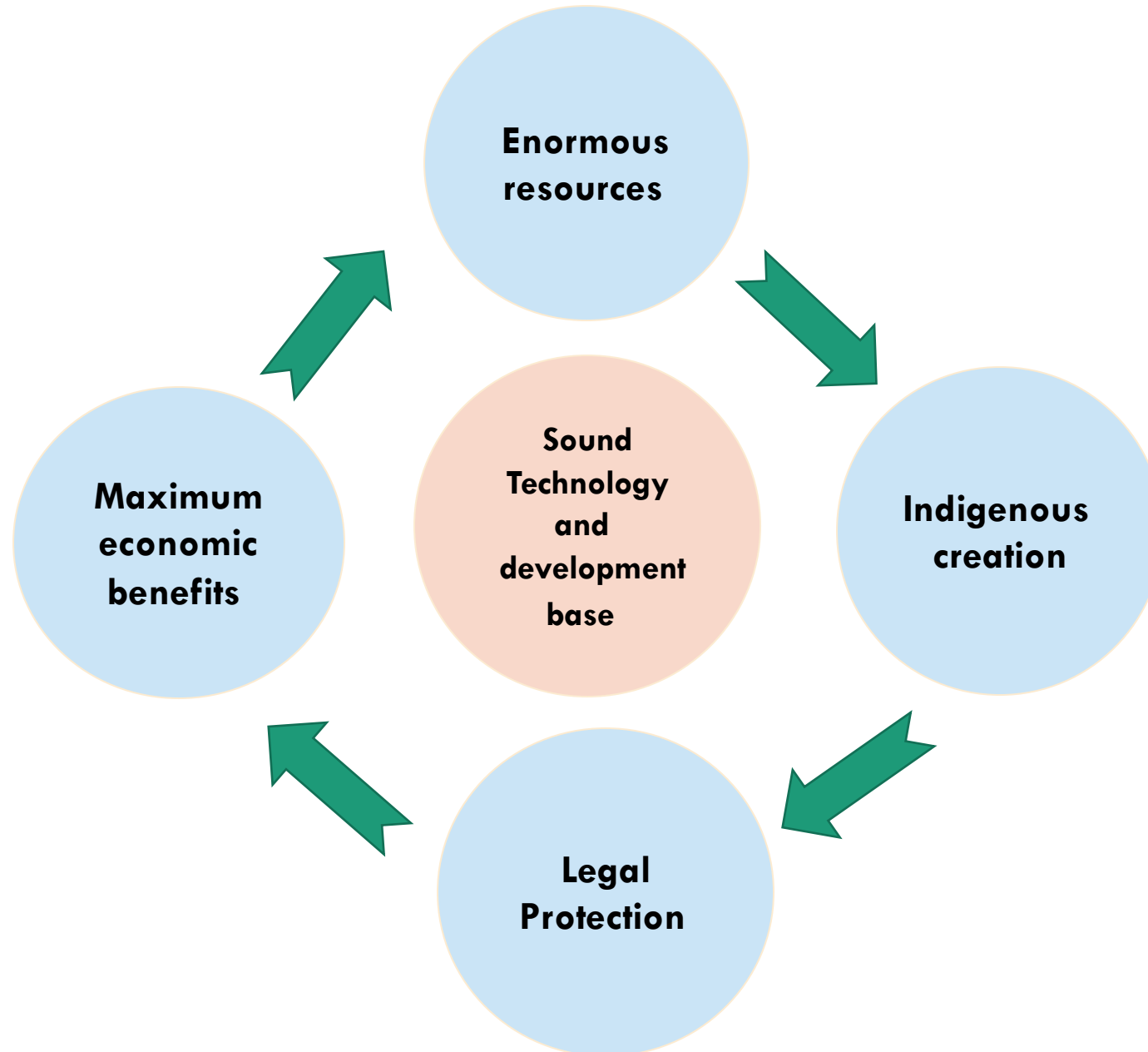
- ✓ **IP means the property, which is created with intellect such as inventions, books, paintings, songs, symbols, names, images, or designs used in business, etc.**

- ✓ **IP, like any real property that**
 - ❖ **Can be bought, sold, licensed, exchanged, given away**
 - ❖ **The owner can prevent unauthorized use and can take legal action, in case someone else uses it without permission.**

- ✓ **Legal rights conferred on such property are called “Intellectual Property Rights” (IPRs).**

- ✓ **These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.**

Need of Intellectual Property (IP)



Need of Intellectual Property (IP)

- ✓ **Intellectual Property Rights (IPR) have become important in the face of changing trade environment such as**
 - global competition**
 - high innovation risks**
 - short product cycle**
 - need for rapid changes in technology**
 - high investments in research and development (R&D)**
 - highly skilled human resources**

- ✓ **With the opening of trade in goods and services, there is an possibility of infringement leading to inadequate return to the creators of knowledge**

- ✓ **IPR ensure R&D costs and other costs associated with introduction of new products are recovered and enough profits are generated in the market**

Need to learn Intellectual Property (IP)

- ✓ **Intellectual property rights deal with largely three things:**
 - about the rights**
 - the creation of those rights**
 - its enforcement**

- ✓ **When you working on a team that invents something—that has potential commercial value. A basic understanding of the legal basis of IP can prepare to make the best choices involved with a commercialisable invention**

- ✓ **IP has become the new watchword in almost any career. Look around and find imprint of IP everywhere**

- ✓ **As a result, any person today who does not understand at least the basics of intellectual property and its value and role in science, business, arts, and the professions will find him or herself at a distinct disadvantage in the world of tomorrow**



INDIVIDUALS



SCHOOLS



COLLEGES



UNIVERSITIES

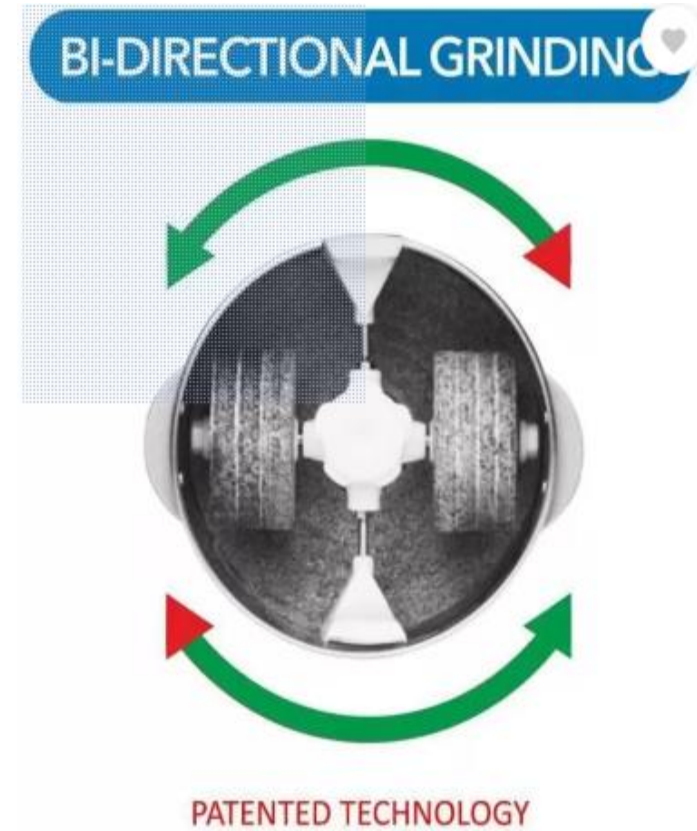


RESEARCH LABS



COMPANIES

Do you watch this?



Terminology

A Patent gives monopolistic rights to its owner to exclude others, from making, using, selling, offering for sale or importing the product or the process for producing the product without his consent



Patents

What?

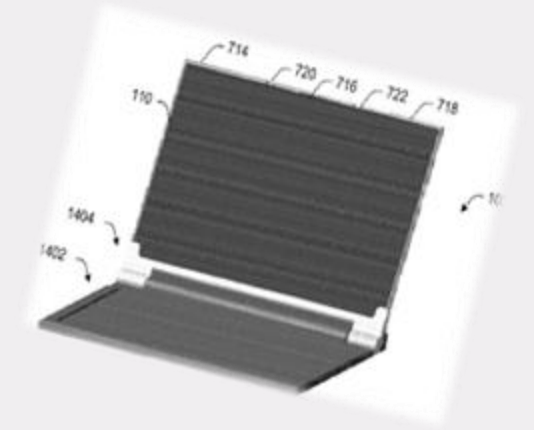
Any product or process which is new, non-obvious and capable of industrial application can be patented. The term of every patent in India is twenty years from the date of filing the Patent application

Do you watch this?



Terminology

Industrial Designs are the features of shape, configuration, pattern, ornament or composition of lines or colours applied to the product which makes it look different from other articles in the market.



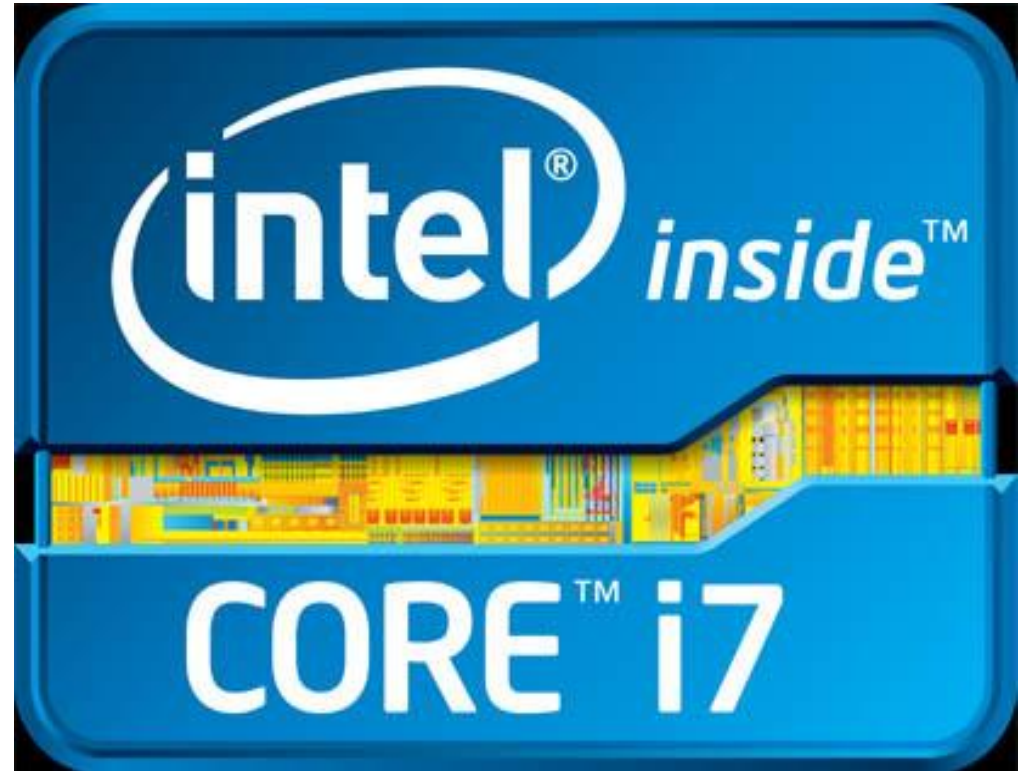
What?

The design must be new and distinct. The design protection is provided for 10 years. The period of protection is extendable to 5 years after the expiry of 10 years' duration.



Designs

Do you watch this?



Terminology

TM ®

Trademark is a mark accorded with protection, intended to serve the purpose of recognizing the source/origin of the goods or services to which the particular mark belongs.



What?

A trademark is a mark which is unique, distinctive, made up of names, symbols, signs etc., and capable of distinguishing one product from another. Term of registration of a trademark is ten years, which may be renewed for a further period of ten years on payment of prescribed renewal fees.



Trademarks

Do you watch this?



01

Terminology

Copyright is an exclusive legal right protects “original works of authorship” that are fixed in “a tangible form of expression.” Copyright owner has rights to reproduce, translate, adapt, perform, distribute and publicly display the work, etc.



Lifetime of author + 60 years after death

60 years from publication

02

What?

Literary including Software, Artistic, Dramatic, Musical, Sound Recording, Cinematograph Films fall into copyrightable works



Copyrights

Do you watch this?



Terminology

Geographical indications of goods are defined as that aspect of industrial property which refer to the geographical indication referring to a country or to a place situated therein as being the country or place of origin of that product



10 Years + Renewal for other 10 years

What?

Geographical Indication is primarily an agricultural, natural or a manufactured product (handicrafts and industrial goods) originating from a definite geographical territory.



Do you watch this?

**PROTECTION OF PLANT VARIETIES
AND
FARMERS' RIGHTS AUTHORITY
MINISTRY OF AGRICULTURE,
GOVT. OF INDIA**



Terminology

To provide an effective system for protection of Plant varieties and rights of farmers and plant breeders.

To recognize the farmers in respect of their contributions

What?

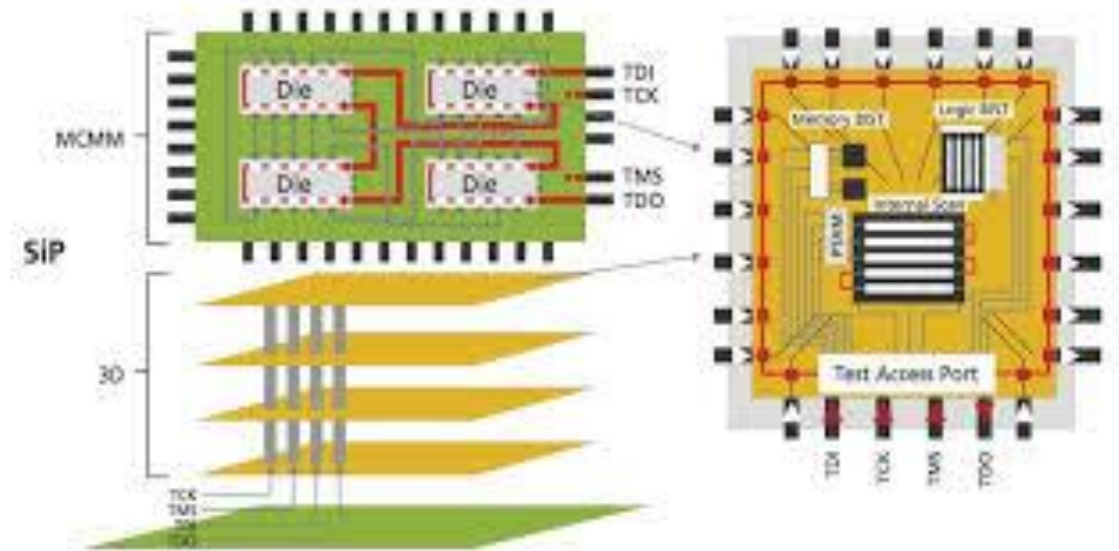
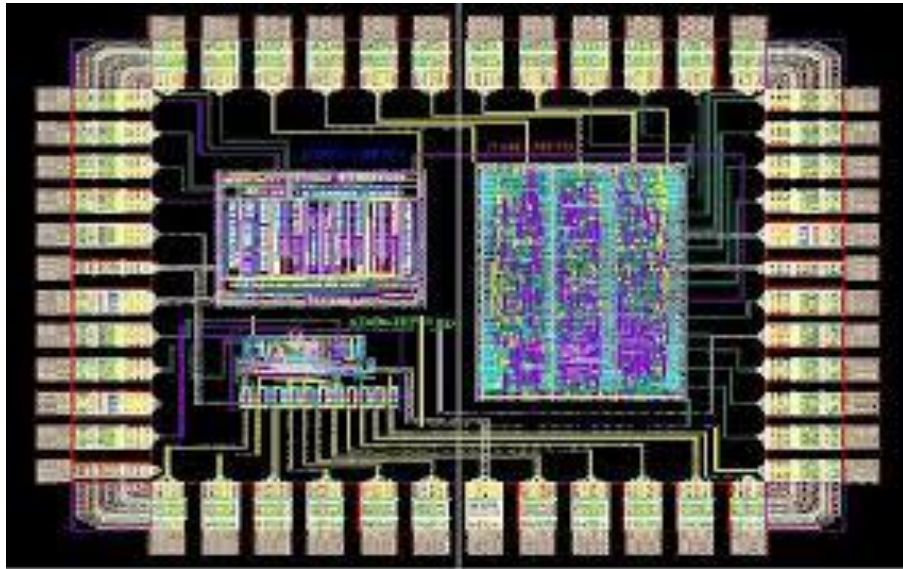
**New Variety,
Derived
Variety**

**Trees & Vines
– 18 years;
Other Crops
– 15 years**



Plant protection

Do you watch this?



10 Years

Terminology

**Protection
provided for the
'layout-designs'
of a
semiconductor
integrated circuit**

What?

**Original,
Distinctive,
Capable of
distinguishing
from any other
layout design**



**Semiconductor
Layout design**

Do you watch this?



Genetic Resources & Traditional Knowledge

- **Genetic resources (GRs) refer to genetic material of actual or potential value**
- **Genetic material is any material of plant, animal, microbial or other origin containing functional units of heredity**
- **Traditional knowledge means the knowledge, systems, innovations and practices of local communities across the globe**

The Biological Diversity Act, 2002 was enacted for preservation of biological diversity in India, and provides mechanism for equitable sharing of benefits arising out of the use of traditional biological resources and knowledge





Traditional Knowledge Digital Library

Set up in 2001 by Council of Scientific and Industrial Research (CSIR) in collaboration with the **MINISTRY OF AYUSH**

Encourages modern research based on **Traditional Knowledge**

Maintains the ancient knowledge and traditionally passed verbal knowledge e.g., Knowledge about medicinal plants

Access given to several **International Patent Offices**

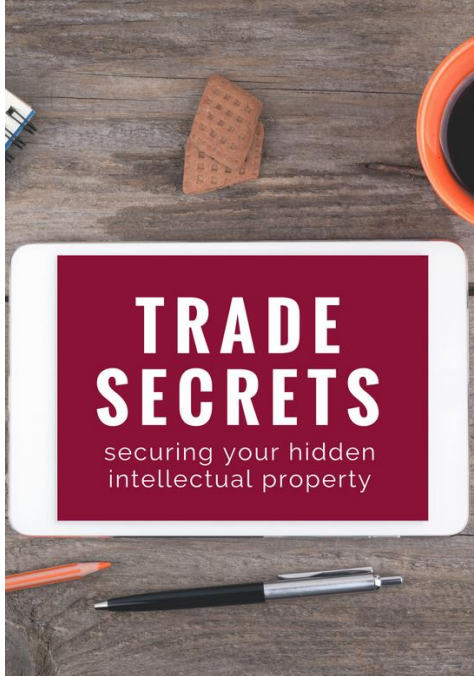
Wrong Patents in traditional knowledge are prevented from being granted - TKDL is an effective deterrent against bio-piracy

Translations available in 5 international languages i.e. English, Japanese, French, Spanish and German

3,00,000+ entries of traditional Indian medicinal systems of **Ayurveda, Unani, Siddha and Yoga**

Do you watch this?





Trade Secrets

- **Any confidential business information which provides an enterprise a competitive edge may be considered a trade secret. Trade secrets encompass manufacturing or industrial secrets and commercial secrets**
- **Trade Secrets may include R&D Information, Software Algorithms, Inventions, Designs, Formulas, Financial Records, Ingredients, Lists of Customers, Devices, Methods, Consumer Profiles and Advertising Strategies or Policies of a Company, etc.**
- **A trade secret can be protected for an unlimited period of time**

Management or Commerce Students



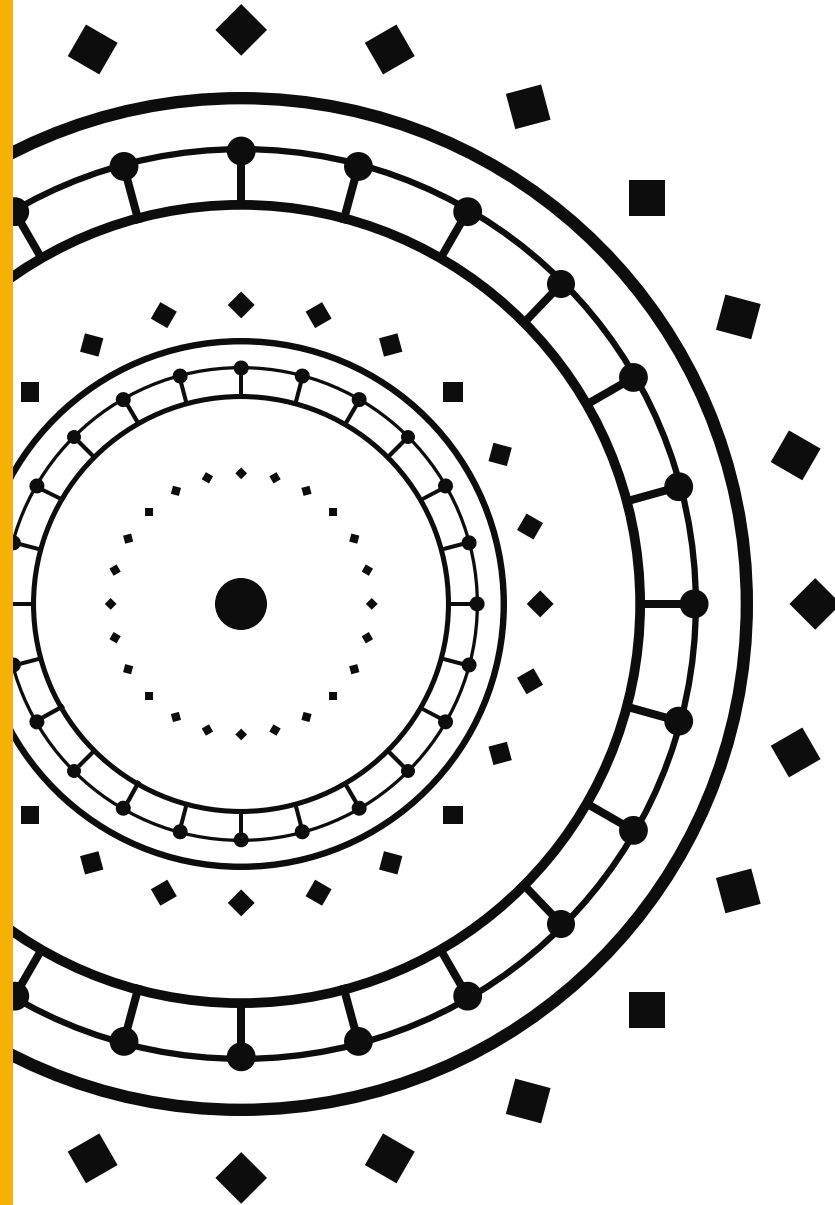
How these studies will be useful to you?

- ✓ **There is an interesting analysis of how to convert limited life intellectual property into unlimited life intellectual property.**
- ✓ **Now, this is a key thing which manager should be acquainted.**
- ✓ **You need to manage the IP Portfolio of the company**
- ✓ **With because rights like patents, copyright, and designs, are called limited life IP. Whereas, trademarks and trade secrets are unlimited life. In the sense that there is no expiry date attached too so, managers are constantly looking at how they can convert a limited life IP into an unlimited life IP**



Careers
in
private.

Corporate
Offices,
R&D
Centers



Patent
Docketing
officer

Patent
paralegal

Patent
Manager

What is your role here?

Manage the intellectual property assets by

- **Identification**
- **Patenting**
- **Licensing**
- **Marketing**
- **Reporting**

Develop appropriate commercialization strategies for intellectual property, including identifying prospective licensees through the use of information bases, discussions with inventors, and contacts obtained through industry affiliation.

Salary Package



About **2 lakh – 5 lakh p.a**

OTHERS...



01

Consultant

● IPR rules and regulations



Entrepreneur



02



IPR services ●

OTHERS...



03

Patent Agent

- Science / Technology Degree
- Patent act and rules
- Patent application drafting



Science / Technology Degree ●

Law Degree ●

Patent Attorney



04



Intellectual Property System – Indian Scenario

The Act VI of 1856 on protection of inventions based on the British Patent Law of 1852. Certain exclusive privileges granted to inventors of new manufacturers for a period of 14 years.



1856

1859

The Act modified as act XV Patent monopolies called exclusive privileges (making. Selling and using inventions in India and authorizing others to do so for 14 years from date of filing specification).

**The Patterns and
Designs Protection Act**

1872

1883

**The Protection of
Inventions Act**

**Consolidated as the
Inventions & Designs
Act**

1888

The Indian Patents and
Designs Act

1911



1970

Indian Patents Act

Amendment : 1999, 2002 and 2005

Other IP Acts in India

- ✓ **Designs Act, 2000**
- ✓ **Trademarks Act, 1999 (as amended)**
- ✓ **The Copyright Act, 1957 (as amended)**
- ✓ **The Geographical Indications of Goods (Registration & Protection) Act, 1999**
- ✓ **The Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001**
- ✓ **Semiconductor Integrated Circuits Layout-Design Act, 2000**

Intellectual Property System – Global Scenario

- ✓ **The need for a system to protect IP internationally arose when foreign exhibitors refused to attend an International exhibition of inventions in Vienna in 1873 (because they are afraid that their ideas would be stolen and exploited commercially in other countries)**
- ✓ **This led to the creation of the Paris convention for the protection of Industrial property of 1883 (the Paris convention was the first major international treaty)**
- ✓ **In 1886, copyright entered the international arena with the Berne convention for the protection of literary and artistic works**
- ✓ **Both these convention set up international bureaux to carry out administrative tasks. In 1893, these two small bureaux united to form an international organisation called the United international bureaux for the protection of intellectual property, best known by its french acronym, BIRPI was the predecessor of WIPO**

Intellectual Property System – Global Scenario

- ✓ **The enforcement differences were a source of tension in international economic relations. Thus a need for harmonisation and predictability for disputes to be settled more systematically.**
- ✓ **Ideas and knowledge constitute an important part of trade. Creators have a right to prevent others from using their inventions, designs or other creations.**
- ✓ **WTO agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement), which came into force in 1995, brought with new era in the multilateral protection and enforcement of IP rights.**
- ✓ **Provisions in the TRIPS agreement are concerning copyright and related rights, patents, trademarks, geographical indications, industrial designs and layout designs**



WIPO

WORLD
INTELLECTUAL PROPERTY
ORGANIZATION



सत्यमेव जयते

**Department of Commerce
Ministry of Commerce and Industry
Government of India**



सत्यमेव जयते

Department of Industrial Policy and Promotion
Ministry of Commerce and Industry
Government of India



INTELLECTUAL
PROPERTY **INDIA**

PATENTS | DESIGNS | TRADE MARKS
GEOGRAPHICAL INDICATIONS



Copyright Office
Government of India



Intellectual Property Appellate Board

Ministry of Commerce and Industry

Old (Department of Industrial Policy & Promotion)

New (Department for Promotion of Industry and Internal Trade)

From regulation and administration of the industrial sector, the role of the Department has been transformed into facilitating investment and technology flows and monitoring industrial development in the liberalised environment.

Strengthen the capabilities of the Intellectual Property Offices in India; to develop a vibrant Intellectual Property regime in the country.

Major International instruments concerning IPR

- ✓ **Paris Convention for the Protection of Industrial Property (1883)**
- ✓ **Berne Convention for the Protection of Literary and Artistic Works (1886)**
- ✓ **Universal copyright convention, 1952**
- ✓ **WIPO Convention, 1967**
- ✓ **Patent Cooperation Treaty (PCT) (1970)**
- ✓ **TRIPS (Trade related Intellectual Property Rights) Agreement, 1994**

Paris Convention for the Protection of Industrial Property (1883)

What?

Industrial property

- Patents
- Trademarks
- Industrial designs
- Utility models
- Service marks
- Trade names
- Geographical indications
- Repression of unfair competition

Terminology

National treatment (grant the same protection to nationals of other)

Right of priority (first application filed in one of the Contracting States apply for protection in any of the other – 12 months (Patents) 6 months (Designs))

Common rules (granted in different Contracting States for the same invention are independent of each other)

Outcomes

The Paris Convention does not regulate the conditions for the **filing and registration of marks (Administered by domestic law)**

1

Paris Union

Assembly and an Executive Committee

Every State that is a member of the Union

Executive Committee are elected from among the members of the Union, except for Switzerland, which is a member ex officio

Biennial program and budget of the WIPO Secretariat

2

- **Concluded : 1883**
- **Revised:**
 - Brussels in 1900**
 - Washington in 1911**
 - The Hague in 1925**
 - London in 1934**
 - Lisbon in 1958**
 - Stockholm in 1967**
- **Amended :1979**

Berne Convention for the Protection of Literary and Artistic Works (1886)

What?

Protection of works and the rights of their authors

Three basic principles

- National treatment
- Automatic protection
- Independence of protection

Terminology

Minimum standards

- Protection for every production in the literary, scientific and artistic domain in any form
- The right to translate, make adaptations and arrangements, perform in public, communicate to the public, broadcast, make reproduction
- Duration of protection (50 years after death of author)

Outcomes

Exceptions: Provide "free uses" for educational activities with due credits

1

Berne Union

Assembly and an Executive Committee

Every State that is a member of the Union

Executive Committee are elected from among the members of the Union, except for Switzerland, which is a member ex officio

Biennial program and budget of the WIPO Secretariat

2

- **Concluded : 1886**

- **Revised:**

 - Paris in 1896**

 - Berlin in 1908**

 - Rome in 1928**

 - Berlin in 1908**

 - Brussels in 1948**

 - Stockholm in 1967**

 - Paris in 1971**

- **Amended :1979**

Universal copyright convention, 1952

What?

Some countries disagree with Berne convention

UNESCO develops it as an alternative to the Berne Convention

United States

Russia (1973)

Terminology

The United States only provided copyright protection for a fixed, renewable term, and required that in order for a work to be copyrighted it **must contain a copyright notice and be registered at the Copyright Office**

Berne Convention, on the other hand, provided for copyright protection for a single term based on the life of the author, and **did not require registration or the inclusion of a copyright notice** for copyright to exist

WIPO Convention, 1967

What?

Constituent instrument of
**World Intellectual
Property Organization
(WIPO)**

Signed at Stockholm on July 14, 1967
Entered into force in 1970
Amended in 1979

Terminology

Two main objectives are

- (i)** to promote the protection of intellectual property worldwide; and
- (ii)** to ensure administrative cooperation among the intellectual property Unions established by the treaties that WIPO administers

Setting of norms, standards, international classification etc.,

Outcomes

1

- WIPO General Assembly
- WIPO Conference
- WIPO Coordination committee

Secretariat of the Organization is called the **International Bureau**. The executive head of the International Bureau is the **Director General**

2

Headquarters: Geneva, Switzerland

Other Offices:

- Brazil (Rio de Janeiro)
- Japan (Tokyo)
- Singapore (Singapore)
- United States of America (at the United Nations in New York)

Patent Cooperation Treaty (PCT) (1970)

What?

Seek patent protection by filing an **"International" patent application**

Treaty regulates the formal requirements of International applications

File your application in designated countries

Provides International search

Terminology

Advantages

- Brings the world within reach
- Evaluate possibility of patenting through International search report and written opinion
- Puts the world on notice of their applications

The PCT created a Union which has an Assembly. Every State party to the PCT is a member of the Assembly

TRIPS (Trade related Intellectual Property Rights) Agreement, 1994

What?

Member nations of the World Trade Organization (WTO)

- Copyright and related rights
- Trademarks
- Geographical indications
- Industrial designs
- Patents
- Protection of new varieties of plants
- Layout-designs of integrated circuits
- Undisclosed information

Terminology

Standards (subject-matter to be protected, the rights to be conferred and permissible exceptions to those rights, and the minimum duration of protection)

Enforcement (procedures and remedies)

Dispute settlement (WTO's dispute settlement procedures)

Links for Reference

World Intellectual Property Organisation

<http://www.wipo.int/portal/en/index.html>

Intellectual property India

<http://www.ipindia.nic.in>

Cell for IPR promotion and Management (CIPAM)

<http://cipam.gov.in/>

To know more...

Visit : <http://www.bdu.ac.in/cells/ipr/>

E-Books on IPR :

<http://www.bdu.ac.in/cells/ipr/docs/ipr-tamil-ebook.pdf> (Tamil)

<http://www.bdu.ac.in/cells/ipr/docs/ipr-eng-ebook.pdf> (English)

E-mail: iprcell@bdu.ac.in

Thanks for your Participation

