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Book Introduction

I always had a question nagging me right from my engineering days “Why does research in the labs not lead to products in the market, benefitting society?”

This was the start of a fascinating journey which led me to try out different things such as working with a medical informatics company, exposing me to doctors and healthcare researchers. I also got a taste of how research and development take place in the corporate sector. After this, I founded Scinnovation Consultants Pvt. Ltd. in 2005 to focus on recruitment of scarce talent for corporate R&D sector with focus on healthcare space such as pharma, biotech, bio informatics, medical equipment etc.

We were honoured to have got an opportunity to create a knowledge base of researchers and technologists of Indian origin based across the globe for National Knowledge Commission (under the Prime Minister's Office, India) but unfortunately it couldn't take off beyond the prototype stage.

That got me thinking, lots of prototype but no final product to boast about!

So I decided to work in the heart of innovation space which is commercialisation.

Since the innovation ecosystem was just about taking shape in India in 2008, the choice was limited but I got an opportunity to work with Villgro Innovations Foundation, a social incubator as the head of 'Technology Transfer' based in Chennai and took a sabbatical from Scinnovation.

The breadth of work at Villgro was astounding, ranging from incubation, innovator capacity building, organising innovation awards, and creating an innovation marketplace, where deals take place between innovators and entrepreneurs so that ideas don't die and benefit all the stakeholders.

I also got an opportunity to specialise in intellectual property and qualify as a Patent Agent (examination held by the Indian Patent Office for drafting and

filing of patents, and related work) in 2010.

After this, I restarted Scinnovation in April 2011 with a tagline “Scaling Innovations”.

All through, I had identified knowledge gaps in people from different backgrounds with whom I had interacted in their understanding of intellectual property and how it affects them.

I also tested people's understanding of intellectual property through quizzes and workshops which gave me a clear sense of what was required.

Also somewhere in 2008, I had made up my mind to create a sporty character which could be used by us as the friendly face of Scinnovation in our endeavours and various activities.

So a character called “**BENCIL**” was coined, an acronym for 'Bulb' and 'pENCIL' representing an idea in action.

In 2010 I set about writing a book to address intellectual property basics in layman's language meant to engage and interest the readers by sharing a lot of insights and on-the-ground understanding of the situation.

Finally, our efforts have fructified leading to this book “*Bencil presents Protect Your Ideas*” you are holding in your hands.

This book is primarily targeted at individual innovators, students, academicians, researchers and entrepreneurs but a lot of care has been taken so that even a home-maker can enjoy and appreciate the same.

Hopefully, this is the start of many more engagements with readers such as you in the near future!!

Happy Reading :-)

Acknowledgement

I sincerely acknowledge the following people because of whom I have been able to convert my dream into a reality!!

My Dad who has always pushed me to seek perfection, my Mom who has been a pillar of support, my dearest wife who has always stood by me, my sister & brother in law for providing love and affection during my job in Chennai and all my other family members.

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How can I forget, our printer **Vineet Mehra** & DTP specialist, **Pawan Mishra** who have helped deliver a good quality book on time!!

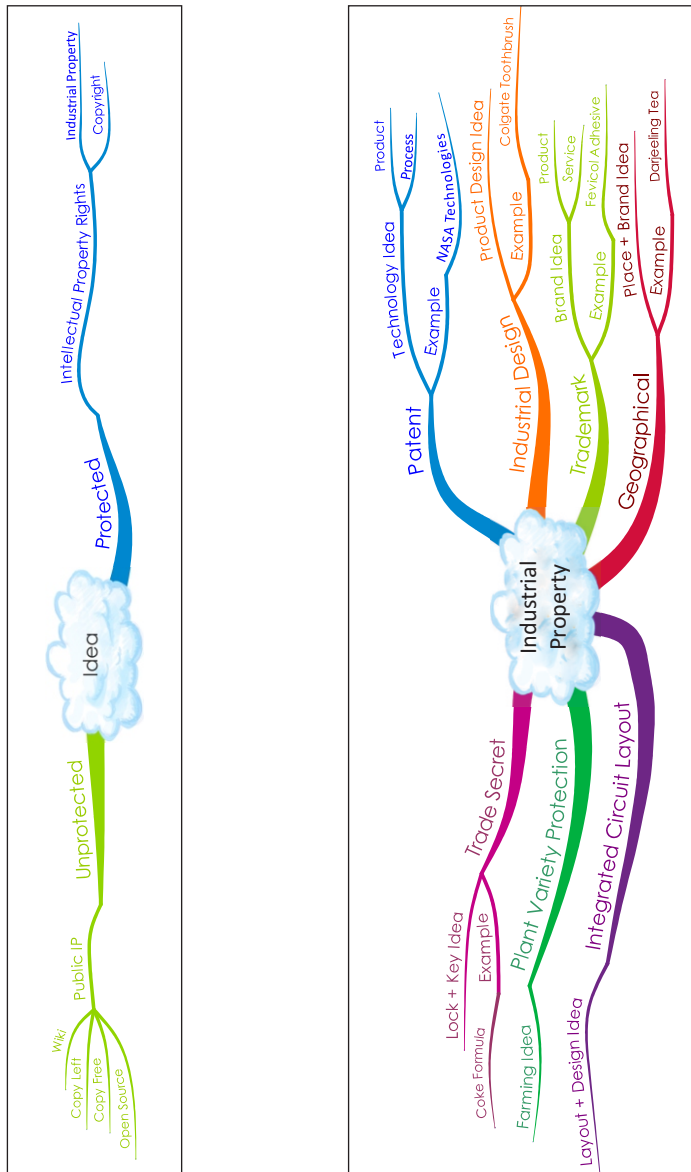
Also thanks to **Shradha Sharma** for giving me an opportunity to write, **Dipak Parmar** for legal advice & **Suresh Sukheja** for his inputs.

And last by not the least, all whose who have praised or critiqued my work, supported me in some form or another and always prayed for me.

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Idea + Intellectual Property Snapshot



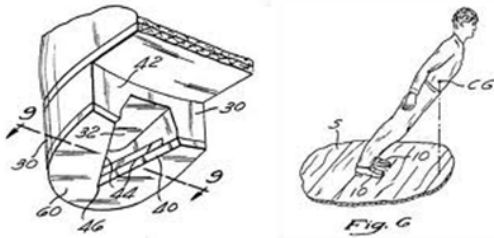
Source : www.ThinkBuzan.com

Chapter # 1 Patent

Match the following celebrity inventors with their invention

Sr. No.	Celebrity Inventor	Invention
1	Steven Spielberg	Musical instrument support
2	Mark Twain	Blowout toy
3	Julie Newmar	'Chum Magic', a floating apparatus that fishermen can fill with chum to lure fish to their boats
4	Michael Jackson	Dolly track switch
5	Abraham Lincoln	Device for filling blood containers
6	Marlon Brando	Improvement in scrap books
7	Steve McQueen	Pantyhose with shaping band for cheeky derriere relief
8	Christie Brinkley	Electronic keyboard
9	Gary Burghoff	Cardiac pulse rate monitor
10	Zeppo Marx	Buoying vessels over shoals
11	Walt Disney	Panoramic motion picture presentation arrangement (co invented)
12	Paul Winchell	Improved bucket seat
13	Prince Rogers Nelson	Anti gravity shoes
14	Danny Kaye	An educational toy useful for helping kids learn alphabets
15	Eddie Van Halen	Drumhead tensioning device and method
16	Harry Connick, Jr.	System and method for coordinating music display among players in an orchestra

Answer: Page no. 29



Source: US Patent Office website

Scenario

Bencil was forced to use a ball point pen for official purposes such as signing of a cheque, legal documents etc. but he was frustrated with the repeated ink leakage from the pen which spoiled the documents, hands and, at times, clothes.



So Bencil thought of an invention, to make a pen which does not leak even when kept open for a long time.

This invention of a 'leak proof pen' was new, added value by addressing the problem of leakage and there was a use for it.



Thus Bencil was eligible for a patent for his invention of a 'leak proof pen', although it was just an idea and not a ready product at that point of time.

What is a patent?

Patent is a legal right granted to the patent owner for inventing a new technology which can either be a product or process or both, and it excludes others from making, selling or importing the patented technology without the permission of the patent owner for a limited period of time.

In short, a patent provides a monopoly to the patent owner for a limited period of time.

Why is a patent granted?

When an inventor or an organisation spends time, intellect and resources to solve a technological problem and invents a solution, the government of the land provides a benefit to the inventor or organisation to file for a patent which, when granted, will provide legal rights to the patent owner.

The logic used is 'Give and Take'.

The inventor or organisation will share all the technical information with regards to the invention in the patent application (which is in public domain after the application is published).

This can be used by interested parties such as competitors, government organisations, individual inventors etc. leading to further development of science and technology. In return, the government of the land provides a legal right to the patent owner for a limited period of time (20 years from date of filing patent in most countries including India).

The patent owner can sell or rent the technology (which can be a product or process or both) in countries where the patent owner has legal rights in a monopoly scenario to recover the cost of investment made in inventing and developing the new technology and profit from it.

When should one consider filing a patent?

If you as an engineer, industrial designer, technician, technology solution provider, student, faculty, an employee of an organisation or in any other capacity have done any of the following:

- ⇒ Provided additional features / functionality in a product
- ⇒ Addressed the shortcomings in an existing product
- ⇒ Provided additional convenience to an existing product
- ⇒ Made a process more efficient
- ⇒ Simply reduced the cost of an existing product or process using new materials (not available in nature) and techniques you may be eligible for a patent.

A patent has to satisfy the following conditions: -

1. Novelty

According to patent office, novelty means an idea which is not in the market place or has not been disclosed in existing patents (either published or granted) anywhere in the world or in scientific journals or in any other literature, or displayed in public exhibitions or is traditional knowledge (for example, medicinal properties of neem, turmeric powder etc.) anywhere in the world.

2. Inventive Step

Inventive Step simply means that $1 + 1 \neq 2$ i.e. there has to be a value added to an existing product or process so that $1 + 1 = 3$ or more.

This means you have added a new feature or reduced cost or made it easier to use or made it maintenance free etc. in an existing product; you have made the process more efficient or reduced energy cost or controlled pollution etc. in an existing process or in both product & process.

3. Industrial Use

Industrial Use refers to an application for the technology being invented i.e. there is a likely use for the product and it can be reproduced (made at an industrial scale).

For example, a complex rocket system which has been invented but a second or subsequent system has no use will not be patentable.

Also bear in mind that any invention which is a likely threat to the security of a nation including atomic bomb, defence equipment etc. will have to get an approval from the defence / concerned department before the patent office considers it for grant of patent.

You should consider patenting an idea once you do the following in normal circumstances: -

- i. Check if you have clearly added value to an existing product or process or technology as discussed in the Inventive Step section above.

One of the best ways of finding value added is to ask the question "Is it cheaper, better, faster?"

- ii. Find out if there is a likely use for your invention by asking simple questions such as 'Who will benefit from my invention?' or 'My invention can be used by which industries?' etc.

- iii. Search for similar ideas in patent databases such as [google.com/patents](https://www.google.com/patents)

or www.freepatentsonline.com which are free and reliable resources

iv. Search for existing technology in the market by looking at marketplace websites such as www.alibaba.com, www.indiamart.com etc., as also www.youtube.com for demonstration of a similar product or process like the one you have invented

v. You want to commercially benefit by patenting the idea either by selling, or renting the idea, or starting a venture to make and/or market the idea, or partnering with an existing player to take the idea to the market etc.

Important things to remember

I. First to File system is used in most countries (it is important to file as early as possible)

Let us consider two inventors, Bencil and 'X', who invented the same technology, Y. Inventor 'X' wants to fully develop and test the technology idea 'Y' before filing for a patent. Bencil realises that fully developing the technology idea 'Y' will take some time as also in the course of development, the technology idea 'Y' might be shared with others and so decides to file for a patent.

Since Bencil was the first to file the patent in India for technology 'Y', the application would receive priority over Inventor 'X's application which can be rejected by patent office as it will be considered Prior Art (known technology).

United States of America which has been using 'First to Invent' system will switch to 'First to File' system on 16-March-2013 after the enactment of 'America Invents Act'.

ii. Facility of filing Provisional Patent application with 12 months to file final patent application

Think of a Provisional Patent application as your preliminary exams and Final Patent application as your final exams, which gives you sufficient time to prepare for the same i.e. period of 12 months from date of filing.

Note that in this case date of patent is taken as the date of provisional filing and not date of final filing.

iii. **Invention is Global, Patent is Local**

Although your invention has to be global to satisfy the criteria of novelty for grant of a patent, do bear in mind that a patent is granted country wise. So if you apply for a patent in India and the same is granted, the patent is not applicable in USA and vice versa. If you wish to hold patent rights in USA, then you need to apply separately in USA and the patent will be granted based on the patent law prevailing in USA.

iv. **Patent is a generic term used for any form of IP**

Just as a certain brand becomes synonymous with a perfect category such as 'Post it' in the sticky note product category, patent is popularly used as the generic term amongst all types of Intellectual Property.

But do keep in mind that different ideas are eligible for different type of protection which are discussed in subsequent chapters.

v. **Just like real estate, a patent can be bought, rented (licensed) to one or multiple entities or sold**

Bencil follows a strategy of leveraging his IP assets to maximise his returns and create win-win situations. So as a serial inventor, he keeps inventing new ideas, files for patents, makes a working prototype to prove the concept and then goes about renting (licensing is the industry term used) his patent to one or multiple parties depending on the value of the patent and the commercials involved.

Common Misconceptions and Issues

⇒ My idea has to be a path breaking invention to be patentable

A patent is granted as long it fulfils the 3 basic criteria followed by patent offices across the globe, i.e., Novelty, Inventive Step and Industrial Use.

Do keep in mind that any idea will build on an existing idea / pool of ideas and when we mention path breaking it refers to the impact it can create and scale it can achieve.

What is very important is to keep in mind the value added to an existing idea i.e. Inventive Step and the size of the market which will determine whether the idea is worth pursuing or not.

⇒ I am not ready with my prototype, so want to complete the same before filing for a patent

A patent office will ask for a prototype in the rarest of rare cases, where they are not clear on the functioning of the idea or believe it could be a security threat to the nation.

Also, in India, 'First to File' system is followed, which means even though you are first to invent an idea but do not protect the same, you might lose the rights for the same.

⇒ Don't know if there is a market for my technology and whether it is worthwhile filing for a patent

There is a famous quote from Late Thomas Watson, former Chairman and CEO of IBM, one of the largest Information Technology companies in the world, "I think there is a world market for maybe five computers"!

If your idea hopes to create a completely new product category, then in all probability it will not be an easy sell to start with. It is difficult to conceptualise the need for a new product as the customer may not be able to associate with the same.

Therefore usually market research does not help quantify the market for new ideas which are "category creators" because the consumer cannot relate to the same. And most importantly unless they can see and feel the product, the consumer cannot make up their mind whether they will use such a product.

So the best thing to do is to make few sample pieces with the most important working features for the consumer to experience the product. Based on consumer response and experience, you will have a fairly good idea whether they will be interested in the product.

There are industrial products or processes which cannot be sampled or prototyped. In that case, try to give a virtual tour of the idea using real life simulation so that the customer can relate to your idea and visualise the same.

⇒ I did a college project to solve a technology problem which involved my guide and college laboratory, now they also want ownership over the technology

Find out whether your college has a written Intellectual Property (IP) policy. If so, is ownership of an idea clearly defined. Also check whether your college provides for cost related to undertaking a Prior Art Search to determine patentability of the idea and filing of patent.

In case the college does not have an IP policy, take up the matter with the Head of the Institute to understand their stance on the matter and negotiate to have full or at least partial ownership of the idea. If the college wants to partly own the idea, then find out whether they are willing to bear the cost for funding of patent filing and product development as also provide institutional support in terms of faculty time, laboratory facilities etc.

In the case of a premier technology institute in India, India Institute of Technology (IIT), the standard revenue sharing ratio is 70: 30 i.e. 70% for the innovator & 30% for the institute, for sale or licensing of a patent / technology.

⇒ We are a group of Inventors and unable to address ownership issues

First of all determine whether all the inventors are interested in developing the technology or product.

In case one or more inventors are not interested in development work, then it makes sense to convince them to get acknowledged as an inventor and/or pay appropriate compensation which could be reimbursement of expenses incurred and a little extra without providing them ownership of patent.

If all the inventors are interested in developing the idea and commercialising the same, then it is important to quantify the efforts involved in shaping the idea till that point of time.

As a thumb rule, each applicant will have equated ownership of the patent. For example, if there are 5 Inventors, then each of them equally own 20% of the patent.

It is extremely important to document the agreement between inventors to avoid any possible dispute in the future.

⇒ I just don't know whether my idea is patentable

First of all, search for similar products on global marketplaces such as alibaba.com apart from a generic Google search. Also check shop shelves if it is a consumer product or with dealers and distributors if it is an industrial product or process.

Also use free patent databases such as Google Patent or your respective country's patent office website for key word search using different terms. The results can be refined by using broader search terms.

For example, instead of searching for "a Pen", search for the broader term "Writing Instrument"

⇒ If I launch my product in the market, I am pretty sure it will get copied

An innovator, Gopal Dave who is a farmer by profession has developed a seed-cum -fertiliser drill which is essentially a tractor attachment and used for sowing seeds and applying fertiliser on the farm.

He has got the design registered (Industrial design registration no. 194961) and has also applied for a patent (Patent application no. 365/DEL/2008) for the same.

The innovation lies in the metering system of the drill which accurately disperses the correct amount of seed and fertiliser as well as its ability to

handle different shapes and sizes of seeds.

The innovator, Gopal Dave, who is based in a small village near Jodhpur in Rajasthan (India), has smartly included patent filing details in the leaflet used for marketing along with a warning to others against copying the design and technology.

This coupled with the fact that his customers are loyal, i.e. farmers, who are willing to wait 1-3 months for delivery of the drill has ensured that his design and technology have not been copied and misused so far.

Case Studies:

Create, Validate & Prosper



Image used for illustration purposes only. IP ownership rests with respective owners as applicable

Coimbatore, an upcoming city in India is a hub for small machines and well known for reverse engineering, i.e., reproducing another manufacturer's product by detailed examination of its construction.

An innovator based in Coimbatore developed an agricultural equipment to be used during weeding on the farm fields, saving difficult to find farm labour and improving productivity.

He sensed there will be a good market for the product but the product had to be proven in the market before it started selling in big numbers.

Also, he realised that he would not be able to scale and cater to the market across India which also meant he would have to look at an industry partner who would manufacture and market it across India.

The innovator filed for a patent and started marketing the product in and around Coimbatore.

He realised that the market was very competitive so he maintained quality and provided it a competitive price point. Once he reached a respective sales figure of 200 units, he started looking out for an industry partner to license the technology for making and selling the equipment across the country.

A reputed south Indian company decided to license the product. They also hired the innovator as a consultant to periodically visit their new workshop, which they put up in Coimbatore, to maintain the quality of the product and streamline production.

This turned out to be a win-win scenario whereby the innovator was able to prove his idea in the market and then get a reputed industry partner to start selling the implement across India. He was also able to contribute in setting up of their workshop in Coimbatore.

Protecting Traditional Knowledge such as Basmati & Turmeric



Image used for illustration purposes only. IP ownership rests with respective owners as applicable

Basmati rice, available in India and Pakistan, is known as the best aromatic rice available in the world. It commands a premium in international markets because it is a very long grained rice with an aroma of its own which enhances the flavour it is mixed with.

An American company, Rice Tec Inc. was trying hard to enter the international Basmati market with brands like 'Kasmati' and 'Texmati' described as Basmati like rice with minimal success.

Rice Tec Inc. was granted a US Patent no. 5663484 in 1997 by US Patent office with the title “Basmati Rice Lines and Grains”.

Govt. of India, after studying the matter and putting together evidence, challenged the Basmati patent issued to Rice Tec Inc. in 2000 on the grounds that the plant variety and grain already exists in India.

As a result of the re-examination application filed by the Indian Govt., Rice Tec agreed to withdraw several of the claims. USPTO also ordered amendments to a few claims and prohibited Rice Tec Inc. from using the term 'Basmati' for selling its brand of rice.

This case clearly shows that inventors and organisations try to take advantage of known traditional knowledge, but this prompted Indian Govt. to take action and protect its interests. One of the measures taken has been to create a “Traditional Knowledge Digital Library” (TKDL).

It provides traditional knowledge existing in India in languages and formats understandable by patent examiners at international patent offices to prevent grant of wrong patents.

Source: RKDewan website

Partnering for Success



Image used for illustration purposes only. IP ownership rests with respective owners as applicable

Indian Institute of Science (IISc), Bengaluru (India) develops a lot of technologies for Indian markets. One such technology, Gasifier Stove, was invented by Prof. Hanasoge Mukunda which had a market in rural India.

British Petroleum (BP) through its in-depth study had realised that cooking is one of the biggest challenges faced by villagers in India and found out that 360 crore consumers globally didn't have access to clean and safe energy solutions. So it started looking out for technologies which addressed the cooking needs of rural consumers and were affordable to them.

After due consideration, it identified the patented Gasifier Stove technology at IISc for commercialisation. The technology was a working gasification prototype and it negotiated with IISc for licensing the technology.

BP is estimated to have paid IISc a sum of around USD 200,000 for exclusive rights to commercialise the above mentioned technology, after which it took them around 2 years to launch the stove in the market under the brand name 'Oorja'. BP was able to sell 5 lac units in just a span of 2 years.

In 2006, BP hived off this business to a separate entity and is now an independent company known as First Energy headquartered in Pune.

The venture was a success because of a strong partnership approach, the vision to develop a relevant, competitive product for a specific, wide spread problem faced by rural masses in developing nations like India.

Tips

- ⇒ Make sure you mention your contact number and email address on your patent application so that the Patent Office / any interested person can get in touch with you easily
- ⇒ Use 'Request for Early Publication' for faster processing of your patent application by paying an extra fee (Form no. 9 available on http://ipindia.nic.in/ipr/patent/patent_FormsFees/index.htm)
- ⇒ Check the “Register of Patents” at the patent office by making a request

and paying a small fee to verify details of the patent such as who is the owner, whether it has been licensed and the validity of the patent

⇒ Do mention “Patent Pending” (with application number / publication details) on your product with a warning against copying the product or technology to send out a strong message to imitators

⇒ You should check with the institute or organisation where you are working whether they are willing to fund expenses related to protecting an idea

⇒ Incubators typically provide mentoring, seed funding, physical space, functional expertise and networking opportunities to a start-up entrepreneur or innovator for commercializing their idea

⇒ Negotiate for product packaging to include Inventor Name & Patent No. which will provide Inventor with publicity, build credibility of the product and help in tracking sales

⇒ If you are not sure whether your idea is marketable, go ahead and file a Provisional Patent which can be done easily in a week's time after which you can go and explore the market

⇒ Do mention “Patent Granted” once patent has been granted by the Patent Office. The certificate issued by Indian Patent Office bears a unique number (without any alphabets) such as 234147

- ⇒ You can also use the patent as a unique selling point while selling your product or technology as well as to attract investors or banks while seeking funds
- ⇒ Do look at the possibility of framing your patent application / certificate to attract attention and giving the framed certificate to your vendors, distributors etc., which will remind them of your technical prowess and legal right



FAQs

Q. Can an individual working with an organisation directly file for a patent?

A. Any individual under employment with an organisation, profit or not-for-profit, will have to check the terms of employment in the contract with regards to ownership of IP.

If IP ownership is not explicitly mentioned in the contract or there is no written contract then the employee should take prior permission from the organisation before filing for a patent.

Usually, organisations will only object if the idea is directly related to their business or a conflict of interest.

Q. Why are claims very important in a patent?

A. The Patent consists of many details such as title, description, abstract, claims etc. The claims section explicitly states the legal protection sought under the patent application.

The legal protection provided to the patent is directly linked to the quality and quantity of claims made in the patent application.

Q. Are there government schemes for funding the cost of patent filing?

A. Government of India promotes innovators through various schemes promoted by Department of Science & Technology (DST), Ministry of Micro, Medium and Small Enterprises (MSME) etc. One of the most popular schemes for an individual innovator is the Techno Entrepreneurship Promotion Programme (TEPP), which provides grant funding for development of a technology idea.

There are also patent facilitation centres run by government departments and academic institutes to help Innovators in the patent filing process.

But as a thumb rule, patent research, drafting and filing fees are only reimbursed when the project funding is approved and not specifically for

patent related expenses.

Q. How do I decide which patent office to file the patent application in?

A. Your patent application should be filed based on the following norms: -

- ⇒ Residence or Place of work of the Patent Owner (Assignee)
- ⇒ Residence for the 1st Inventor
- ⇒ Residence or Place of work of the Patent Agent who makes the application (if applicable)

Q. Can I make an e-filing for patent application in India and how does it work?

A. E-filing facility is now available for filing patent applications with the patent office. A client software needs to be installed on your computer by first registering and then downloading the Client software from the e-filing portal of www.ipindia.nic.in. You need to ensure that your computer meets the system requirements.

A Class III digital signature from one of the approved Certifying Authority (CA) is required and online payment has to be made using State Bank of India (SBI) and Axis Bank internet banking facility.

Q. Can I file a police complaint against a patent infringer in India?

A. The Patent Act does not have a provision for filing a police complaint in case of infringement by a 3rd party. A civil case has to be filed in the court of law.

Q. What action can I take in case of infringement or misuse of my patent?

A. If someone is misusing or misrepresenting your patent, then you can write to the patent office stating that someone is misusing your patent for their benefit.

Additionally, you can put a notice in leading newspapers stating the details of the patent ownership and warning anyone from infringing on the same and/or approach the court.

Q. Can I use my patent as a form of collateral for taking loans from banks?

A. IP, including patents, have been used in many countries like the USA and parts of Europe as collateral for availing funding from banks and specialised investors who invest in IP.

The market for the same is still nascent in India, but leveraging IP for funding could be explored especially with technology investors.

Q. Is there a possibility for paying patent renewal fees in advance?

A. The patent office will accept the renewal fees in advance for subsequent years. This is particularly useful if the patentee is based out of country or does not want the hassle of paying the fees every year.

Q. Can I revive a patent in case the same has lapsed due to non payment of renewal fee in India?

A. There is a provision in the Patent Act whereby the patentee can restore a lapsed patent due to non payment of renewal fees within 18 months from the date of lapsing.

Q. Can I do something to reduce the time-frame for getting a patent granted in India?

A. There is a provision to make a “Request for Early Publication” by paying additional fee to ensure faster publication of the application in the Patent Office Journal (POJ) leading to faster examination and grant of patent.

Q. What are the documents typically required for filing a patent?

A. Apart from the requisite forms such as Form no. 1, 2, 3, 5, 26 (in case of authorisation of patent agent or someone else) to be filed, you do not need to submit any supporting document.

If the invention has to be explained in a sketch, then drawings (preferably

CAD drawings) in the format prescribed by the patent office have to be attached along with the patent application.

Q. How do I prepare myself before meeting a patent attorney / agent?

A It is useful to prepare a 1- page executive summary of your Invention which provides a background of the technical problem being solved, your solution, potential uses and list of industries where it can be applicable.

Also, clearly state your value addition in existing technology or product which may be patentable.

Apart from the above, if you have done a Prior Art Search or come across a similar product or technology, then please share the information with your patent attorney / agent.

Always follow this idiom: Disclose the 'What' of your idea but not the 'How' of your idea.

Q. I heard about Patent Cooperation Treaty (PCT), what exactly is it?

A. PCT stands for Patent Cooperation Treaty which was signed by on 19th June 1970 in USA with the intention to cooperate in the process of patent filing, examination and grant and as on date there are 144 countries which have signed the treaty.

You, therefore, have the option of filing a PCT application instead of applying in individual countries. This will be transmitted to all the PCT designated countries, thus saving you the hassle, time and cost of filing separately in individual countries of interest.

But do note that the application will be examined separately by each country where the application has been made for which you have to make request to individual countries of interest.

Q. Is there a concept of “World Patent”?

A. Although it is a common misconception, there is no concept of a “World Patent”. A patent has only country- specific rights and is not applicable in

countries where the patent has not been granted.

Q. Can there be a situation when my patent application is not processed?

A. If your invention relates to atomic energy or could be a threat to the security of the nation, then the application is sent to the concerned defence authorities for their no objection certificate (NOC) before further processing of the patent application.

Q. Will my patent application be automatically taken through the grant process?

A. One has to make a “Request for Examination” once the application has been published in the Patent Office Journal (POJ). Only then will the application be examined and the patent grant process completed.

Alternately, a “Request for Examination” can be made by filling Form no. 18 and paying appropriate fee with the final patent application itself as the same is accepted by the Patent Office.

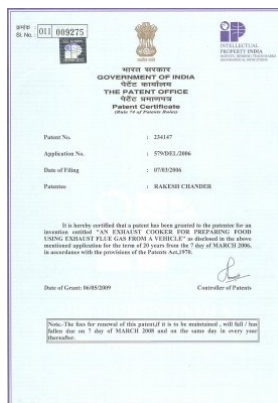
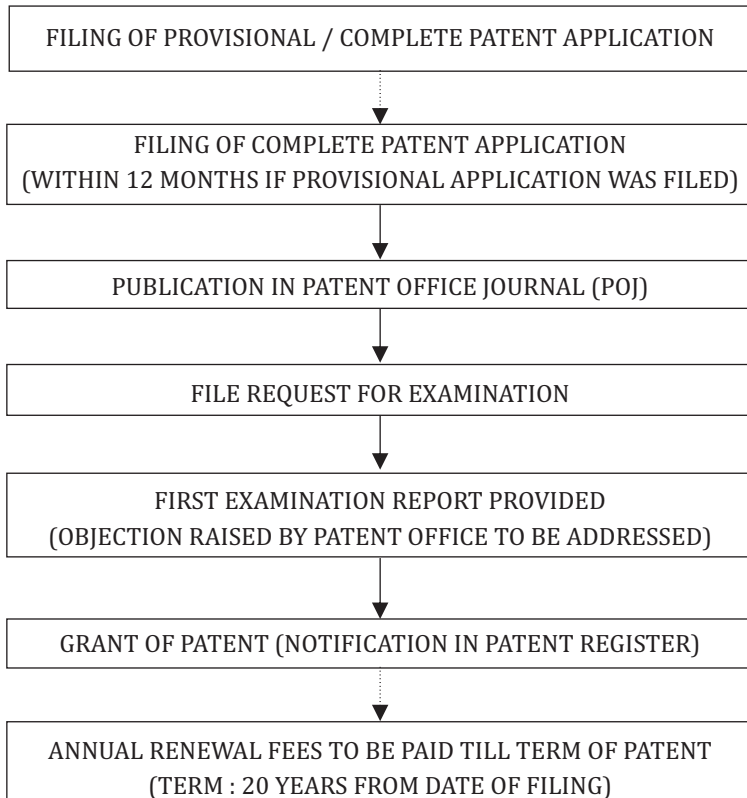
Useful references

- ⇒ www.ipindia.nic.in
- ⇒ www.google.com/patents
- ⇒ www.freepatentsonline.com
- ⇒ www.spicyipindia.blogspot.com
- ⇒ www.uspto.gov
- ⇒ www.paa.org.in
- ⇒ www.patentlyo.com

Answer: Celebrity Inventor matched with invention

Sr. No.	Celebrity Inventor	Invention
1	Steven Spielberg	Dolly track switch
2	Mark Twain	Improvement in scrap books
3	Julie Newmar	Pantyhose with shaping band for cheeky derriere relief
4	Michael Jackson	Anti gravity shoes
5	Abraham Lincoln	Buoying vessels over shoals
6	Marlon Brando	Drumhead tensioning device and method
7	Steve McQueen	Improved bucket seat
8	Christie Brinkley	An educational toy useful for helping kids learn alphabets
9	Gary Burghoff	'Chum Magic', a floating apparatus that fishermen can fill with chum to lure fish to their boats
10	Zeppo Marx	Cardiac pulse rate monitor
11	Walt Disney	Panoramic motion picture presentation arrangement (co invented)
12	Paul Winchell	Device for filling blood containers
13	Prince Rogers Nelson	Electronic keyboard
14	Danny Kaye	Blowout toy
15	Eddie Van Halen	Musical instrument support
16	Harry Connick, Jr.	System and method for coordinating music display among players in an orchestra

Normal Patent process snapshot (Process followed can vary from country to country so you are advised to verify the exact process followed in your country)



This is a random certificate used for illustration purpose only

Trivia

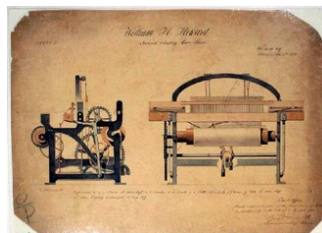
⇒ Milo G. Kellogg holds the record for the maximum number of US Patents granted on a single day i.e. 125 patents granted on October 26, 1897

⇒ Did you know a US Patent no. 5023850 was granted for a “Clock for keeping time at a rate other than human time” for calculating time for animals who live much shorter lives such as a Dog who lives for only 10 years on an average

⇒ Nortel Networks which has filed for Bankruptcy sold off it's patent portfolio comprising of more than 6000 patents & patent applications for USD 4.5 Billion in 2011 to technology companies such as Apple, Microsoft, Sony, Research in Motion (parent of Blackberry phone maker) etc.

⇒ Did you know that the famous singer & entertainer Michael Jackson had a US patent no. 5255452 for 'Anti Gravity Leaning Shoes' which was used in his song “Smooth Criminal” from his album 'Bad'

⇒ The history of patents and patent laws is generally considered to have started in Italy with a Venetian Statute of 1474 issued by the Republic of Venice although there is evidence which suggests patent protection in some form was provided even in 500 BC in some ancient Greek cities
Earliest Patent Drawings were more colourful & artistic than current ones.
Shown below is a specimen of Patent Drawing of yester years



Source: US Patent website

end

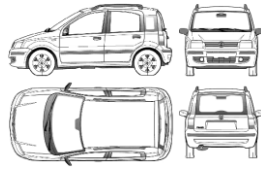
Chapter # 2 Industrial Design

Which of the following qualify for registration as an industrial design?

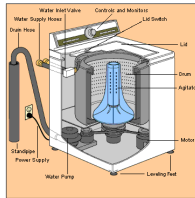
(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)



Yoga postures



Car models



Washing machine tech. description



Crocs shoes



Leading Indian adhesive brand logo



India Post box

Answer: Page no. 44

Industrial Design (also known as Design Patent)



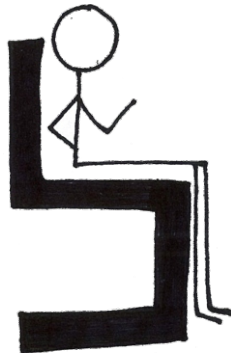
(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

Scenario

Bencil, being market savvy and consumer centric, had always been concerned about the poor designing of the plastic chairs available in the market. Plastic chairs had become increasingly popular for use at homes, parties and marriage functions, amongst others, due to low cost and maintenance required. But the chairs were unstable and people often tended to slip and fall, causing injury and embarrassment as also they were unappealing.



So Bencil teamed up with an industrial designer to make low cost chairs which were sturdy and ergonomically designed with the use of recyclable material.



The chair design was protected under The Design Act keeping in mind the unique design of the chair.

What is an Industrial Design?

When new design elements are used on a product to provide aesthetics to the product without in any way affecting its functioning, the product can be made at an industrial scale (more than 50 units) consistently and if the product is registered, then it is termed as an 'Industrial Design'.

Why should you apply for an Industrial Design?

A product which is registered under Industrial Design is protected from being copied and provides a right to the owner which excludes others from making, distributing, selling or importing the said product without the consent of the owner of the product.

When should you apply for an Industrial Design?

If the design of the product is meant only for ornamental value (not in any way affecting the working of the product), is new and meant to be produced at an industrial scale (more than 50 units), then it qualifies for Industrial Design.

Also, one should either be looking to commercialise the product or license/sell the product for commercial benefits for it to be worthwhile to register as an Industrial Design.

Who can apply for an Industrial Design?

Practically anyone can apply for an industrial design registration but is primarily used by the following: -

- ⇒ Industrial / Product Designer
- ⇒ Entrepreneur
- ⇒ Enterprise
- ⇒ Government organisation
- ⇒ Not for profit entities

Important things to remember

i. **Industrial Design is granted for “form” and not “functionality”**

For e.g. If a pen has a unique shape for better grip (functionality) then it does not qualify for Industrial Design but if it is also meant to give the pen an attractive look (form) then it will qualify for an industrial design

ii. **Design must be applied to a product and not be the product itself**

For e.g. Design is applied to the postal stamp but without the design it is just a piece of paper. Which means without the design the postal stamp has no relevance and hence does not qualify for industrial design

iii. **A design which contains obscene or scandalous matter as well as design which is contrary to public morality will not qualify for registration**

iv. **Like other forms of IP such as a patent or trademark, industrial design can also be rented (licensed) or sold (assigned)**

v. **If the design has not been registered under the Design Act, then copyright can generally be claimed under the Copyright Act if the design is novel**

But do remember the moment the number of pieces made under a particular design exceeds fifty (50), then copyright will cease to apply on the said product, if it has not been registered under the Design Act

vi. **It would be always advantageous to the registered proprietors to mark the product so as to indicate the number of the registered design, except in the case of textile designs**

Common Misconceptions / Issues

- ⇒ Industrial design registration is only granted to industrial products
- ⇒ If my product is patented then Industrial design registration is not required
- ⇒ Industrial design is only for designers and design firms
- ⇒ Industrial design registration process is tedious and time consuming
- ⇒ Consumers do not value or differentiate a well designed product

Case Studies

Turning a design dispute into a business opportunity

There is a small firm of goldsmiths in Bengaluru, Karnataka. Over the years, the goldsmith, assisted by his son, has been creating new designs, making ornaments, and selling them directly to customers. One day, while visiting an upmarket road in downtown Bengaluru, he happened to stop at a famous jewellery retail outlet of a large Indian industrial conglomerate and was shocked to find on display items of jewellery based on some of his original designs.

The goldsmith was taken aback and did not know what to do. His son, however, decided not to take things lying down. He approached an IP attorney at Bengaluru. Although the goldsmith had not registered his novel designs under the design law in India, he was able to produce before the Attorney a number of paper-based sketches and drawings (protected automatically by copyright) that he had made earlier in respect of the design

in question, which clearly indicated the evolution of the designs.

A legal notice was sent to the large Indian industrial conglomerate. In reply the large Indian industrial conglomerate's lawyer argued that there was no wrong doing and, in fact, the designs had been developed independently by their employees and were co-incidentally common.

On receiving this reply, the goldsmith's son went through the records of sales. In the sale register, he was able to locate the details of sale to the large Indian industrial conglomerate that had purchased a few pieces of this presentation item for distribution as New Year gifts.

This turned out to be clinching evidence and the large industrial conglomerate agreed to settle the matter out of court. As a part of the settlement, a lumpsum payment was made to the goldsmith. It was also agreed that the large industrial conglomerate would stop manufacturing this item and would outsource its entire requirements over the next five years from the small firm.

This case study shows the importance of keeping good records of any drawings, designs and business transactions that may be used in future as evidence in case of an IP dispute.

The case would have been simpler had the goldsmith registered his design under the design law of India in the first place.

However, having preserved the drawings in a systematic manner (dated, numbered, signed and properly filed) of the gold ornaments in question and having made proper entries in the sale register showing that the large company had once purchased the items proved crucial in turning the case in the goldsmith's favour. Secondly, it demonstrates the importance of relying on qualified IP advice. Thirdly, it shows how an IP dispute, may be turned into a business opportunity, as the large company has now become a key client of the small firm of goldsmiths.

Source: WIPO International website

Case of a Pakistani textile entrepreneur who leveraged Industrial Design to advantage

Yashir Waheed and a business partner formed Brimful Designs in 1998 as a small entrepreneurial textile design studio in Lahore (Pakistan) specialising in lawn prints (a refined form of pure cotton worn in summer).

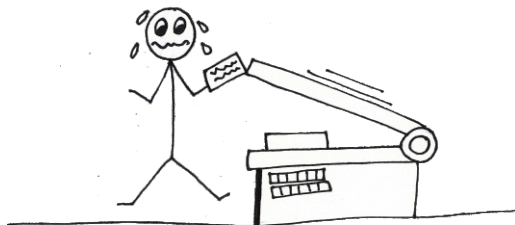
Since launching its products in 1999, Brimful has been bringing out Yashir Waheed Designer Lawn label and other designs each year with every collection making a bold statement in terms of colour, motif, design and scale and sold mainly in Karachi and Lahore.

The very existence of Brimful was threatened in 2003 when local manufacturers organised massive copying of its designs on inferior quality material.

The fake copies were sold under various labels at a much lower price which attracted customers as also they used Brimful's print catalogue to attract customers which also confused their loyal customers and brought Brimful on the verge of closure.

Brimful sought the advice of an IP expert who advised them to seek protection of their designs under the Industrial Design Act so that they could proceed with legal action against those infringing the original designs.

Brimful also used the media to launch an offensive against the copiers and creating awareness amongst its loyal customers. Also in cooperation with law enforcement agencies, they raided shops selling copy of their designs and seized their stock.



Subsequent efforts in 2005 and thereafter have resulted in significant curtailing of the production of fake products.

Source: WIPO International website

Tips

- ⇒ Industrial design is also commonly referred to as 'design patent'
- ⇒ Industrial design is much easier to apply and get granted (compared to a patent) since it is essentially only visual representation of the designed product
- ⇒ It is important to mention the design no. on your product (except on textiles) to ensure that customers and competitors are aware of your design prowess and intellectual property protection
- ⇒ If you are looking at industrial design for your product, it is best to get in touch with product designers who specialise in designing new products
- ⇒ While designing a new product involving use of new / different material, it is important to estimate likely costing of the product to assess financial viability of the product

FAQs

Q. What is meant by an 'Industrial Design'?

A. An industrial design is the ornamental or aesthetic aspect of a product (article). The design may consist of three-dimensional features, such as the shape or surface of an article or of two-dimensional features such as patterns, lines or colour.

Industrial designs are applied to a wide variety of products and handicrafts ranging from machine to medical instruments to watches, jewellery and other luxury items; from house hold goods and electrical appliances to vehicles and architectural structures; textiles to leisure goods.

An industrial design is provided for look and form of the product and does not protect any functionality of the article to which it is applied.

Q. What is piracy of a design?

A. Piracy of a design means the application of a design or its imitation to any product belonging to a class of articles in which the design has been registered for the purpose of sale or importation of such articles without the written consent of the owner of the design.

Q. What artistic works are not subject matter for registration?

A. An artistic work is not a subject matter for registration and is as follows:-

- i. A painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not such work possesses artistic quality
- ii. Any work of architecture
- iii. Any other work of artistic craftsmanship

Q. Is it mandatory to make the product by industrial means or process before making an application for registration of design?

A. No. Similar to The Patent Act, it is not mandatory to make a product by industrial means before making an application for registration of design under The Design Act.

Q. What is the “date of registration”?

A. The “date of registration”, except in case of priority, is the actual date of filing of the application. In case of registration of design with priority, the date of registration is the date of making an application in the reciprocal country.

Q. How one can ascertain whether registration exists in respect of any design as such and what is the procedure for the same in India?

A. For ascertaining whether registration exists in respect of a design, a request should be made to the Patent Office.

If the serial number of the registered design is known, the request should be made on Form no. 6 otherwise with the specimen or drawing of the design on Form no. 7. Each such request should be confined to information in respect of a single design.

Q. Can I use design of a famous monument such as Taj Mahal to incorporate in my design for a watch and claim Industrial Design registration?

A. As long as the design is novel and not previously published or used in any country before the date of application for registration then it is possible to apply for registration of designs like a Taj Mahal design in a watch.

Note that just by merely copying the design of the Taj Mahal without improvising or changing the same will not qualify it for registration of design.

Q. What are the exclusions from scope of design registration?

A. The exclusions from design registration are as follows: -

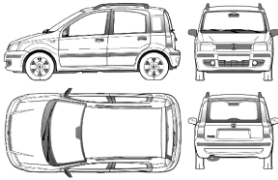
- ⇒ Books, jackets, certificates, greeting cards, leaflets, maps, stamps, medals
- ⇒ Labels, cards, tokens, cartoons
- ⇒ Buildings and structures
- ⇒ Flags, emblems or signs of a country
- ⇒ Mere change in size of a product

portion containing the novelty in design

Useful references

- ⇒ <http://www.mit.gov.in/content/frequently-asked-questions>
- ⇒ <http://www.lexorbis.com/design-registration.html>
- ⇒ <http://www.mit.gov.in/content/checklist-enable-proper-filling-and-processing-design-applications>
- ⇒ <http://www.rkdewan.com/iprOverviewDesign.jsp>
- ⇒ http://ipindia.nic.in/ipr/design/Design_RegistrationBooklet/RegistrationBooklet_05February2010.pdf
- ⇒ http://ipindia.nic.in/ipr/design/tstep_design.PDF
- ⇒ http://ipindia.nic.in/ipr/design/faq_design.htm

Industrial design registration answer



Car models



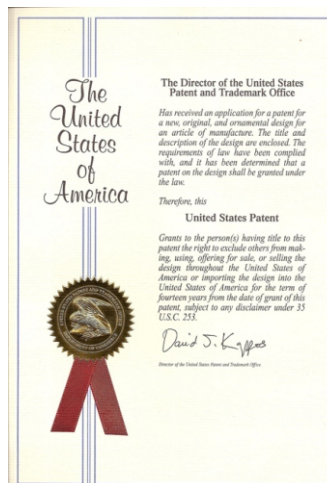
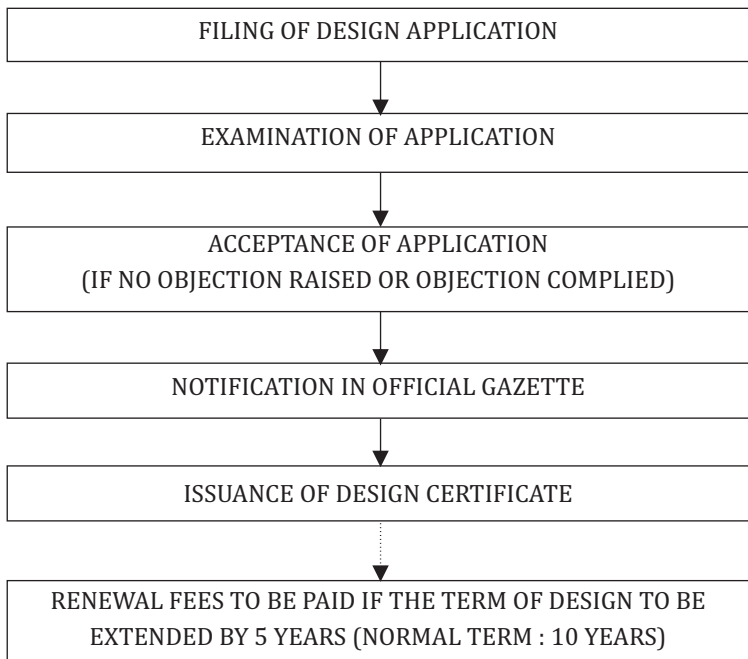
Crocs shoes



India Post box

Normal Industrial Design (Design Patent) process snapshot

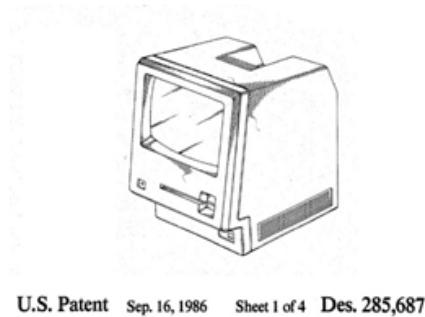
(Process followed can vary from country to country so you are advised to verify the exact process followed in your country)



This is a random certificate used for illustration purpose only

Trivia

- ⇒ Nike had sued Walmart in 2008 over it's Shox trainer shoes which it claimed infringed two of it's industrial design registrations (referring to the portion of a shoe midsole)
- ⇒ Late Steve Jobs had a design patent no. D285687 granted way back in 1986 for the original Macintosh 128K (illustration enclosed below)



Source: US Patent website

- ⇒ Paramount Pictures sought and obtained Design Patents from 1978 to 1987 for the famous production, Star Trek for it's designs such as toy space ship

end

Chapter # 3 Trademark

Identify the original logo from fake ones listed below

(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

a.



b.



a.



b.



a.



b.



a.



b.



a.



b.



Answer on page no. 61

Note that the purpose of the activity 'Identify the original logo from fake ones' is to create awareness amongst the readers on fake brands which try to encash on the reputation & goodwill of original brands.



(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

Scenario

Bencil loves watching advertisements on television more than the actual programs itself. He is fascinated with brands and very conscious of the brands he picks up. Marketers and advertisers are well aware of the fact that brands connect with people and can emotionally bind them if well-communicated to its target customers.

Since brands carry a lot of value, they need to be protected against misuse through registration as a trademark for both products and services.

What is a trademark?

Any distinctive and identifying mark which is capable of distinguishing the goods and services of one owner from that of another, may be utilised as a trademark and such marks are afforded protection under the Trademark Law.

Why should one file a trademark?

Trademark is granted for a “mark” which will distinguish an individual or a business entity's product or service from its competitors.

Since a lot of time, effort and capital are invested in creating a brand or brand

differentiators which a consumer can trust, it is equally important to protect the same by filing for a trademark with the Trademark office.

When should you trademark?

- ⇒ Have a long-standing business with a good reputation
- ⇒ Are involved in consumer-centric businesses such as retail, hospitality, service industry etc., where you can create a brand to differentiate your business from competitors and command brand loyalty
- ⇒ Intend to start a new business and wish to create a well-known brand
- ⇒ Seek investments in your organisation
- ⇒ Want to franchise your business model / set up

Important things to remember

- ⇒ You can search for availability of a particular name in a particular category by searching on the respective country's IP/trademark website.

Note that the facility of online search may not be available in your country and you may have to visit the trademark office to search for availability of a name.

- ⇒ One can use “TM” on application for a trademark but “R” can be used only when trademark is granted and registered with the Trademark office

- ⇒ A trademark can usually be sold but there has to be transfer of assets (such as machinery) for sale of a trademark to take place to ensure consumers are not misled

- ⇒ Taglines can also be trademarked. For example, 'You can win' has been trademarked by popular speaker and novelist, Shiv Khhera

Common Misconceptions and Issues

- ⇒ One cannot challenge a registered trademark
- ⇒ A trademark can be applied for only once you start selling a product or service
- ⇒ You can take advantage of a reputed, well known brand and use it to sell your brand in a different category
- ⇒ If a brand is not selling in India, you can get away by using the brand name to mislead consumers and sell your product / service
- ⇒ A trademark is generally not granted for a descriptive word

For e.g. 'Pure Water' is not likely to be approved as a trademark name since it describes quality of the product (water)

Case Studies

Trade Dress



Colgate is a registered trademark of Colgate Palmolive Company

Trade Dress is the overall image of a product or communication medium, such as a website used in its marketing or sales, that is composed of the non functional elements of its design, packaging or labelling (combination of colours, package shape or symbols).

It means that there is a specific way of writing a product name, its unique background or even the visual arrangement of a website or store display.

The visual appearance is even more relevant in a country like India with a high degree of illiteracy since people relate to the visual appeal of a product or service that they buy.

In a very interesting case between Colgate Palmolive Company and Anchor Health and Beauty Care Pvt. Ltd., there was a dispute on the colour scheme and combination of colours in a significant manner.

Colgate disputed the use of a mark on toothpaste from Anchor which is a combination of red and white in ratio of 1/3:2/3 respectively as also the way of writing name of the product.

Colgate was using the mark in a specific fashion from 1951 and Anchor started using it since 1996. Colgate filed an application to stop Anchor from using the particular mark in Delhi High Court.

Colgate, the complainant, showed their tooth powder and the one from the defendant and made a case that both products looked similar. Illiterate and even semi literate customers would not be able to distinguish between the two as they would not be able to read “Colgate” and “Anchor”. If the shop keeper would hand them over Anchor tooth powder instead of Colgate, they would not be able to make out the difference, causing business loss to Colgate.

The Court mentioned that no party could have a monopoly over a particular colour. But if there was a substantial reproduction of the colour combination either on the container or packaging over a period of time, it was likely to create confusion in the minds of unwary customers, especially those who had been using the product for a long time.

The Court also said that the significance of trade dress and colour combination is so immense that in some cases even a single colour has been taken to be a trademark to be protected.

The exceptions are in cases where the colour cannot be protected, such as the colour of ink or wooden products.

In this case, the Court restrained Anchor from using the colour combination of red and white on its packing and goods.

Source: Colgate India & Legal Service India website

Deceptively similar name

If a business uses a deceptively similar name as another one even for a single shop and does not use it for spreading its business by use of that particular name, it may still be liable to stop using the trademark of another business entity.

In the case of *M/s. Bikanerwala v. M/s. Aggarwal Bikanerwala*, where the complainant was using the name since 1981 and had also got it registered in 1992 whereas the defendant was running a sweet shop in the name of Aggarwal Bikanerwala. The complainant applied for permanent injunction over use of the name Aggarwal Bikanerwala for the sweet shop.

The Court ruled in favour of the complainant and stopped the defendant from manufacturing, selling, offering for sale, advertising, directly or indirectly dealing in food articles under the name 'Aggarwal Bikanerwala' or from using any trade mark or trade name or artistic work containing the name or mark 'Aggarwal Bikanerwala' or any other name or mark which is identical or similar to the complainant's trademark 'Bikanerwala'.

How a Small Business Harnessed and Leveraged a Brand

On a trip for new business opportunities to Malaysia, a bank clerk and fledging entrepreneur, S K Matlani, came across mosquito repellent mats.

This excited him, since there was a huge menace of mosquitoes and other insects flying around back home, which meant a large untapped market waiting out there.

He invented a small machine to make mats and developed a unique repellent that was based on his knowledge of the region's environment, mosquito population and culture.

Once these were in place, he started his own business, JET Home Care Products Ltd., to manufacture and sell mosquito repellent mats.

Business picked up quickly and he was able to expand his business with more employees and moved production from his house to a manufacturing facility.

Shortly after launching his product, Matlani knew that mere technology and formula were not sufficient and he would have to create a brand name and image which was essential for his venture to succeed. Although he could have patented his unique repellent formula, he decided that the best way to build a strong market and reputation was to build a strong brand which would communicate its superior product and technology to its customers and make them loyal to the company's product range.

JET was chosen as the brand name and registered as a trademark which became popular in the market and amongst customers.

In 1995, when one of India's largest conglomerate, Godrej Sara Lee Ltd. was looking to enter the mosquito repellent market, they realised that JET had built a strong brand name and had grown rapidly and decided to acquire the brand JET rather than build its own brand from scratch.

With an initial investment of USD 65,000, Matlani was able to sell the JET trademark for USD 6.5 million which was windfall gain for his organisation.

The JET trademark was able to deliver far more returns than the actual product itself and demonstrates that IP can deliver far more returns than traditional tangible assets.

Source: WIPO International website

Tips

- ⇒ In India goods are covered under class nos. 1 to 34, whereas services are covered under class nos. 35 to 45. The entire list is available on http://ipindia.nic.in/tmr_new/Classification_Goods_18June2010.htm
For example, Class no. 7 covers machine and machine tools, whereas Class no. 38 covers telecommunication
- ⇒ A fictional brand is a non existing brand which may be used to imitate a real corporate brand or play a spoof on the real brand for literary, artistic or entertainment purposes such as in a novel or a television serial
- ⇒ The important aspects which are considered in a trademark infringement case involving original and disputed marks are similarity between the marks, fame of the original mark, and nature and extent of confusion to the buyer or trade. These factors are popularly known as DuPont factors

FAQs

Q. What kinds of marks are given trademark status?

A. Traditionally words, logos, symbols, numerals, acronyms and names are given trademark status. But of late, other forms of non-traditional marks such as sound, smell, 3D marks etc. are emerging as distinct marks distinguishing one product or service from another.

Q. Can a service brand be protected under trademark?

A. An organisation providing banking, courier or other professional services can protect their brand name or organisation name as trademark.

Although technically the trade name for a service is known as service mark they fall under trademark and popularly called trademark.

Q. What's the difference between a trademark and a trade name?

A. A trademark is a word, symbol, phrase or slogan or combination of these items used to mark and distinguish your products from others in the marketplace.

A trade name is your company's name, the name under which you do business.

Q. Can other forms of identification of a product or service such as sound or smell be protected?

A. Sound, smell etc. which distinguish a business entity's product or service from competitors can be registered as trademark and newer forms of marks which are registered by the Trademark Office.

For example, Yahoo has registered the way its name is conveyed (Yahoo doodle) as the first sound mark in India by graphically depicting the same.

Interestingly, Yahoo was involved in a lawsuit over the yodel with its creator. Wylie Gustafson, founder of a country band, created and sang the three-note signature yodel for Yahoo's first television ad in 1996. Yahoo paid Gustafson a one-time fee of \$590 for recording the three-note Yahoo yodel.

Gustafson was paid an additional \$590.38 in January 1999, when he complained about the uncompensated use of the yodel after seeing a Yahoo ad during the Super Bowl.

Gustafson later filed a case against Yahoo in the US district court in Los Angeles, seeking \$5 million in damages from the firm for continued use of his yodel in its advertising without paying him.

He claimed that Yahoo hired him in 1996 to create and record the yodel with the understanding that it would be used only for that specific commercial.

Yahoo, he claimed, never told him that his vocalization would be used in thousands of subsequent commercials. The company quickly settled the suit with Gustafson. Terms of the settlement have not been disclosed so far.

Q. How can visual appearance of a product or a website or store display be protected since conventionally it is beyond the purview of trademark?

A. Since a customer can associate a product / service or more importantly an experience with its visual appearance / display, the concept of Trade dress has emerged.

Trade Dress covers the visual appearance of a product such as a particular style of packaging / labelling of a product or the appearance of a website or the way the display of a store is organised.

So it is far more broad based compared to the narrow scope of protection provided to a trademark.

Q. Can I register a brand which has been in existence for a long time but not been protected earlier?

A. Even if a brand has been in existence but not been protected as a trademark, you can still apply for registration as a trademark.

In case another brand has been registered with the same name in the

relevant class, then you will have to prove that the applicant's brand has been in existence before the registered brand and has acquired a reputation in the market which will cause financial damage and loss of reputation to the business entity trying to challenge the registered brand.

In case no other trademark is registered in the relevant class, then the Trademark office is likely to grant trademark to the application made for registration.

Q. Can I sell or license a trademarked brand?

A. As in the case of other forms of IP, a brand which is a registered trademark can be bought, sold or licensed to a 3rd party.

Q. What is the term of a trademark?

A. The term of a trademark is in perpetuity, i.e., as long as the brand exists you are entitled to have trademark for the same.

In the eventuality that the business entity ceases to exist or you do not renew the trademark, it will cease to exist.

Q. What action can I take in case of an infringement or imitation of a trademark?

A. Two types of solutions are available to the owner of a trademark for unauthorised use of the mark or its imitation by a 3rd party.

⇒ Action for 'infringement' in case of a registered trademark

⇒ Action for "passing off" in case of an unregistered trademark

In an action involving infringement or passing off, a Court of Law may grant relief of injunction and/or monetary compensation for damages due to loss of business or confiscation of goods containing infringing packaging or label.

Although registration of a trademark is prima facie evidence of validity of a trademark, yet the registration cannot take away the rights of a prior user of the trademark since the rule says 'priority in adoption precedes priority in registration'.

Q. Can I use trademark as a form of collateral for taking a loan from banks?

A. IP including patent and trademark have been used in countries such as USA, parts of Europe etc. as collateral for availing funding from banks and specialised investors who invest in IP.

If a consumer brand is popular, then banks and financial institutions could consider it as collateral for providing loans.

Q. What is the term of a trademark in India?

A. Trademark registration is valid for a period of ten (10) years which can be renewed for further period of 10 years on payment of renewal fees.

Non-use of a registered trademark for a continuous period of five (5) years is a ground for cancellation of registration of such trademark at the behest of any aggrieved party.

Q. What are the types of trademarks that can be registered?

A. Under the Indian Trademark Act, the following types of trademarks can be registered: -

⇒ **Product:** Identifies the goods of an entity

⇒ **Service:** Identifies the service of an entity

⇒ **Certification:** Those capable of distinguishing goods or services and are certified by the owner of trademark with regards to their origin, method of manufacture, quality or other specific features

For e.g. International Organisation for Standardisation (ISO)

⇒ **Collective:** Are registered in the name of groups, associations or other organisations for the use of members of group in their commercial activities to indicate their membership of the group

For e.g. Confederation of Indian Industry (CII) membership

Q. Can I file for a trademark now although I intend to use the trademark at a later date?

A. The Trademark Act allows for filing of a trademark application in India on an 'intent to use' basis. However the owner of the registered trademark in India has to commence use of the mark within 5 years from the date of registration.

Else the trademark is open to be legally challenged by aggrieved parties.

Q. What are unconventional trademarks?

A. Newer forms of trademarks such as sound mark, smell mark, colour mark, 3D mark are newer forms of unconventional trademarks which distinguish the product or service of an entity from its competitors.

Q. How do I prepare myself before meeting a Trademark Attorney / Agent?

A. i. Read up on your Trademark Attorney/Agent you are going to meet and find his or her profile, type of clients served and fee structure. In addition check if you know his or her client which can be used for referral check

ii. Prepare for information to be presented on your business / work and present the same in formal / informal presentation clearly articulating what you do, whom you serve and how you reach out to your customers

iii. Note the list of questions / issues to be discussed during the meeting to ensure desired results from the meeting

Q. Is there a concept of “global trademark”?

A Similar to patents, there is no concept of a “global trademark”. You have to individually file for trademark in countries of your interest although there are systems such as CTM and Madrid which facilitates filing of trademark on a regional or global basis.

Original logos answer

b.



b.



a.



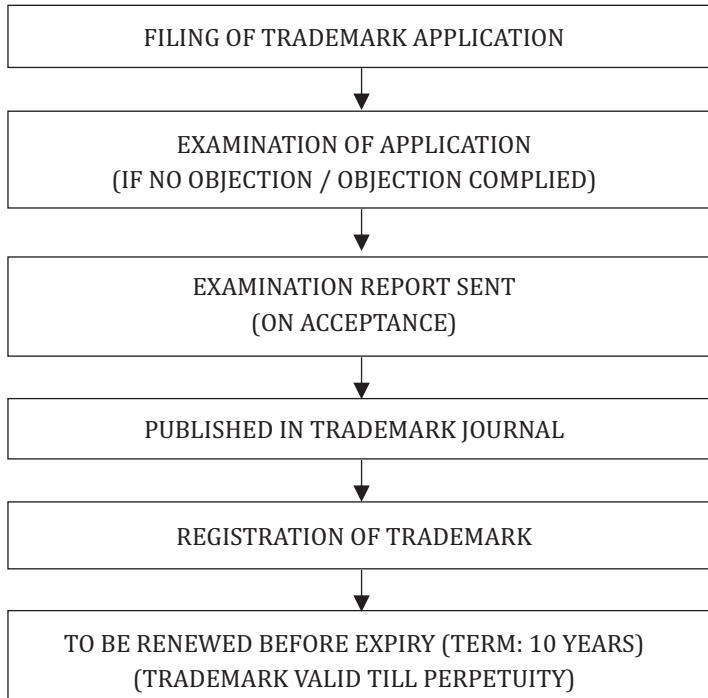
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a.



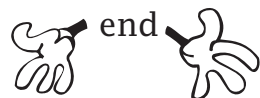
Normal Trademark process snapshot (Process followed can vary from country to country so you are advised to verify the exact process followed in your country)



This is a random certificate used for illustration purpose only

Trivia

- ⇒ The first U.S. Trademark Registration was issued in 1870 for an eagle logo that was used for paint by Averill Paints, but it is no longer in use
- ⇒ The name of talk show host Oprah Winfrey's company is **Harpo**, reverse of her first name
- ⇒ **Camry**, a car from Toyota is has been coined from the term My Car
- ⇒ The name for synthetic fiber **spandex** was coined from *expands*



Chapter # 4 Copyright

True or False

- Q.1** Ideas and thoughts can be protected as Copyright
- Q.2** A performance for entertainment purpose does not require consent of the owner of the work
- Q.3** Making a copy of a licensed computer program for back up purpose amounts to infringement
- Q.4** A school teacher downloads videos for a class project online and posts it on a web link for everyone to view. It has infringed the copyright of the content owner
- Q.5** Diana loved making of the Hindi language movie 'Kahaani' and wants to use a few quotes from the movie in an article for her journalism class. She has infringed the copyright of the content owner
- Q.6** Ricardo forgot to copyright his screenplay for an upcoming theatre play before sending it out to the agents for review. He is still eligible to copyright his work
- Q.7** Architecture students usually take pictures of streets & heritage buildings as part of their project work as also put it up on Facebook. It qualifies for Fair Use

Answer on page no. 77



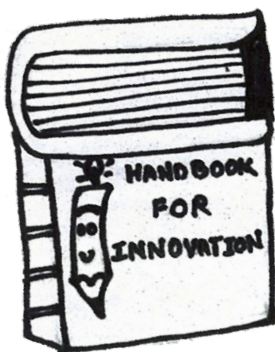
(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

Scenario

Bencil had faced lot of difficulties in taking his inventions to the market and realised that a lot of innovators would benefit by learning from his experience.

So he went about creating a handbook for innovators which would be a step-by-step guide on how to take their idea from lab to the market, including resources and support available from government and non-governmental agencies.

The moment the handbook was launched, it was a big hit with a lot of innovators, researchers and academicians, who swore by it and used it as a reference book.



Taking advantage of the situation, a publisher got the text of the book translated into German, Spanish and French, to cater to the European and South America markets.

This was bought to light when one of the readers of the book in Gautemala, South America, wrote to Bencil congratulating him on his efforts and seeking few clarifications.

Bencil knew that he held the rights for translated work as the author and publisher (since the book was self published).

So Bencil immediately sent a legal notice to the concerned publisher mentioning about his copyright violation demanding compensation and due credit.

Ultimately a compromise was reached whereby Bencil gave publishing rights for markets in Europe and South America to the concerned publisher for sales. The publisher guaranteed minimum royalty per year to Bencil, apart from giving due credit and organising promotional activities for the book.

What is Copyright?

Copyright is a right given to creators of literary, artistic, musical, dramatic works such as a movie, song, TV serial, novel, poetry, architecture and software.

The rights consist of rights of reproduction, communication to the public, adaptation and translation of work which varies slightly depending on the nature of work involved.

Why should you apply for Copyright?

Copyright is applicable the moment one's work is created whether it is published or unpublished. So copyright is applicable even without registering the work.

When should you apply for Copyright?

Applying for copyright is voluntary since protection is applicable the moment one's work is created and expressed in a tangible form.

However by registering the copyright, the details are in public records and certificate of registration of copyright serves as prima facie evidence in court of law with regards to dispute relating to ownership of copyright.

Who can apply for Copyright?

- ⇒ Individual - artist, writer, lyricist etc.
- ⇒ Company
- ⇒ Publishing house
- ⇒ Media organisation
- ⇒ Any other interested person

Important things to remember

- ⇒ Copyright protection is available even without registration of the work
- ⇒ Copyright is applicable across all the major countries in Asia, Americas, Europe etc., without applying for the same in those countries
- ⇒ Copyright term is much higher than other forms of IP
- ⇒ Violation of copyright is a criminal offence where police (above sub-inspector level) are authorised to raid the premises of violators and confiscate the goods without a search warrant
- ⇒ Software / computer programs are covered by Copyright under 'Literary Works'

Common Misconceptions / Issues

- ⇒ Copyright is applicable only if the work has been registered with relevant authority
- ⇒ A name or title can be copyrighted
- ⇒ Anything without a copyright notice is not protected
- ⇒ One can legally copy upto 10% of someone's work without infringing on the same
- ⇒ If I change someone else's work I can claim it as my own

Case Study

Dealing with plagiarism the non legal way

It has been a normal practice for television and movie writers to share their stories & concepts with producers, directors and production houses to help them decide whether they were interested in the same.

But often, a writer's script was exploited and made into a television serial or movie without any financial benefit and acknowledgement to the writer.

The situation was alarming for the writers since their livelihood depended on working for the entertainment industry.

So, a Film Writers Association (FWA) was set up in 1954 to safeguard the interest of writers and is essentially a trade union.

FWA registers stories, lyrics, screenplays and concepts for television, movie and ad films for its 10 lac members by making an entry into its register, stamping and signing every page of the creative work and returning it back to the member without retaining a copy.

The stamped copy acts as a proof that the work is original, with the date of registration deciding who owns the work, since it is a “First to File” system, similar to other forms of IP such as patent.

FWA's most important role is to resolve plagiarism claims which involves stealing or lifting of a story or other creative work of the member by producers and others. Both the parties are given an opportunity to present their case and provide evidence, after which amicable out of court settlements are arrived at in most cases.

It has also been instrumental in pushing for implementation of IPR law for writers and lyricists recently.

In one of the recent cases, noted writer Aabid Surti accused the makers of a popular Hindi comedy movie released in 2010 of lifting his Gujarati novel 'Bautar Baras Na Babo' and demanded approximately USD 2000,000 as compensation. The case has been amicably resolved, according to FWA President.

FWA's success is due to the faith displayed by all the stakeholders in the working of FWA and the simple, low cost mechanism of enforcing copyright.

Role of copyright on artists

In Radio Today Broadcasting Ltd v Indian Performing Rights Society case of 2007, Radio Today Broadcasting, the petitioners applied for a licence from the Central Government and also secured a provisional licence for running a FM station.

The petitioners intent was to play both film and non-film songs on this proposed station. The dispute arose due to the fact that Radio Today was not willing to pay royalties to the Indian Performing Rights Society (IPRS) and IPRS in turn threatened to bring a legal action for infringement of copyright.

Radio Today's main contention was that once the song is composed and marketed through the producers, they were only required to seek permission from the producers' society only and not from IPRS.

The IPRS told Radio Today that if the station played the songs, it would amount to copyright violation. Alerted by the threats, Radio Today filed a lawsuit under Section 60 of the Copyright Act, 1957, which provides for remedies in the case of groundless threats of legal proceedings.

The moot question was whether Radio Today would be obliged to pay any royalty or licence fee to IPRS if the songs are broadcast through their radio station in addition to the licence fees paid to the producer (Phonographic Performance Limited, a society of producers).

The Court placed reliance on the Supreme Court decision in IPR Society v EIMP Association case, wherein it was held that the rights of the lyricist/composer in respect of the song subsequently put in the original film track are extinguished as soon as they are paid for their work.

However, they retain their right to assign it to others for commercial exploitation in other modes in cases where such rights are reserved by agreement between lyricist / composer and the film producer.

The Court held that Radio Today has no case and that members of IPRS did assign their exclusive rights to the producers by agreement. Unless it is shown that such rights were assigned in favour of the members of PPL, IPRS is entitled to claim royalties from Radio Today if they want to exploit the work.

Accordingly, IPRS claim for royalties was held to be well-founded and legitimate and it was held to be entitled to initiate proceedings to protect the interests of its members.

It is a fact that certain rights are difficult to protect individually. Creators of aesthetic products are vulnerable to many aspects and are often subject to exploitation. The role played by copyright societies such as IPRS, has a major impact on the life of many artists. Even though copyright societies are active there are many sectors where their role is still required to be further augmented.

Source: www.mirandah.com

Tips

- ⇒ Since copyright only protects expression of ideas, you are free to use facts and ideas you read up in an article or elsewhere
- ⇒ One can use a company name and/or logo in print or web if you referring to the company in your work and as long as one does not use it to mislead the company's customers
- ⇒ Don't assume that if you credit the author there is no copyright infringement
- ⇒ Copyright expires after a certain period of time after which the work enters public domain thus anyone is free to use the work
- ⇒ Software source code can be copyrighted under the 'Literary Work' category

FAQs

Q. Is my copyright applicable in other countries?

A. The big advantage with copyright is that it need not be registered separately in each country where one wishes to exploit it.

As per Berne Convention, the member countries have to recognise copyright of works of authors from other signatory countries in the same way as it recognises the copyright of its own nationals.

The list of 160+ countries who have signed Berne Convention is available at http://en.wikipedia.org/wiki/List_of_countries_party_to_the_Berne_Convention

Q. Why should I register my work if copyright protection is automatic?

A. Registration is recommended for a number of reasons. Many choose to register their works because they wish to have the facts of their copyright on the public record and have a certificate of registration.

Registered works may be eligible for statutory damages and attorney's fees in successful litigation.

Finally, if registration occurs within 5 years of publication, it is considered prima facie evidence in a court of law.

Q. Do FM radio stations have to pay copyright for playing music on air?

A. Yes. FM radio stations are in the business of making money by entertaining their listeners and they have to pay copyright fee as determined by the Indian Performing Right Society (IPRS) in India.

IPRS, which came into existence in 1969, provides licenses to users of music and collects royalties from them on behalf of their members, i.e., authors, composers and publishers of music. It distributes the royalty amount amongst them after deducting its administrative costs.

Q. How do I find out if the content of a website is copyrighted or not?

A. Generally, sites would have either a copyright notice or copyright symbol to alert the reader that the content is copyrighted.

In case a website doesn't display the copyright symbol or notice, it is advisable to write to the site owner or administrator requesting for permission to copy content with purpose of the same.

Q. Do I have to pay license fee or royalty for playing music in a private party?

A. In case of a private party, one is not liable to pay any license fee or royalty as long as one is playing copyrighted music which is legally purchased.

But in case of events or live / DJ music performances, one is liable to pay license royalty based on the capacity of the venue, if the event is free, or the ticket rate, if the event is paid.

Q. What was the recent controversy about screening of cricket matches at restaurants and pubs during Indian Premier League (IPL) in India?

A. Board of Cricket Control in India (BCCI) has sold telecast rights of public venues to a Mauritius based company for approximately USD 66 million for a period of 10 years. It had appointed an agent in India for issuing licenses to restaurants, clubs, pubs etc. at a cost determined by the license owner and the agent.

Earlier BCCI used to charge anywhere between USD 200 to USD 600 per match based on the venue location and enforcement was not very tight.

The appointed agent, DGS, started taking action against restaurants, pubs and clubs that were trying to cash in by having big screens for IPL matches and special menus but had not procured licenses for screening the IPL matches.

In fact DGS took one of the Mumbai restaurants to court for not procuring a

license to screen the IPL matches and the court restrained the restaurant from exhibiting the match without a license.

Q. Can I have an example of “notice of copyright” which can be put up on a website?

A. Couple of examples of copyright notices are as follows: -

Copyright © 2012 by*****. All rights reserved. Copyright Act prohibits unauthorized reproduction by any means and imposes fine for violation.

Copyright © 2012 by *****. All rights reserved. This material may be freely copied and distributed subject to inclusion of this copyright notice and our website link http://www.*****.com

Q. Is Copyright applicable for deceased artists or performers?

A. Yes. In India, for original literary, dramatic, musical and artistic works, the 60 year period for normal term of copyright is calculated from the year following the death of the author or artist or performer.

Q. Am I eligible for Copyright even though my work is unpublished?

A. Yes. A work need not be published to be eligible for copyright protection.

Q. If someone translates my work, do I lose copyright on the same?

A. In case of literary work, translation or adaptation of the work is the right of copyright owner therefore you will hold the rights of translated work as well. Also no one is supposed to translate your work without prior permission.

Q. What is not protected by Copyright?

A. Mere ideas cannot be protected under Copyright Act but only “expression of ideas” is protectable.

Also the following items are not under the purview of Copyright: -

- ⇒ Maps and Charts
- ⇒ Flags
- ⇒ News
- ⇒ Workbooks or Assignment Sheets

Q. Is copyright infringement a cognizable offence in India?

A. Any police officer, not below the rank of a sub inspector, may, if he or she is satisfied that an offence in respect of the infringement of copyright in any work has been, is being, or is likely to be committed, seize without warrant, all copies of the work and all plates used for the purpose of making infringing copies of the work, wherever found, and all copies and plates so seized shall, as soon as possible, be produced before a magistrate.

Q. Can software or computer programs be copyrighted?

A. Yes, software and computer programs are covered under the Copyright Act and treated as “Literary Work”.

Since in India, software (without being embedded in hardware) is in the strict sense not protected by patents, it is even more important to copyright software with adequate precaution.

Q. I've heard about a “poor man's copyright.” What is it?

A. The practice of sending a copy of one's own work to oneself typically through the Postal Department is sometimes called a “poor man's copyright.”

There is no provision in the copyright law regarding any such type of protection, and it is not a substitute for registration.

Q. Is there any advisory body on Copyright matters in India?

A. Yes. The government has set up a Copyright Enforcement Advisory Council (CEAC).

The present composition of the CEAC is at
<http://education.nic.in/copyright.asp>

Q. Who decides royalties to be charged for music and movies in India?

A. SCRIPT (Society for Copyright Regulation of Indian Producers for Film and Television), IPRS (Indian Performing Right Society) and PPL (Phonographic Performance Limited) are societies registered with Registrar of Copyrights, Government of India, which represents its members.

SCRIPT represents TV & movie producers; IPRS represents lyricists, composers and publishers of music whereas PPL mainly represent music record companies.

Q. Does Copyright apply to names and titles?

A. Copyright does not protect names, titles, slogans, short phrases or factual information.

Q. What are the classes of works for which copyrights protection is available in India?

A. Copyright subsists throughout India in the following classes of works:

- ⇒ Original literary, dramatic, musical and artistic works
- ⇒ Cinematograph Films (Movies)
- ⇒ Sound recordings

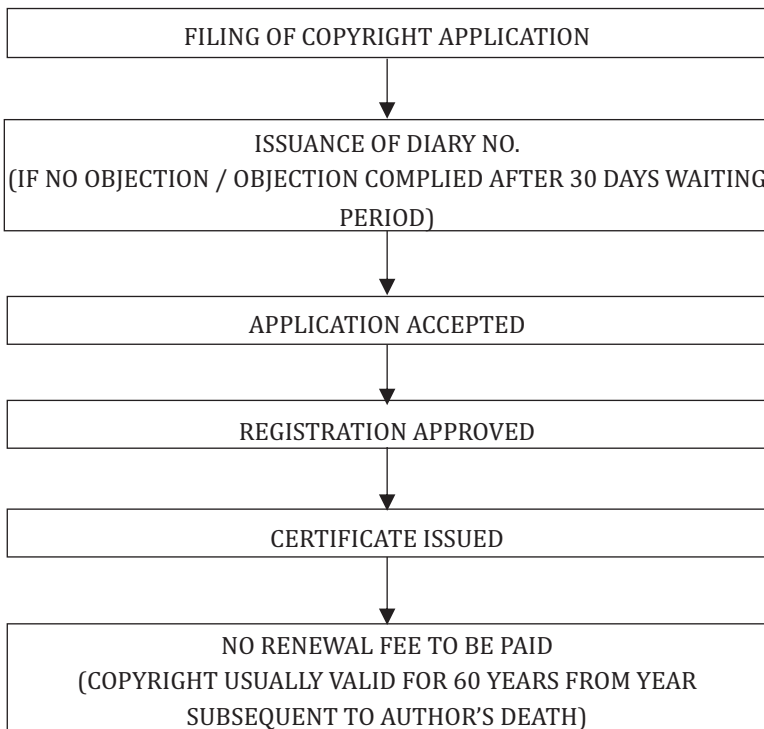
Useful references

- ⇒ <http://copyright.gov.in>
- ⇒ <http://copyright.gov.in/Documents/copyright%20registration%20form.pdf>
- ⇒ <http://education.nic.in/copyright.asp>
- ⇒ <http://www.copyright.gov/circs/circ1.pdf>
- ⇒ <http://www.iprs.org>
- ⇒ <http://www.pplindia.org>

Copyright True or False answer

- A.1 False
- A.2 False
- A.3 False
- A.4 True
- A.5 False
- A.6 True
- A.7 True

Normal Copyright process snapshot (Process followed can vary from country to country so you are advised to verify the exact process followed in your country)



Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with the Copyright Act, 1957, is a legal proof of the registration of the work in the Copyright Office records. The information on this certificate has been made a part of the Copyright Office records.

Copyright Office
Registered Copyrights, United States of America

Registration Number: **PPA0000000100**

Effective date of registration: **January 15, 2005**

1. **Title of Work:** The Greatest Movie Ever Made
Nature of Work: Motion Picture

2. **Author:** Finest Films Inc.
Nature of Authorship: Entire motion picture excluding some music
Work made for hire: Yes
Citizen of: United States
Year Made: 2005
Anonymous: No
Translated in: No
Year Made: 2005
Pseudonym: No

3. **Year of Creation:** 2005
Date of its Publication: January 10, 2005
Nature of its Publication: United States

4. **Copyright Claimant:** Finest Films Inc.
1234 Main St., Los Angeles, CA 90001

Transfer: No

5. **Previous Registration:** No
Previous Registration Number: No
Year of Previous Registration: No

6. **Providing Material:** Previously published music used with permission
Material added to this Work: Entire motion picture excluding some previously published music

Certified by: Name: John A. Smith
Author: John A. Smith
Other Copyright Claimant: John A. Smith
Owner of Exclusive Rights: John A. Smith
Authorized Agent Of: Finest Films Inc.
Date: January 12, 2005

FIN0000000100 1 of 2

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Trivia

⇒ Copyright came into existence with the advent of the printing press and greater literacy levels with origin in Britain in response to the unregulated copying of books by printers with the passing of Licensing of Press Act 1662

⇒ A French artist, Marcel Duchamp added a moustache and beard to the world famous Mona Lisa painting and changed the title to L.H.O.O.Q. (enclosed below) to make a distasteful postcard version

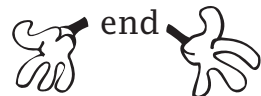


Source: Wikipedia website

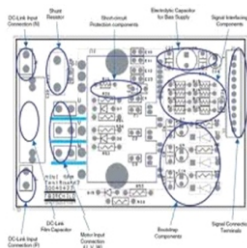
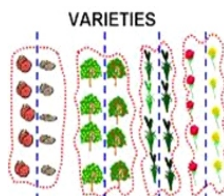
(Image used for illustration purposes only. IP ownership rests with respective owners as applicable)

⇒ The world famous 'Happy Birthday to you' song (most recognised English song according to Guinness Book of World Records) is copyrighted and the rights belong to Warner Bros. which was purchased from its owner, Summy Company in 1990

⇒ J K Rowling, the famous author for the 'Harry Potter' series of books sued a person for attempting to publish a Harry Potter encyclopaedia that would provide more details into the world of Harry Potter but did not add any commentary of his own. The court ordered damages and banned the publication



Chapter # 5 Other Forms Of Intellectual Property: Geographical Indication / Trade Secret / Semiconductor Integrated Circuit Layout Design / Plant Variety & Farmers Rights



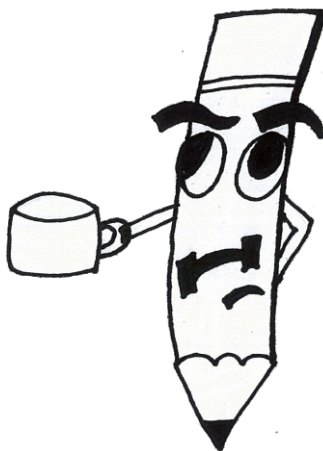
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GEOGRAPHICAL INDICATION

Scenario

Bencil is a big tea lover like a lot of Indians and loves Darjeeling Tea the most. He has been regularly buying Darjeeling Tea from a reputed tea seller for years.

But of late, he had noticed that the tea he purchased was not as refreshing and he brought to the notice of the tea seller.



The tea seller had also been receiving complaints from other tea buyers with regards to a change of taste which was worrisome. The tea seller bought his tea from distributors in Kolkata (eastern part of India) and on investigation found out that one of the distributors was mixing lower quality tea with Darjeeling Tea to make more profit which led to the problem.

Later Bencil learned that Tea Board had taken the effort to certify tea produced in Darjeeling so that consumers were not cheated.

Now, Bencil has switched to buying certified Darjeeling Tea with a mark on the packaging issued by Tea Board, which is known as Geographical Indication.



What is Geographical Indication (GI)?

Geographical Indication (GI) is a mark provided to a produce coming from a particular location or region.

This could indicate that the product possesses certain qualities which could be due to the fact it is made in that particular region or due to traditional methods employed by artisans in that region. It could also indicate a certain reputation due to its geographical location.

The produce could be found in nature, be agricultural produce or be manufactured goods. It has to be manufactured or processed or prepared in a particular region to qualify for GI (of a product from that particular region).

Why should you apply for GI?

GI is like a certificate of quality for the product since it comes from a particular region or geography, which helps the manufacturer sell the produce.

It also provides assurance to a customer that the product is genuine and can be relied upon.

GI is similar to a trademark since it projects a certain image in the minds of the consumer.

When should you apply for a GI?

When a product has special qualities because it is from a particular geographical area, such as Darjeeling Tea, or is produced using traditional methods, such as Kolhapuri Chappal, or enjoys a certain reputation due to its location, such as French wine, then GI should be applied for.

Who can apply for a GI?

- ⇒ Association of Persons
- ⇒ Producer
- ⇒ Organisation
- ⇒ Authority established by Law

Products are classified under class nos. 1 to 34 and you have to apply in relevant categories for GI.

GI can be used only by authorised users and an authorised user in this case is the producer of the good.

Important things to remember

- ⇒ Registered Proprietor of the GI or Authorised User can initiate an infringement action
- ⇒ GI cannot be assigned, licensed, pledged, mortgaged
- ⇒ Registration of GI is valid for 10 years and needs to be reviewed subsequently
- ⇒ GI registry in India is based in Chennai

Case Study

Tea is one of India's oldest industries with about 30% of world tea produced in the country. Also, India is the world's largest consumer of tea.

Darjeeling Tea is a premium quality tea produced in the hilly regions of Darjeeling district in West Bengal in the eastern part of India. It offers distinctive flavour and taste, and has a global reputation for more than a century.

This reputation is due to the geography where tea gardens are located (2000 metres above sea level) and the method of processing tea grown there.

In order to ensure the supply of genuine Darjeeling Tea, in February 2000, a compulsory system of certifying the authenticity of exported Darjeeling tea was incorporated into the Indian Tea Act of 1953.

The system makes it compulsory for all the dealers in Darjeeling Tea to enter into a license agreement with the Tea Board of India on payment of license fee payable annually.

Due to Darjeeling Tea's reputation and sales globally, dishonest practices of passing off tea produced elsewhere including countries such as Kenya, Sri Lanka or Nepal as Darjeeling tea caused loss to Darjeeling Tea manufacturers, government and customers who were misled.

Tea Board of India took the first step for protecting 'Darjeeling' brand by creating a logo way back in 1983 and the same was registered as a certification logo under The Trade Marks Act in 1986.

The logo was also registered as a trademark in several other countries like UK, USA, Japan etc.

Since at that point of time there was no dedicated law for Geographical Indicators, the name Darjeeling was also registered in The Trade Marks Act in 1998.

When the Geographical Indication Act was enacted in India in September 2003, Tea Board applied for GI protection in October 2003. Darjeeling Tea was granted the status of GI in October 2004 and became the first application to be registered in India as GI.

In order to prevent misuse of Darjeeling brand and logo, Tea Board engaged the services of an international agency to monitor and report to the Tea Board all cases of unauthorised use and attempted registration.

For example, Bulgari, based in Switzerland, agreed to withdraw its popular 'Darjeeling Tea fragrance' for men after legal notices were sent by Tea Board and subsequent negotiations.

Source : www.altacit.com

Examples of Geographical Indications

- ☞ Darjeeling Tea
- ☞ Bohemia
- ☞ Bikaner Bhujia
- ☞ Kolhapuri Chappal
- ☞ Basmati Rice
- ☞ Kancheepuram Silk
- ☞ Gruyere Cheese

FAQs

Q. How is GI different from Trademark?

A.

	Geographical Indication	Trademark
Purpose	Protecting the product	Protecting a brand
Ownership in usual cases	Producers or Govt. organisations	Private Enterprises
Protection tenure	Life span of the product (can be in perpetuity)	Life span of the brand (can be in perpetuity)
Any restriction in producing the product	Yes. Has to be produced only in the particular geography which indicates it's quality or reputation	No

Q. Can an individual file for GI?

A. No. A GI can be filed only by producers, association of people, organisations such as a government entity or authorities under law such as a university

Q. Can I take legal action for a non registered GI?

A. If the GI is not registered, then there is no option to take legal action on anyone infringing on the same

Q. Can GI be mortgaged, sold or assigned?

A. GI cannot be mortgaged, sold or assigned to anyone under any circumstances

Q. Does GI have to be registered separately in different countries for protection to be effective?

A. Yes, GI has to be filed in individual countries for it to be effective

Q. What kind of GIs are not registrable?

A.

- ☞ Those which comprise of scandalous or obscene matter
- ☞ Those which comprise of or contain any matter likely to hurt religious

sentiments of a section of the citizens of India

- ⇒ Those which misrepresent goods originating in another geography
- ⇒ Those which are likely to deceive or cause confusion
- ⇒ Those which are generic names or indications of goods

Q. What does a GI certificate look like?

A.

प्रारूप O-2

बौद्धिक सम्पदा भारत सरकार

भारत सरकार
GOVERNMENT OF INDIA

भौगोलिक उपदर्शन रजिस्ट्री
Geographical Indication Registry

वस्तुओं का भौगोलिक उपदर्शन (रजिस्ट्रीकरण तथा संरक्षण) अधिनियम, 1999
Geographical Indication of goods (Registration and Protection) Act, 1999

फॉर्म O-2
INTELLECTUAL PROPERTY INDIA

यहां 16 (1) के अंतर्गत भौगोलिक उपदर्शन अथवा यहां 17 (3) (ii) के अंतर्गत प्रमाणित उपयोग को रजिस्ट्रीकरण का प्रमाणपत्र
Certificate of Registration of Geographical Indication under section 16 (1) or of authorized user under section 17(3)(ii)

भौगोलिक उपदर्शन संख्या:
Geographical Indication No.: 17

Certificate No. 40

प्रमाणित उपयोग संख्या
Authorized user No.:

दिनांक
Date: 25.11.2004

प्रमाणित किया जाता है कि भौगोलिक उपदर्शन (जिसकी संशुद्धि इसमें स्पष्ट उल्लेख है) प्रमाणित उपयोग के अंतर्गत रजिस्ट्रीकरण किया गया है।
It is certified that the Geographical Indication (of which a representation is annexed hereto)/ authorized user has been registered in the register in the name of Kavara Rice Farmers Society, Karukannikalan, Chittoor College, Palakkad-678104, Kerala State.

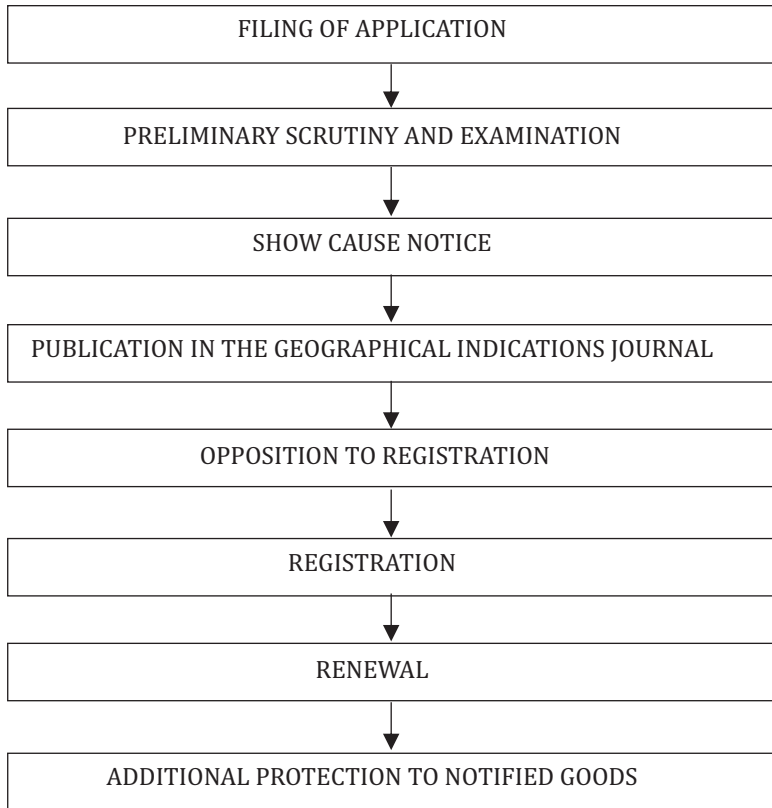
के पास से 30 वर्ष से 17 संख्या के अंतर्गत 25.11.2004 दिनांक को
In class 30 under no. 17 as of the date 25.11.2004
in respect of KAVARA RICE
Falling in class.30 Rice.

आज दिनांक 20 को चेन्नई में मेरे निदेश पर मुद्रांकित किया गया।
Sealed at my direction this 20 day of November 2007 at Chennai.

रजिस्ट्रार, भौगोलिक उपदर्शन
Registrar of Geographical Indication.

This is a random certificate used for illustration purpose only

Normal Geographical Indication process snapshot (Process followed can vary from country to country so you are advised to verify the exact process followed in your country)

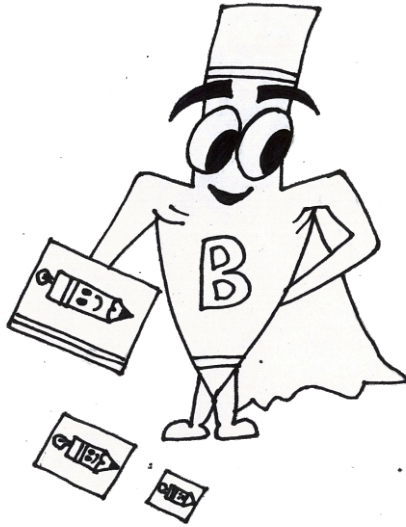


TRADE SECRET

Scenario

Bencil was involved in the business of making specialty papers whereby one need not use carbon sheets to get duplicate copies.

There was a niche application for his invention and the business was extremely profitable. Bencil had evaluated all the options to protect his idea but decided to keep it as a Trade Secret vis-à-vis filing for a patent where he would have to make full and complete disclosure.



The reason for choosing to keep his idea as a Trade Secret was that he would not have to disclose full details of his invention and would continue to enjoy a monopoly till someone could legitimately find out how to make such specialty paper.

Bencil has kept the trade secret under lock and key in a leading bank's vault which has described the invention in complete detail including the know-how to make such specialty paper.

What is a Trade Secret?

Trade Secret, as the term suggests, is a secret which is not known to the public at large.

It could be a formula, practice, process, design or compilation of information, such as a customer database, which provides the person or business an economic advantage over competitors in the market.

It is also referred to as 'Confidential Information' or 'Classified Information' and includes efforts to maintain its secrecy.

How does one protect a Trade Secret?

Since the said information is a secret, it has to be protected in a manner that no one can easily access the information and benefit by the same.

Who can apply for a Trade Secret?

One does not apply for Trade Secret but the same is protected by the owner or legal heir of the information in a manner that no one can easily get access to the same.

Important things to remember

- ⇒ Trade Secret is not registered with the IP office or any other government or legal entity
- ⇒ Any kind of information can be kept as a trade secret
- ⇒ Trade Secret is meant to provide an economic or competitive advantage to its owner or rightful users
- ⇒ The main advantage from a owner's point of view is that the information is not disclosed in public unlike other forms of IP such as a patent or copyright

⇒ The formula of Coca Cola is the most popular and cited case of Trade Secret

Case Studies

Biswamohan Pani was a former design engineer with Intel Corp. In November 2008, he was charged with stealing USD 1 billion worth of trade secrets from Intel while he worked for its main rival, Advanced Micro Devices (AMD).

Biswamohan's wife also worked with Intel and was transferred from Intel's California location to join her husband in Massachusetts. She accepted the transfer on 29th May, 2008 and within hours he resigned from Intel.

He said that he would use his one and a half weeks of accrued vacation until his termination date of 11th June 2008 to help his wife move in and explore new employment at a hedge fund.

In fact, Pani had accepted an offer from AMD, started work on 2nd June 2008 and started downloading Intel's trade secrets, confidential and proprietary information while on his vacation from Intel. From 8th to 11th June 2008, he remotely accessed Intel's computer system numerous times and downloaded 13 top secret documents according to Intel's classification system.

He also accessed and downloaded a document explaining how the encrypted documents could be reviewed when not connected to Intel's computer system.

He also backed up the downloaded files to an external hard drive for access after he left Intel.

The indictment also alleges that on 13th June, 2008, two days after his last day at Intel, he attempted to access Intel's computer system again.

The indictment also alleges that AMD neither requested the information that he had downloaded nor knew that he had taken this information from Intel but Biswamohan had planned to use the trade secrets to further his career at AMD.
{Source: Wikipedia website (Intel case of trade secret theft)}

FAQs

Q. What is the benefit of having a Trade Secret since it cannot be registered unlike patent or other forms of IP?

A. The primary reason for having a Trade Secret is that the owner of the secret does not want to publicly disclose the same which could be due to the fear of the secret getting copied or for the need to have a much longer protection tenure than say patents which is valid only for 20 years from filing date.

Trade Secret comes in handy to prove in the court of law if someone has obtained the secret illegally through espionage or other unfair means.

But if the competitor has been able to make the same product or whatever else is involved in the secret through say reverse engineering, then the owner of the secret cannot hold them liable and take legal action in that case.

Q. Is there a law which covers Trade Secrets in India?

A. There is no specific law which covers Trade Secrets and confidential information in India but it is possible to contractually bind a person not to disclose information that is revealed to him or her in confidence.

Indian courts have upheld trade secret protection when contractually bound on basis of principles of equity as it amounts to breach of contractual obligation.

Q. What is Trade Secret also popularly known as?

A. Trade Secret is also called Confidential Information or Classified Information.

Q. What are the ways in which one can protect Trade Secrets?

A.

- ⇒ Employment Agreement
- ⇒ Non Disclosure Agreement (NDA)
- ⇒ Trade Secret Policy
- ⇒ Security Systems and Surveillance
- ⇒ Adequate Documentation

Q. What all gets covered under Trade Secret or Confidential Information?

A. Anything which you perceive as important and a competitive advantage to your business can be covered under Trade Secret.

For example: -

- ⇒ Technical Know-How
- ⇒ Product Design
- ⇒ Manufacturing Process
- ⇒ Marketing Strategies
- ⇒ Customer Database
- ⇒ Business Method
- ⇒ Documents / Collaterals

PLANT VARIETY PROTECTION AND FARMER'S RIGHT ACT

Scenario

One of Bencil's good friends who is a farmer who would keep innovating new plant varieties and seeds because of the high cost of seeds (market mainly dominated by multinationals) along with the problem of spurious, low quality seeds sold in the market.

He was savvy enough to protect the plant varieties and seeds for the benefit of fellow farmers so that other traders / sellers could not mislead the farmers. Also, he could financially benefit from the same by registering it under The Plant Variety Protection and Farmers' Right Act.



Thus Bencil's friend was able to create value out of his know-how in agriculture and share the same with other farmers and, at the same time, make money from the same.

What is Plant Variety Protection and Farmer's Right (PVP&FR)?

In order to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders, and to encourage the development of new varieties of plants, it has been considered necessary to recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources (including seed, cuttings, divisions, tissue culture) for the development of the new plant varieties.

With these rights, the breeder can choose to become the exclusive marketer of the variety or to license the variety for others. In order to qualify for these exclusive rights, a variety must be new, distinct, uniform and stable.

Moreover to accelerate agricultural development, it is necessary to protect plants breeders' rights to stimulate investment for research and development of new plant varieties.

Such protection is likely to facilitate the growth of the seed industry which will ensure the availability of high quality seeds and planting material to the farmers.

India, having ratified the Agreement on Trade Related Aspects of the Intellectual Property Rights, had to make provision for giving effect to the Agreement.

To give effect to the aforesaid objectives, the Protection of Plant Varieties and Farmers' Rights Act, 2001 has been enacted in India.

Source: www.plantauthority.gov.in

How do I protect new plant varieties and seeds as such?

To register a plant variety, the following are the prerequisites: -

1. Denomination assigned to such variety
2. Accompanied by an affidavit that variety does not contain any gene or gene sequences involving terminator technology
3. Complete passport data of parental lines from which the variety has been derived along with its geographical location in India
4. Characteristics of variety with description of novelty, distinctiveness, uniformity and stability
5. A declaration that the genetic material used for breeding of such variety has been lawfully acquired
6. A breeder or other person making application for registration shall disclose the use of genetic material conserved by any tribal or rural families for improvement of such variety

Who can apply for Plant Variety & Seed Protection?

- ⇒ Any person claiming to be the breeder of the variety
- ⇒ Any legal heir / successor of the breeder of the variety
- ⇒ Any person being the assignee or the breeder of the variety
- ⇒ Any farmer or group of farmers or community of farmers claiming to be the breeder of the variety
- ⇒ Any person authorised to make an application on behalf of farmers
- ⇒ Any university or publicly funded agriculture

Important things to remember

- ⇒ Seed or propagating material including parental line seeds of registered variety to be sent to the Authority
- ⇒ Seed quality test report has to be enclosed along with application
- ⇒ Any variety which is already in the market but not for more than a year can be considered for registration as a new variety. Other older varieties can be registered as extant variety
- ⇒ This Act provides concurrent rights to breeders, farmers and researchers
- ⇒ Farmer can be a cultivator, conserver and breeder
- ⇒ Establishes nine rights for farmers, the most important being Right to Seed and Right to Compensation for crop failure

- ⇒ The basic rights to save, use, sow, re-sow, exchange, share and sell farm produce, including varieties of seeds protected by plant breeder's rights, are ensured to a farmer
- ⇒ One is not allowed to sell seeds of protected varieties as branded packages
- ⇒ There is a safeguard for unintentional infringement by farmers
- ⇒ This Act applies to all farmers in India across all crop varieties

Case Study

From salmon and fruit to wine and minerals, the abundance of natural resources that Chile enjoys has made a lasting contribution to the country's economic growth. In the south-central Araucanía region, a healthy agricultural industry has helped Chile become the third largest producer of lupine (a grain cultivated for its nutritious bean) in the world, only trailing Australia and Germany.

Long before Chile enjoyed success as an important international grain exporter, biological geneticist Erik Von Baer saw an opportunity in the natural resources and climate of his home region of Araucanía.

In March 1956, with the support of ten farmers in the region, he started Baer Seeds (Baer), a genetics company that is devoted to researching and developing new plant varieties for local farmers.

With the financial backing of the farmers in hand, Baer launched its research and development (R&D) initiative to breed and produce seeds that would be of maximum benefit to the farmers who invested in the company.

After four years of R&D, Baer was finally ready to bring its products to the market.

In 1960 the farmers that invested in the company formed the Saprosem Cooperative (the Cooperative), which worked with Baer and other plant breeders to produce and market newly developed plant varieties, fertilizers and other agrochemicals.

Because new Baer developed seed and plant varieties give farmers a significant advantage in growing and harvesting new crops, the company wanted to expand its market reach as much as possible. Going beyond in-house and partner-based commercialization, Baer has made considerable use of licensing throughout its history.

One of the most lucrative and earliest major licensing deals was the distribution agreement with NSF, in which NSF paid licensing fees to Baer for the use of the company's new seed and plant varieties.

This deal generated much-needed income for the company to continue its R&D activities, and such licensing initiatives remain a mainstay of the company.

Under Chile's 1994 law for the protection of new plant varieties, breeders enjoy rights for the protection of new plant species which, due to their high technical and financial cost, must be protected within a legal framework.

Baer is an ardent user of this legal framework, and as of 2006, Baer has protected over seventy plant varieties of eight different species. Some specific milestones in the company's history include using the IP system to register new varieties such as Victoria-Baer (1989), Rumbo-Baer (1995) and Typ Top-Baer (1999). In 2009, the company developed a new variety of lupine – Pecosa-Baer – that is tolerant to the main fungal diseases, has homogenous ripening and has a generous yield of a sweet grain with high protein content.

Source: WIPO International website

FAQs

Q . Can a new and distinct plant found growing in nature be protected?

A. As such, plant varieties present in the wilderness cannot be registered under the Act.

However any traditionally cultivated plant variety which has undergone the process of domestication / improvement through human interventions can be registered and protected, subject to fulfilment of eligibility criterions.

Q. What is done with the seeds received by the Authority?

A. The seed samples received by the Authority are properly tested for their purity and germination.

A part of the seed sample is sent to the test centre for conduct of DUS tests and a part of it is kept by the Authority in the National Gene Bank to maintain the seed samples of the registered varieties for their entire period of protection.

Q. What are the exemptions under the Act?

A.

⇒ Farmer's Exemption: Farmers shall be entitled to produce, save, use, sow, re sow, exchange, share or sell their farm produce, including seeds of a variety protected under this Act

⇒ Researcher's Exemption: Entitled to use registered variety for conducting experiments or the use of variety as an initial source of variety for the purpose of creating other varieties

Q. Is there any punishment if any person falsely represents a variety as a registered variety in India?

A. If any person falsely represents a variety as a registered variety, they shall be punishable with imprisonment for a term less than 6 months which can be extended to 3 years, or with a fine less than approximately USD 2000 which can be extended to approximately USD 10000, or both.

Q. Is there a provision for onsite testing of trees and vines in India?

A. Yes, the applicant has an option for onsite testing and the fee prescribed will not exceed 4 times the fee prescribed for normal DUS test.

Q. What is the difference between the Seeds Act, 1966 and PVP&FR Act 2001 of India?

A. Seeds Act 1966, along with the rules and control order, are the legal instruments for regulating the production, distribution and the quality of certain seeds for sale and for matters connected therewith.

PVP&FR Act 2001, on the other hand, grants the proprietary ownership of the variety to the plant breeders and farmers for their varieties similar to other forms of IP Rights.

Q. Can a plant variety be protected under the Patent Law in India?

A. No, plant variety cannot be patented in India.

Q. Can a foreign applicant obtain registration of their variety under PVP&FR Act 2001?

A. Yes. The procedure for obtaining plant variety registration is same for Indian citizens and foreigners. However, foreign applicants must furnish their address in India while applying for plant variety registration.

Useful references

- ⇒ http://www.farmersrights.org/bestpractices/success_seed_1.html
- ⇒ <http://agricoop.nic.in/PPV&FR%20Act,%202001.pdf>
- ⇒ http://en.wikipedia.org/wiki/Plant_breeders'_rights
- ⇒ <http://plantaauthority.gov.in/downloads.htm>
- ⇒ http://plantaauthority.gov.in/pdf/G_Brochure_English.pdf
- ⇒ <http://www.fni.no/doc&pdf/FNI-R0606.pdf>
- ⇒ http://www.plantaauthority.gov.in/pdf/FAQ_New.pdf

Semiconductor Integrated Circuit Layout Design (SICLD)

Scenario

BENCIL had always marvelled at what goes “inside the box”, such as electronic gadgets and the amazing complexity with which Printed Circuit Boards (PCB) are built. PCBs are essentially the 'nerve centre' of any electronic gadget.



But he was also concerned about the blatant copying of circuit layout designs by rogue firms and individuals with the motive of making a quick buck without regards for quality.

This affected functioning of the gadget or computer system and also disregarded the hard work and intellect of the creator of the IC (Integrated Circuit) layout designs and PCBs.

Bencil was thrilled that WIPO recognised the need to protect IC layout design which has been made legislation by many countries including developing nations such as India and Thailand.

What is Semiconductor Integrated Circuit Layout Design (SICLD)

Semiconductor Integrated Circuit means a product having transistors and other circuitry elements which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function.

The aim of the Semiconductor Integrated Circuits Layout-Design Act 2000 is to provide protection of Intellectual Property Right (IPR) in the area of Semiconductor Integrated Circuit Layout Designs and for matters connected therewith.

What are the criteria for registration of SICLD?

- ⇒ Original
- ⇒ Inherently distinctive
- ⇒ Capable of being distinguished from any other registered layout design
- ⇒ Not commercially exploited anywhere in India or convention / reciprocal country

How do I protect SICLD as such?

The registration of a layout-design involves the following steps:

- I. Filing of an application by the creator of the layout-design at the SICLD Registry
- ii. The acceptance of application. Registrar may accept, refuse or accept the application with some modifications.
- iii. The accepted applications shall be advertised within 14 days of acceptance.
- iv. Any opposition to the advertisement can be filed within 3 months from the date of advertisement.

- v. The counter-statement to the notice of opposition, if any, has to be filed within 2 months from the date of receipt of copy of notice of opposition from the Registrar
- vi. A copy of the counter statement has to be provided to the opposing party
- vii. The Registrar may take a hearing with the parties
- viii. The Registrar will decide on the originality of the layout-design and grant or reject the application for registration based on the conclusions reached by him
- ix. Aggrieved party can appeal to Appellate Board or, in its absence, to the Civil Court for relief on any ruling of the Registrar

Who can apply for SILCD?

Any person(s) who

- ⇒ Is creator of a layout design and desires to register it
- ⇒ Is an Indian national or national of country outside India which accords to citizens of India similar privileges as granted to its own citizens in respect of registration and protection of layout-designs and has principal place of business or place of service in India

Important things to remember

- ⇒ No action can be taken for infringement against unregistered IC layout design
- ⇒ IC layout design is granted for a period of 10 years from the date of filing an application for registration, or from the date of first commercial exploitation anywhere in India or in any convention country or country specified by Government of India, whichever is earlier

- ⇒ SICALD Act is a one of its kind Act specifically meant for protecting IPR relating to Layout Design (Topographies) of Semiconductor Integrated Circuit
- ⇒ Commercial exploitation implies sell, lease, offer or exhibit for sale or distribution of such semiconductor integrated circuit for commercial purposes

Case Study

The electronics industry in Thailand has been crucial to the growth of manufactured exports. Electronics account for about 30 percent of total exports.

Currently, Thailand is among the top five major exporters of computer-related products and a major player in the global market for several products such as hard disk drives, keyboards and printed circuit boards (PCB).

For the electronics industry, the need to protect designs of electronic systems is very important. The development of a new layout design of an IC requires substantial investment.

However, the design can easily be copied and built using components that are readily available in the marketplace. Therefore without protection for those designs, few companies and institutions are likely to invest their time and resources in developing such systems.

It is for this reason that Thailand introduced a legislation in 2000 for the protection of IC designs. The legislation protects novel circuit designs or new designs resulting from rearrangement of standard components.

Similarly, software plays an important role in the development of the electronics industry and so Thailand revised its Copyright Act in 1995.

FAQs

Q. Can I protect/register under the SICLD Act any idea, procedure, process, method of operation, any information stored in the Integrated Circuits?

A. No, Only the Layout-Design, which essentially is the mask layout and floor planning of the integrated circuits, can be registered under the SICLD Act 2000 and not the other information like any idea, procedure, process, system, programme stored in the integrated circuit, method of operation etc.

Q. Can an IC Layout-Design be jointly registered under the Act in India?

A. Yes, the Act allows two or more persons as joint proprietors of a layout-design. (refer Section 14 of the Indian Act)

Q. Do all layout-designs of ICs qualify for registration under SICLD Act, 2000?

A. No. Only the layout-designs created by the creators through own intellectual efforts and commonly not known to the creators at the time of creation; or inherently distinctive from other registered layout-designs or have not been commercially exploited in India; or a convention country for more than two (2) years, can be registered under the Act.

For full details refer Section 7 of the Indian Act.

Q. What is meant by commercial exploitation in relation to SICLD?

A. Commercial exploitation implies acts such as sale, lease, offer or exhibit for sale or distribution of such semiconductor integrated circuit for commercial purpose.

Q. What is Register of Layout-Designs?

A. Register of Layout-Designs is a register wherein all registered layout-designs with names, addresses and descriptions of the proprietor and other matters related to the registered layout-designs are listed in a central register maintained at the Registry.

This register is open to public on payment of charges.

Q. Who decides that the layout-design is original?

A. The Registrar will determine the originality of the design based on the information available with him as well as through the mechanism of advertisement of the application for registration of the layout-design and /or any input he may receive.

Q. What usually are the documents /material to be given at the Registry at the time of filing IPR application?

A. Registrar's office has drawn a list of items to be submitted along with the application. This is available at the Registrar's office. The list includes:

- i. Three (3) sets of 2D/3D drawings which describe the layout-design applied for registration and or 3 sets of photographs of masks used for the fabrication of the semiconductor integrated circuit by using of the layout-design applied for registration, and or drawings which describe the pattern of such masks
- ii. Semiconductor integrated circuit (where an integrated circuit has been made using layout-design applied for registration)
- iii. Any related information sought by Registry/Registrar

Q. What is the penalty for infringement of a registered layout-design?

A. Infringing the rights of a registered proprietor of a layout-design is considered a criminal offence. The infringer is punishable with imprisonment for a term that may extend to three (3) years or fine which shall not be less than approximately USD 1000 but which may extend to approximately USD 20000 or with both.

Q. What is the penalty for falsely representing a layout-design as registered?

A. It is a criminal offence to falsely represent a layout-design as registered. If a person does so, they can be punished with imprisonment for a term that may extend to 6 months or with fine, which may extend to approximately USD 1000 or with both.

Q. Which other persons can do the registrations, other than making of the affidavit, on behalf of the person himself, under the SICLD Act, 2000?

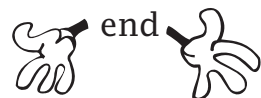
A. The following duly authorized persons, on behalf of the person himself, can do the registrations other than making of an affidavit on the behalf of such person:

- ⇒ Legal practitioner
- ⇒ Person registered as layout-design agent in the Registry
- ⇒ Person in the sole and regular employment of the principal

The possibility of copying by photographing each layer of an integrated circuit and preparing masks for its production on the basis of the photographs obtained is the main reason for the introduction of legislation for the protection of layout-designs.

Useful references

- ⇒ <http://sicldr.gov.in/>
- ⇒ <http://www.pfc.org.in/faqcond.htm>
- ⇒ <http://sicldr.gov.in/Resources/SICLDRA1.pdf>
- ⇒ http://www.wipo.int/clea/docs_new/pdf/en/in/in003en.pdf
- ⇒ <http://www.mit.gov.in/content/frequently-asked-question-semiconductorintegrated-circuits-layout-design-act-2000>



Chapter # 6 *Public Intellectual Property / Open Source*



(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

Background on Open Source, Free Use of Software and Other Copyrightable Material

The Free Software movement was launched in 1983 and in 1988, a group of individuals advocated that the term free software should be replaced by Open Source Software (OSS) as an expression which is less ambiguous and broader in its meaning.

It is one of the most successful movements of the last 25 years driven by a worldwide community of ethical programmers dedicated to the cause of freedom and sharing.

Open Source Software (OSS) is a computer software that is available in source code form. The source code and certain other rights normally reserved for copyright holders are provided under a free software license that permits users to study, change, improve and at times also to distribute the software.

OSS is very often developed in a public, collaborative manner. OSS is the most prominent example of open source development and is often compared to user-generated content or open content movements.

A report by the Standish Group states that adoption of OSS models has resulted in savings of about \$60 billion per year to consumers.

The **4 Rs** to be kept in mind when accessing any content to check for openness are as follows:

1. **Reuse** - the right to reuse the content in its unaltered / verbatim form (For e.g., make a backup copy of the content)
2. **Revise** - the right to adapt, adjust, modify, or alter the content itself (For e.g., translate the content into another language)
3. **Remix** - the right to combine the original or revised content with other content to create something new (For e.g., incorporate the content into a mashup)
4. **Redistribute** - the right to share copies of the original content, your

revisions, or your remixes with others
(For e.g., give a copy of the content to a friend)

Concepts / Definitions

Copyleft

Copyleft is a general method for making a program work for no charge and requires all modified and extended versions of the program to be free as well. Copyleft type licenses are a novel use of existing copyright law to ensure a work remains freely available.

Copyleft licenses (for software) require that information necessary for reproducing and modifying the work must be made available to recipients of the software. The source code files usually contain a copy of the license terms and acknowledge the author(s).

To copyleft a program, you have to first state that it is copyrighted; then you can add distribution terms, which are a legal instrument that gives everyone the rights to use, modify, and redistribute the program's code, or any program derived from it, but only if the distribution terms are unchanged.

Thus, the code and the freedom becomes legally inseparable.

Copyleft is a way of using the copyright on the program. It doesn't mean abandoning the copyright; in fact, doing so would make copyleft impossible.

The “left” in “copyleft” is not a reference to the verb “to leave”—only to the direction which is the inverse of “right”.

Copyfree

Copyfree is a policy that gives you freedom to copy, use, modify, and distribute what you possess.

It is a philosophy that stands in contrast to both copyright and copyleft, in

that it does not seek to limit or restrict your rights regarding your possessions at all.

Copyfree is not about limited monopoly on the product of the intellect, like copyright; nor is it about dictating terms of redistribution, like copyleft. It is about control over what you possess and allowing others to control what they possess.

GNU Project

The GNU Project was launched in 1984 to develop the GNU system. The name "GNU" is a recursive acronym for "GNU's Not Unix!". "GNU" is pronounced g'noo, as one syllable, like saying "grew" but replacing the r with n.

General Public License (GPL)

The GNU General Public License (GNU GPL or simply GPL) is the most widely used free software license, originally written by Richard Stallman for the GNU Project.

The GPL is the first copyleft license for general use, which means that derived works can only be distributed under the same license terms.

Multiple Licenses

Multi-licensing is the practice of distributing software under two or more different sets of terms and conditions. This may mean multiple different licenses or sets of licenses.

Prefixes may be used to indicate the number of licenses used, e.g., dual-licensed for software licensed under two different licenses.

When software is multi-licensed, recipients can choose under which terms they want to use or distribute the software.

The distributor may or may not apply a fee to the option. The two usual motivations for multi-licensing are license compatibility and market segregation-based business models.

Multi-licensing is commonly done to support free software business models in a commercial environment.

Wiki Commons

Wikimedia Commons is a media file repository making available public domain and freely-licensed educational media content (images, sound and video clips) to everyone, in their own language.

It acts as a common repository for the various projects of the Wikimedia Foundation, but you do not need to belong to one of those projects to use media hosted here.

The repository is created and maintained not by paid archivists, but by volunteers.

Wikimedia Commons uses the same wiki technology as Wikipedia and everyone can edit it. Unlike media files uploaded to other projects, files uploaded to Wikimedia Commons can be embedded on pages of all Wikimedia projects without the need to separately upload them there.

Creative Commons

Creative Commons (CC) is a non-profit organization headquartered in Mountain View, California, United States, devoted to expanding the range of creative works available for others to build upon legally and to share.

The organization has released several copyright-licenses known as Creative Commons licenses free of charge to the public. These licenses allow creators to communicate which rights they reserve, and which rights they waive for the benefit of recipients or other creators.

MIT License

The MIT License is a free software license originating at the Massachusetts Institute of Technology (MIT).

It is a permissive license, meaning that it permits reuse within proprietary software provided all copies of the licensed software include a copy of the MIT License terms. Such proprietary software retains its proprietary nature even though it incorporates software under the MIT License.

The license is also GPL-compatible, meaning that the GPL permits combination and redistribution with software that uses the MIT License.

Public Domain

The public domain refers to works whose intellectual property rights have expired, been forfeited, or are inapplicable. Examples include the English language, the formulae of Newtonian physics, the works of Shakespeare and Beethoven, and the patents on powered flight.

Informally, public domain refers to works that are publicly available; the formal definition states that it refers to works which are intangible to private ownership or are available for public use.

Free Software Foundation (FSF)

FSF is a society for advocates of free software to support the cause of computer users for freedom from proprietary software that originated in the USA and has a presence in India as well.

Source: Wikipedia

Important things to remember

- ⇒ Information available in the public domain does not mean it is free to copy, edit and distribute
- ⇒ If you are looking at free to copy content or software then check Wiki Media Commons, Free Digital Photo website etc. as also check Creative Commons logo for a media file
- ⇒ Look out for copyright, copyleft or copyfree symbol to identify the rights attached to the work you are interested in

FAQs

Q. What is the difference between copyright and copyleft?

A. Copyright provides a right to the copyright owner which restricts the user of the copyrighted material from commercially benefiting by distributing or modifying the copyrighted material.

Copyleft type licenses are a novel use of existing copyright law to ensure a work remains freely available.

Q. What is the difference between copyleft and copyfree?

A. Copyfree does not restrict the terms of redistribution unlike copyleft.

Under copyfree, one is free to modify and redistribute the work either free or at a cost.

Q. How do people who put up their software or other copyrighted material free in public domain benefit by it?

A. There is a growing community of software programmers and followers of Open Source movement who want their work to be available freely in public domain either under copyleft or copyfree terms with an intention to freely share knowledge and know-how leading to the betterment of society.

There is a large commitment to benefit others and in software industry.

There is a growing concern about the possible shortcomings of using proprietary software which has given a further boost to the Open Source movement.

Q. Can I make money out of software or other material available for free in public domain?

A. Under copyfree terms of licensing, one can modify softwares or other material such as educational content, visual art etc. and sell the same thus commercially benefiting by the same.

Also even under copyleft terms of licensing, individuals and organisations make money by providing technical support and training typically for software available free in public domain.

Q. What is the difference between open source and free software?

A. The fundamental difference between the two movements is in their values and their ways of looking at the world.

For the Open Source movement, the issue of whether software should be open source is a practical question, not an ethical one.

As one person put it, “Open Source is a development methodology; free software is a social movement.” For the Open Source movement, non-free software is a suboptimal solution.

For the Free Software movement, non-free software is a social problem and free software is the solution.

Q. Give me a sense of where the Open Source movement is headed?

A. Although Open Source movement started with the quest for free software which could be freely used, modified and made available to the public, it now encompasses other forms of material such as educational content, photographs, multimedia material etc.

At the heart of the movement is the philosophy that instead of giving only the owner(s) of the copyrighted material or software full control of how the material is created, distributed and used, it should be made available to the larger community of people who can contribute to the same

That way, there will be far-reaching improvement in the material, benefiting a much larger segment of society.

There are newer business models which have emerged where even strong advocates of IP protection such as Microsoft have, under certain initiatives such as Open Office software, made source code of programs available for improvement.

Since its inception in 1991, Linux has grown to become a force in computing, powering everything from the New York Stock Exchange to mobile phones to supercomputers to consumer devices.

The Linux Foundation is the non-profit consortium dedicated to fostering the growth of Linux. Founded in 2000, the Linux Foundation sponsors the work of Linux creator Linus Torvalds and is supported by leading technology companies and developers from around the world.

Q. How do I check whether content from web is copyright, copyleft or copyfree?

A. Check for copyright logo © somewhere on the website; it is usually at the bottom of the home page.

In that case, the content is copyrighted and cannot be copied and reused.

If the content specifically mentions copyleft or carries its logo then the content is copyleft, i.e., it can be copied but has to be distributed free under terms of license.

If the content specifically mentions copyfree or carries its logo then the content is copyfree, i.e., you can freely copy, modify, reuse and distribute the same on your own terms.

Case Study

Wikipedia, an open source online encyclopaedia open for anyone to update and revise content, is one of the biggest success stories attracting 400 million unique visitors monthly as of March 2011 (according to ComScore). There are more than 82,000 active contributors working on more than 19 million articles in more than 270 languages.

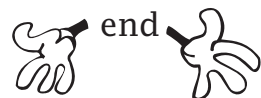
Wikipedia Foundation operates several online collaborative wiki projects including Wikipedia, Wiktionary, Wikiquote, Wikibooks, Wikisource, Wikimedia Commons, Wikispecies, Wikinews, Wikiversity, Wikimedia Incubator, Meta-Wiki and owns the now-defunct Nupedia.

Its flagship project, Wikipedia, ranks in the top-ten most-visited websites worldwide.

Though the number of employees has grown, the foundation's staff is still very small (65 employees in May 2011) and the bulk of foundation work continues to be done by volunteers.

Useful references

- ⇒ www.gnu.org/copyleft
- ⇒ www.copyleft.org
- ⇒ <http://fsf.org.in>
- ⇒ <http://questioncopyright.org>
- ⇒ <http://publicphoto.org>
- ⇒ <http://totallyfreeimages.com>
- ⇒ <http://commons.wikimedia.org>



Chapter # 7 Abbreviations & Glossary Terms

Abbreviations

CC	Creative Commons
CGPDTM	Controller General of Patents, Designs and Trade Marks
EMR	Exclusive Marketing Rights
EPO	European Patent Office
GATT	General Agreement on Tariff and Trade
GI	Geographical Indication
ID	Industrial Design
IIC	International and Copyright Law Review of Industrial Property
IP	Intellectual Property
IPC	International Patent Classification
IPO	Indian Patent Office
IPR	Intellectual Property Rights
LESI	Licensing Executive Society International
PBR	Plant Breeding Rights
PCT	Patent Co-operation Treaty

PCT NPE	Patent Co-operation Treaty National Phase Entry
PO	Patent Office
PTC	Patents and Trade Marks Cases
PTO	Patent and Trademark Office
PVPA	Plant Varieties Protection Act
SICLD	Semiconductor Integrated Circuit Layout Design
TK	Traditional Knowledge
TKDL	Traditional Knowledge Digital Library
TRIPS	Trade Related Aspects of Intellectual Property Rights
UM	Utility model
USPTO	US Patent and Trademark Office
WCT	WIPO Copyright Treaties
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

Useful references

- ⇒ <http://www.uspto.gov/about/stratplan/ar/2001/08acronyms.jsp>
- ⇒ <http://www.fspat.com/IPR-glossary.html>
- ⇒ http://www.ieee.org/publications_standards/publications/rights/rights_glossary.html

Glossary Terms

Abstract: A brief summary of an invention

Agent (may also be referred to as practitioner): One who is not an attorney but is authorised to act for or in place of the applicant(s) before the Intellectual Property office, that is, an individual who is registered to practice before the IP office

Applicant: An individual or any other legal entity that files an application for a patent, trademark, industrial design etc.

Application: The formal request for IP rights at an IP office, whereupon the office examines the application and decides whether to grant or refuse protection. Application also refers to a set of documents submitted to an office by the applicant

Application date: The date on which the IP office receives an application that meets the minimum requirements. Application date is also referred to as the filing date

Application Number: The unique number assigned to a patent, design, trademark application when it is filed with the Intellectual Property office

Artistic work: Any visual representation such as a painting, drawing, map, photograph, sculpture, engraving or architectural plan

Assignment: A transfer of all ownership or rights to another party

Assignor: Person or an entity who is the owner of an intellectual property

Assignee: Person or an entity who receives the intellectual property rights after its transfer from the owner

Author: The creator of a literary, artistic, musical or dramatic work

Certificate of registration: Official confirmation that your intellectual

property (patent, design, or copyright) has been registered

Certification marks: Marks identifying goods or services meeting a defined standard (e.g. Wool Mark on clothing)

Claims: The basis for filing a patent application that provides legal rights to the applicant once the patent is granted

Clearly descriptive: A mark that clearly describes the feature of a product or service and is therefore not registrable as a trademark

Compulsory License: Compulsory licensing is when a government allows someone else to produce the patented product or process without the consent of the patent owner

Copyright: A right provided to the creator of a work such as a painting, novel, song, sculpture, architectural work etc. for a certain period of time and is essentially an 'expression of an idea'

Copyleft: The practice of using copyright law to offer the right to distribute copies and modified versions of a work and requiring that the same rights be preserved in modified versions of the work.

In other words, copyleft is a general method for making a program (or other work) free, and requiring all modified and extended versions of the program to be free as well

Copyfree : Copyfree is a license that provides freedom to copy, use, modify and distribute someone else's work and liberty to charge for the modified work

Cross Licensing: Mutual exchange of licenses (generally on a barter system) between patent holders to exploit each other's technical strengths

Crown copyright: Copyright of works prepared for or published by the government, i.e., government publications

Dairy Number: Acknowledgment (in the form of a number) granted to a Copyright application made by the Copyright office in India

Defendant: The party against whom case is filed or complaint is lodged in the court in case of infringement or opposition of the intellectual property rights

Disclaimer: A statement that the applicant does not claim exclusive rights for a portion of the trademark

Ever greening: A variety of legal and business strategies by which individuals or organisations with patents that are about to expire, acquire new related patents and try to maintain a monopoly situation in their defined technology area in the market place

Fair Use: An exception to copyright allowing third parties to use the copyrighted material in certain circumstances like purposes of private study, research, review or news reporting that does not constitute infringement of copyright

First to file: An IP system in which the first innovator to file an IP application is entitled to a legal right

Grant: Exclusive IP rights conferred to an applicant by an IP office

Grant date: The date on which an IP office issues an IP right

Geographical Indication : Geographical Indication is a mark provided to a produce or service coming from a particular location or region

Industrial Design: Industrial Design refers to the ornamental or aesthetic aspects of a product

Industrial Use: The invented technology i.e. product or process has an application and is made using an industrial process

Infringement: Any act which interferes with the owners rights carried out

by a third party without the express permission of the rights holder.

This could include reproducing a copyright work without permission, using some one's business name falsely, copying someone's product

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

IP is divided into two categories: industrial property, which includes patents, trademarks, industrial designs and geographical 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

Intellectual Property Rights (IPR): The legal rights granted with the aim to protect the creations of the intellect. These rights include Industrial Property Rights (e.g. patents, industrial designs and trademarks) and Copyright (right of the author or creator) and related rights (rights of the performers, producers and broadcasting organisations)

International Patent Classification (IPC): An internationally recognized patent classification system. A patent application can be assigned multiple IPC symbols, as it may relate to multiple technical features

Invention: An invention is a new solution to an existing technical problem

Inventor / Innovator: A person or a group of people who solve an existing problem or create a better solution using either technology, industrial design, trade secret, know how etc.

Know How: The knowledge an individual or an organisation possesses to solve a customer's problem using tacit knowledge and expertise

Licensors: The owner of an Intellectual Property Right

Licensee: An individual or entity who gains the right or permission to

exploit or use the Intellectual Property rights of an IP owner

License: The agreement under which the owner of an Intellectual Property Right (IPR) gives permission to another individual or entity to use the IPR for a certain period of time and within a defined territory under mutually agreed commercial terms

Licensing: It refers to the grant of permission to use the IPR of a licensor to the licensee under agreed upon condition by signing a license agreement

Litigation: Legal method for settling controversies or disputes between and among persons, organizations and the Government

Maintenance: The process by which IP rights are maintained (i.e., kept in force). This usually consists of paying renewal fees to an IP office at regular intervals. If renewal fees are not paid, IP rights may lapse.

Misuse: The use of a patent either to improperly extend the granted monopoly to non-patented goods or to violate antitrust laws.

Moral rights: Rights an author retains over the integrity of a work and the right to be named as its author even after sale or transfer of the copyright.

Novelty: The invention must never have been made public in any way, anywhere before the date on which the application for a patent is filed

Off Patent: Refers to the expiration of a patent. For example in case of off-patent drugs, a generic drug can be introduced in the market

Passing off: Term used to describe infringers who try to take advantage of a popular mark which is an unregistered trademark and 'pass it off' as their mark

Patent: A set of exclusive rights granted by law to applicants for inventions that are new, have an inventive step with an industrial use

Patent Agent: An individual who has the specialized qualifications

necessary for representing clients in obtaining patents and acting in all matters and procedures relating to patent law and practice, such as filing an opposition in Patent Office only

Patent family: A set of interrelated patent applications filed in one or more countries to protect the same or a similar invention

Patent opposition: An administrative process for disputing the validity of a granted patent that is often limited to a specific time period after the patent has been granted

Patentability: The ability of an invention to satisfy the legal requirements for obtaining a patent.

The invention must be novel, contain an inventive step (or be non-obvious), be capable of industrial application and not be in certain excluded fields

Patentee: A person, entity, company or group, typically an inventor; that has been granted a patent.

Patent pending: In general, a patent application filed with a patent office for which patent has not yet been granted or refused nor has the application been withdrawn

Petition: The title of a legal pleading that initiates the legal case

Plagiarism: Using the work (or part of it) of another person and claiming it as your own

Plaintiff: The party that institutes a suit in a court in case of infringement or opposition of the intellectual property rights granted

Preliminary search: A primary search done in intellectual property office database or records before submitting an application for registration, so as to check for prior registration of the work

Prior Art Search: The act of searching through intellectual property records

in order to verify whether a patent, trade-mark, industrial design etc. has been previously filed or registered

Prior Informed Consent (PIC): A consent which is required from an Inventor/Innovator before disclosure of his or her idea to others for protection and commercialisation purposes

Priority Date: The first filing date of a patent application, anywhere in the world (normally in the applicant's domestic patent office), to protect an invention. The priority date is used to determine the novelty of the invention, which implies that it is an important concept in patent procedures

Proprietor: A person who is the owner of an IP right

Prosecution: All the steps involved in completing a patent, design, trademark application

Pseudo mark: A word that is an alternate spelling or intentionally misspelled version of a word that is protected by an existing similar mark.

The pseudo mark label does not show up on the registration certificate

Publication date: The date on which an IP application is disclosed to the public. On that date, the subject matter of the application becomes “prior art”

Registration: Exclusive rights, notably for trademarks and industrial designs, issued to an applicant by an IP office

Royalty: A sum paid to an IP owner for use of their IP or related subject matter by another party

Seizure: An act of forcibly taking away infringed goods by an enforcement agency from a person who is suspected of infringement, or is known to have infringed, the intellectual property of another person

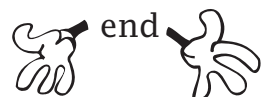
Sui Generis: [Latin “of its own kind”] Of its own kind or class; unique or peculiar. The term is used in intellectual-property law to describe a regime

designed to protect rights that fall outside the traditional patent, trademark, copyright, and trade-secret doctrines

Trademark: A mark is a combination of a word, symbol, logo etc. used either on a product or service which helps the customer relate to the offering and the right is available as long as the business is in existence

Trade Secret : Trade Secret is confidential or classified information that is not known to the public at large

Treaty: A treaty is an agreement in written form between nation-states (or international agencies, such as the United Nations, that have been given treaty-making capacity by the states that created them) that is intended to establish a relationship governed by International Law



Chapter # 9 FunActivities

Crossword no. 1

Across:

3. Latin expression meaning 'of its own kind'
6. Term referred to a legal principle limiting the exclusive rights of copyright holders (____ Use)
9. An act or process of creating something new which has value
12. The most important international organization for promotion of intellectual property worldwide
13. A series of related images representing a predetermined, three-dimensional pattern of metallic, insulating, or semi-conducting layers of a semiconductor chip product
14. A drug popularly known for its analgesic characteristics, also known as 'Paracetamol'
15. One of 'Cadbury's' chocolate brand

Down:

1. A famous trademark for noodles which has become so popular all kinds of noodles is referred by this name
2. A favourite Indian beverage, also a geographical indication with the name of place in Assam
3. A term for trademark used in some countries, notably US to identify a service rather than a product

4. A voluntary and irrevocable transfer of money, services or property (for example, equipment, Intellectual Property, personnel time and skill, etc.) from a donor without any expectation of or receipt of direct economic or other benefit or provisions of goods or services from the recipient

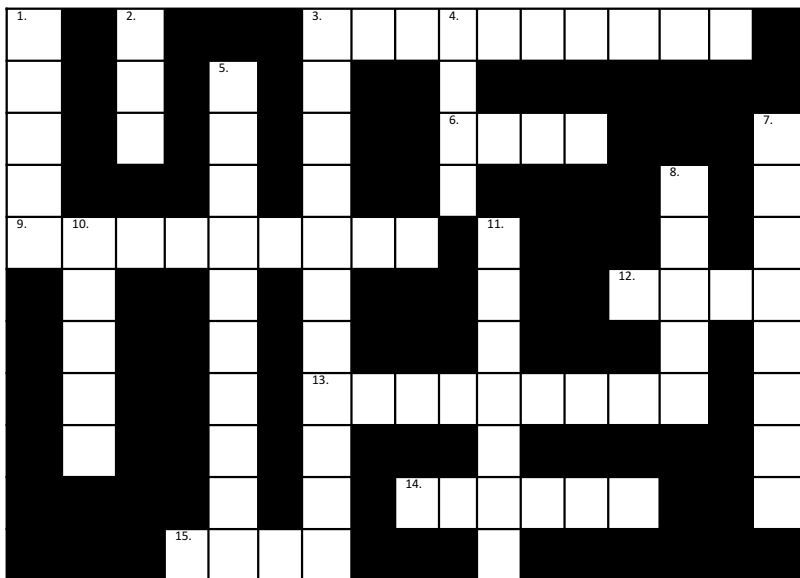
5. Software products in which source code is made publicly available

7. A professional person authorized to practice law; conducts lawsuits or gives legal advice

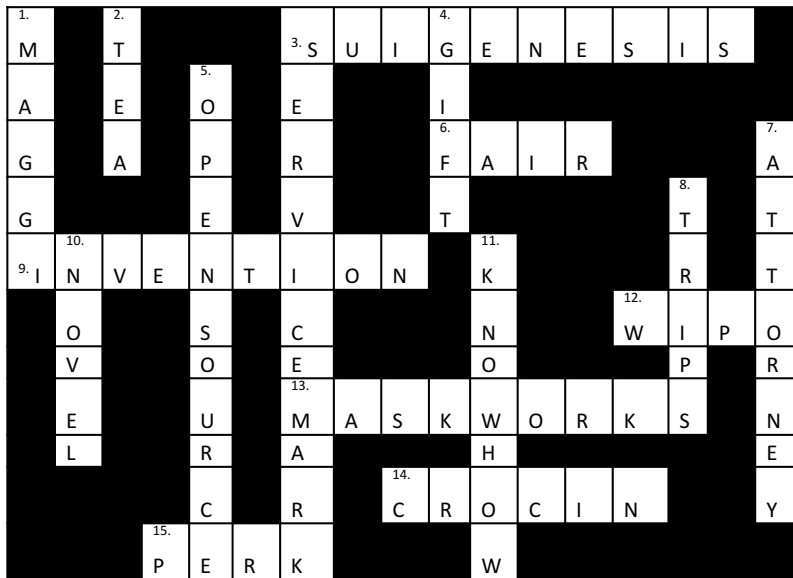
8. Acronym for Trade Related Aspects of Intellectual Property Rights

10. Term for 'original and of a kind not seen before'

11. Knowledge pertaining to Improvements, discoveries, Intellectual Property, Research Data, instructions, processes, protocols, formulas, information and trade secrets



Crossword no. 1 answer



Crossword no. 2

Across:

1. Capacity for thinking and acquiring knowledge; ability of the mind to come at correct solutions/conclusions about what is real
4. Rights an author retains over the integrity of a work and the right to be named as its author even after sale or transfer of the copyright.
5. Arising or proceeding independently of anything else
8. Intellectual Property Owners Association (Abbreviation)
9. Patent Law Treaty was signed in _____
10. Specific sums payable for various services provided by CIPO
13. A term referred to a legal form which occurs when the brand-name manufacturer literally “stockpiles” patent protection by obtaining separate twenty year patents on multiple attributes of a single product.
15. Convention for the Protection of New Varieties of Plants (Abbreviation)
17. Traditional knowledge related to the Pharmaceutical preparations is divided into one of this sub-class based on the material used; Characterised by Diseases
19. A synthetic polymer patented by DuPont
20. A name used by a writer instead of his or her real name.

Down:

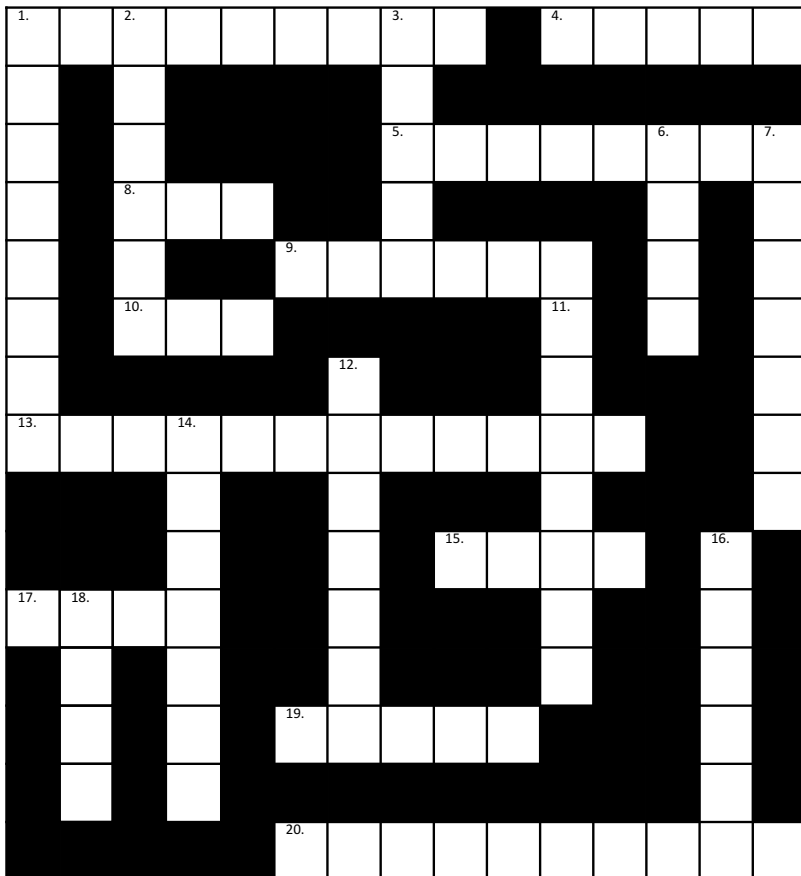
1. A breach, as of a law or right, or transgression
2. A standard charge for use of copyrighted works. Usually applies to fees paid by users of musical works and cable companies for the rebroadcast of programs.
3. This form of copyright is used only when an author is (or ALL authors are) employed by a government in this country (i.e., British or Canadian). The government of these countries is also known by this name
6. This agreement is concerned with the International Classification of goods and services for purpose of the registration of marks
7. An action brought before a court
11. A reprography collective that grants licences to photocopy works and collects fees on behalf of its members.

12. The EU country with highest no. of patent applications to the European Patent Office

14. A sum paid to copyright owners for the sale or use of their works, or other subject matter.

16. The Office of the Controller General of Patents, Designs & Trade Marks, headed by Ministry of Commerce & Industry, Dept. Of Industrial Policy & Promotion

18. ____Source is a philosophy that promotes free redistribution and access to an end product's design and implementation details



Crossword no. 2 answer

1. I	N	2. T	E	L	L	E	3. C	T		4. M	O	R	A	L
N		A					R							
F		R					O	R	I	G	I	6. N	A	7. L
R		8. I	P	O			W					I		A
I		F			9. G	E	N	E	V	10. A		C		W
N		11. F	E	E							C	E		S
G					12. G					A				U
13. E	V	E	14. R	G	R	E	E	N	I	N	G			I
			O			R				C				T
			Y			M		15. U	P	O	V		16. C	
17. R	18. O	G	A			A				P			G	
	P		L			N				Y			P	
	E		T		19. N	Y	L	O	N				D	
	N		Y										T	
					20. N	O	M	D	E	P	L	U	M	E

Crossword no. 3

Across:

1. A geographical indication in India registered as Handicraft from Lucknow, Uttar Pradesh
3. A geographical indication in India registered as Handicraft from Karnataka in the form of silk
8. An illegal act involving the theft or usurpation of genetic materials especially plants and other biological materials by the patent process
9. A perennial plant of ginger family whose healing properties are termed as traditional knowledge of India
11. The act of passing off another author's idea or work as one's own
12. A variety of grain known for its fragrance and delicate, nuanced flavour; a geographical indication of India
13. An organization which owns intellectual property behind most of the food in America
14. An agricultural geographical indication from Tamil Nadu which is registered as Orthodox logo; also a name given to mountain ranges

Down:

1. The practice of using copyright law to offer the right to distribute copies and modified versions of a work and requiring that the same rights be preserved in modified versions of the work.
2. A plant in India having traditional knowledge known for its anti-fungal and anti-pest characteristics

4. A kind of whisky registered as geographical indication for its manufacturing in United Kingdom

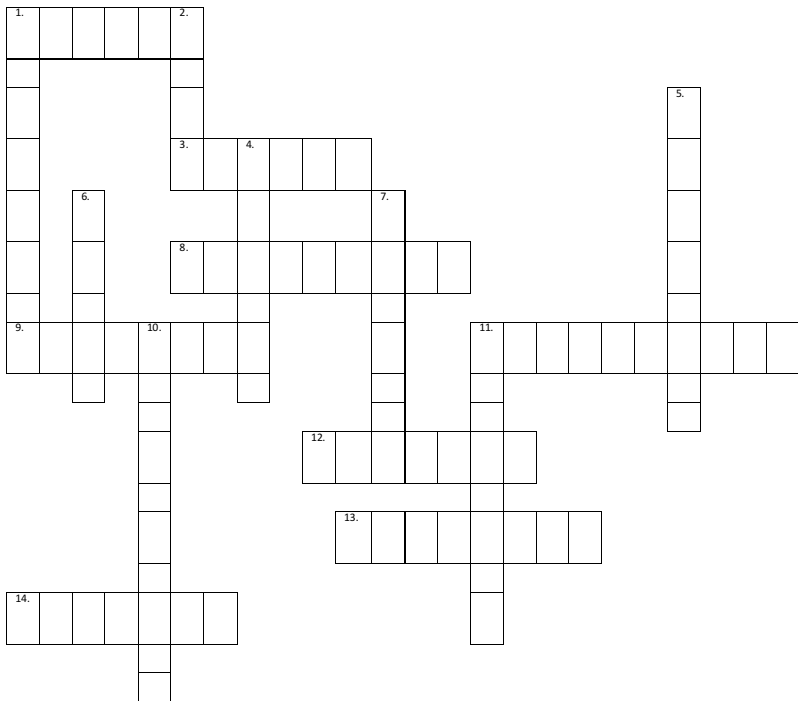
5. One of the classified goods under Trademark law, classified under Class 13

6. Oranges from this place which is in Karnataka, India; are registered as geographical indication

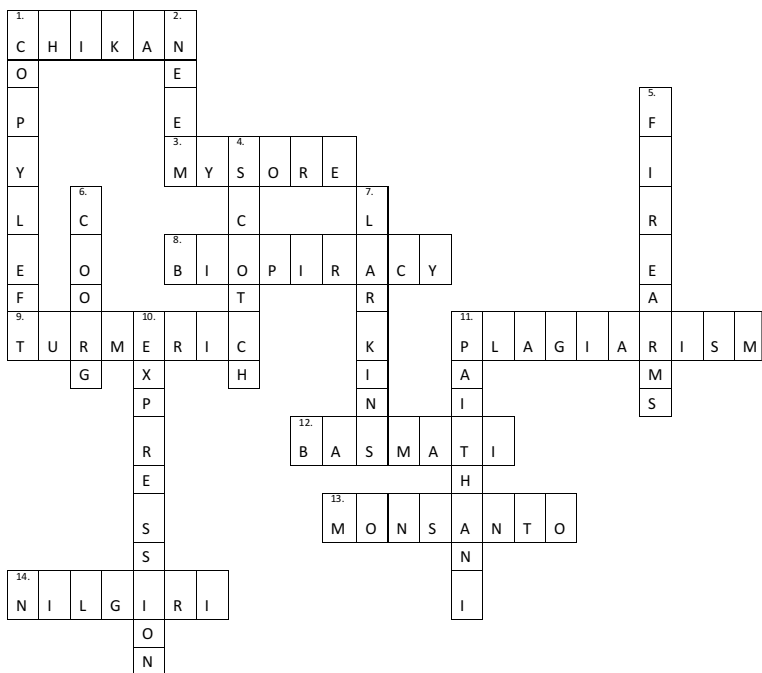
7. _____ filed a patent for use of ginger in treatment of cough in 2006

10. A form of communication; term used in context of Copyright

11. A geographical indication in India registered as Handicraft sarees from Paithan, Maharashtra



Crossword no. 3 answer



Celebrity Patent Word Maze (Jumbled words)

Identify the names of celebrity inventors who hold patents in their name.

The celebrity can be an actor/musician/author/any famous personality. Find 15 such names from the maze. Words can be found horizontally, vertically, backwards, diagonally straight/backwards

G	J	O	H	N	S	D	N	S	R	T	H	N	I	A	W	T	K	R	A	M	I
A	P	A	U	L	W	I	N	C	H	E	L	L	S	G	A	D	F	F	I	F	
R	K	L	E	W	C	E	N	E	R	W	A	L	H	E	S	A	L	M	A	C	
Y	N	W	E	M	S	F	L	D	B	N	Z	D	M	O	V	C	S	O	R	H	
B	S	V	E	N	J	D	O	X	S	G	E	X	X	R	J	Z	G	D	A	A	
U	D	Z	C	L	S	T	C	G	Z	T	Z	N	H	G	P	R	I	N	C	E	
R	J	L	Z	X	K	G	N	H	T	S	H	A	H	E	S	V	C	A	H	L	
G	F	Z	E	I	D	D	I	E	V	A	N	H	A	L	E	N	B	R	E	J	
O	B	N	C	B	C	N	L	R	Y	V	E	J	R	U	A	D	B	R	A	Y	
F	Z	V	D	J	E	L	M	T	V	A	J	A	T	C	B	R	V	N	O	C	
F	B	E	V	G	I	M	A	A	B	R	K	N	S	A	D	F	Z	O	V	K	
B	X	C	P	J	F	B	H	G	E	G	E	Y	S	S	U	D	E	L	X	T	
L	C	X	N	P	X	H	A	B	S	B	N	Y	N	D	L	A	Z	R	A	O	
U	T	N	Q	Y	O	X	R	N	J	X	W	S	F	N	K	X	X	A	F	N	
A	E	Z	K	B	C	M	B	R	N	J	K	L	H	Y	A	X	B	M	B	Y	
P	J	A	Y	I	V	N	A	Z	X	N	U	W	A	L	T	D	I	S	N	E	
X	G	A	S	S	G	D	G	R	E	B	L	I	E	P	S	N	E	V	E	T	
J	M	J	Y	T	F	H	G	V	X	R	F	B	V	L	U	F	P	D	S	D	
																				N	

Celebrity Patent Word Maze answer (in grid)

G	J	O	H	N	S	D	N	S	R	T	H	N	I	A	W	T	K	R	A	M	I
A	P	A	U	L	W	I	N	C	H	E	L	L	S	G	A	D	F	F	I	F	
R	K	L	E	W	E	C	N	E	R	W	A	L	H	E	S	A	L	M	C	C	
Y	N	W	E	M	S	F	L	D	B	N	Z	D	M	O	V	C	S	O	R	H	R
B	S	V	E	N	J	D	O	X	S	G	E	X	X	R	J	Z	G	D	A	A	H
U	D	Z	C	L	S	T	C	G	Z	T	Z	N	H	G	P	R	I	N	C	E	D
R	J	L	Z	X	K	G	N	H	T	S	H	A	H	E	S	V	C	A	H	L	Z
G	F	Z	E	I	D	D	I	E	V	A	N	H	A	L	E	N	B	R	E	J	H
O	B	N	C	B	C	N	L	R	Y	V	E	J	R	U	A	D	B	B	R	A	Y
F	Z	V	D	J	E	L	M	T	V	A	J	A	T	C	B	R	V	N	O	C	J
F	B	E	V	G	I	M	A	A	B	R	K	N	S	A	D	F	Z	O	V	K	T
B	X	C	P	J	F	B	H	G	E	G	E	Y	S	S	U	D	E	L	X	S	V
L	C	X	N	P	X	H	A	B	S	B	N	Y	N	D	L	A	Z	R	A	O	X
U	T	N	Q	Y	O	X	R	N	J	X	W	S	F	N	K	X	X	A	F	N	A
A	E	Z	K	B	C	M	B	R	N	J	K	L	H	Y	A	X	B	M	B	Y	C
P	J	A	Y	I	V	N	A	Z	X	N	U	W	A	L	T	D	I	S	N	E	Y
X	G	A	S	S	G	D	G	R	E	B	L	I	E	P	S	N	E	V	E	T	S
J	M	J	Y	T	F	H	G	V	X	R	E	E	B	V	L	U	E	D	S	D	N

Celebrity Patent Word Maze answer (serially)

- 1 Eddie Van Halen
- 2 Zeppo Marx
- 3 Penn Jillette
- 4 Michael Jackson
- 5 Abraham Lincoln
- 6 Marlon Brando
- 7 George Lucas
- 8 Lawrence Welk
- 9 Gary Burghoff
- 10 Mark Twain
- 11 Walt Disney
- 12 Paul Winchell
- 13 Prince
- 14 Danny Kaye
- 15 Steven Spielberg

Trademark Word Maze (Jumbled words)

The maze contains hidden words which depicts the various classes into which Trademarks are classified. Find 15 words from the maze which are arranged forward, backward, diagonally forward and diagonally backward.

P	H	A	R	M	A	C	E	U	T	I	C	A	L	X	Z	X	S
A	D	S	X	F	V	R	G	G	Z	T	Y	A	A	F	R	E	T
I	H	K	F	I	R	E	A	R	M	S	S	V	G	U	G	H	N
N	K	M	N	I	J	E	A	F	S	I	D	B	H	A	U	N	E
T	L	D	X	R	D	D	H	U	U	I	F	N	R	K	V	M	M
S	M	U	I	I	P	T	A	T	C	M	S	E	R	E	T	G	U
E	D	U	K	J	R	B	C	R	A	M	V	N	M	N	R	U	R
E	D	U	C	A	T	I	O	N	G	E	C	H	N	B	A	A	T
R	Y	I	P	N	V	N	M	N	B	T	L	Y	T	A	N	D	S
C	O	N	I	D	J	J	H	C	M	A	G	S	H	P	S	I	N
X	H	D	G	B	X	V	I	O	N	L	B	E	A	K	P	T	I
D	U	P	O	U	Y	L	M	H	T	S	J	C	S	M	O	Y	L
A	D	F	N	M	O	E	Y	N	K	D	M	N	R	J	R	J	A
B	N	T	O	H	D	I	G	I	V	N	G	A	T	Y	T	O	C
G	Y	D	O	D	B	E	R	U	T	I	N	R	U	F	O	P	I
C	M	C	Y	B	S	N	Y	T	U	I	S	U	N	N	M	J	S
V	L	J	M	L	A	H	Y	N	C	M	A	S	C	A	A	Y	U
A	S	N	D	V	K	C	M	M	D	S	E	N	I	H	C	A	M
D	N	B	B	F	B	N	C	S	N	Y	T	I	R	F	K	R	W
O	M	M	Y	W	G	U	D	O	N	M	H	Y	F	J	I	N	W
P	A	D	V	E	R	T	I	S	I	N	G	B	J	N	H	S	D
S	M	D	E	P	I	H	D	R	H	B	O	V	S	N	M	U	T

Trademark Word Maze answer (in grid)

P	H	A	R	M	A	C	E	U	T	I	C	A	L	X	Z	X	S
A	D	S	X	F	V	R	G	G	Z	T	Y	A	A	F	R	E	T
I	H	K	F	I	R	E	A	R	M	S	S	V	G	U	G	N	
N	K	M	N	I	J	E	A	F	S	I	D	B	H	A	U	E	
T	L	D	X	R	D	D	H	U	U	I	F	N	R	K	V	M	
S	M	U	I	I	P	T	A	T	C	M	S	E	R	E	T	U	
E	D	U	K	J	R	B	C	R	A	M	V	N	M	N	R	R	
E	D	U	C	A	T	I	O	N	G	E	C	H	N	B	A	T	
R	Y	I	P	N	V	N	M	N	B	T	L	Y	T	A	N	S	
C	O	N	I	D	J	J	H	C	M	A	G	S	H	P	S	I	
X	H	D	G	B	X	V	I	O	N	L	B	E	A	K	P	T	
D	U	P	O	U	Y	L	M	H	T	S	J	C	S	M	O	Y	
A	D	F	N	M	O	E	Y	N	K	D	M	N	R	J	R	A	
B	N	T	O	H	D	I	G	I	V	N	G	A	T	Y	T	O	
G	Y	D	O	D	B	E	R	U	T	I	N	R	U	F	O	I	
C	M	C	Y	B	S	N	Y	T	U	I	S	U	N	N	M	J	
V	L	J	M	L	A	H	Y	N	C	M	A	S	C	A	A	Y	
A	S	N	D	V	K	C	M	M	D	S	E	N	I	H	C	A	
D	N	B	B	F	B	N	C	S	N	Y	T	I	R	F	K	W	
O	M	M	Y	W	G	U	D	O	N	M	H	Y	F	J	I	N	
P	A	D	V	E	R	T	I	S	I	N	G	B	J	N	H	S	
S	M	D	E	P	I	H	D	R	H	B	O	V	S	N	M	U	

Trademark Word Maze answer (serially)

- 1 Pharmaceutical
- 2 Paints
- 3 Machines
- 4 Firearms
- 5 Transport
- 6 Metals
- 7 Musical Instruments
- 8 Leather
- 9 Furniture
- 10 Yarns
- 11 Alcoholic Beverages
- 12 Tobacco
- 13 Insurance
- 14 Advertising
- 15 Education

Copyright Word Maze (Jumbled words)

Find 15 words related to Copyright in the following word maze. Words can be horizontal, vertical, and diagonal in straight or backwards form.

A	T	T	R	I	B	U	T	I	O	N	D	G	R	H	D	D	S	D	P
G	S	D	E	F	H	J	K	I	O	H	E	S	D	G	H	D	T	S	L
T	P	F	M	G	P	A	S	S	I	N	G	O	F	F	X	E	S	T	A
D	H	G	I	O	S	D	A	W	R	J	W	J	U	S	F	F	G	G	
D	O	I	A	B	R	H	D	G	D	S	A	D	F	S	F	A	V	B	I
N	N	K	L	N	M	A	F	F	D	R	G	G	H	J	V	M	H	N	A
M	O	U	C	X	V	N	L	G	H	E	A	W	A	A	S	A	S	J	R
J	G	U	S	Y	E	S	F	R	C	V	B	N	F	A	C	T	G	K	I
U	R	Y	I	E	M	X	G	T	I	M	J	D	A	B	G	O	T	J	S
Y	A	E	D	S	S	D	G	R	H	G	B	C	I	E	W	R	A	U	M
H	M	S	C	N	M	X	F	F	S	Z	H	Z	R	S	T	Y	S	H	S
L	D	F	G	T	Y	H	J	R	S	D	S	T	U	F	V	N	Z	J	S
E	I	H	G	R	D	A	X	O	P	Y	S	S	S	T	U	A	Z	N	D
D	I	C	R	N	O	I	S	S	E	R	P	X	E	G	J	S	C	N	F
C	C	T	E	S	A	F	T	J	U	J	V	N	M	P	A	R	O	D	Y
V	E	G	B	N	V	G	T	H	Y	J	Y	R	S	A	U	A	S	F	F
G	N	E	S	F	S	A	S	A	S	F	D	R	D	A	A	H	S	V	H
V	S	E	F	I	L	E	S	H	A	R	I	N	G	H	H	D	S	D	S
B	N	D	A	C	F	D	G	G	R	T	Y	H	J	N	K	L	Y	A	A
F	O	O	T	P	R	I	N	T	S	A	V	E	F	D	A	S	A	S	M

Copyright Word Maze answer(in grid)

A	T	T	R	I	B	U	T	I	O	N	D	G	R	H	D	D	S	D	P
G	S	D	E	F	H	J	K	I	O	H	E	S	D	G	H	D	T	S	L
T	P	F	M	G	P	A	S	S	I	N	G	O	F	F	X	E	S	T	A
D	H	G	I	O	S	D	A	W	R	J	W	J	U	S	F	F	F	G	G
D	O	I	A	B	R	H	D	G	D	S	A	D	F	S	F	A	V	B	I
N	N	K	L	N	M	A	F	F	D	R	G	G	H	J	V	M	H	N	A
M	O	U	C	X	V	N	L	G	H	E	A	W	A	A	S	A	S	J	R
J	G	U	S	Y	E	S	F	R	C	V	B	N	F	A	C	T	G	K	I
U	R	Y	I	E	M	X	G	T	I	M	J	D	A	B	G	O	T	J	S
Y	A	E	D	S	S	D	G	R	H	G	B	C	I	E	W	R	A	U	M
H	M	S	C	N	M	X	F	F	S	Z	H	Z	R	S	T	Y	S	H	S
L	D	F	G	T	Y	H	J	R	S	D	S	T	U	F	V	N	Z	J	S
E	I	H	G	R	D	A	X	O	P	Y	S	S	S	T	U	A	Z	N	D
D	I	C	R	N	O	I	S	S	E	R	P	X	E	G	J	S	C	N	F
C	C	T	E	S	A	F	T	J	U	J	V	N	M	P	A	R	O	D	Y
V	E	G	B	N	V	G	T	H	Y	J	Y	R	S	A	U	A	S	F	F
G	N	E	S	F	S	A	S	A	S	F	D	R	D	A	A	H	S	V	H
V	S	E	F	I	L	E	S	H	A	R	I	N	G	H	H	D	S	D	S
B	N	D	A	C	F	D	G	G	R	T	Y	H	J	N	K	L	Y	A	A
F	O	O	T	P	R	I	N	T	S	A	V	E	F	D	A	S	A	S	M

Copyright Word Maze answer (serially)

Words

- 1 Attribution
- 2 Expression
- 3 Fair Use
- 4 File Sharing
- 5 License
- 6 Mashup
- 7 Parody
- 8 Plagiarism
- 9 Defamatory
- 10 Disclaimer
- 11 FACT
- 12 Footprints
- 13 Moral Rights
- 14 Passing off
- 15 Phonogram

Pictionary (Symbols)

What do these symbols denote in terms of Intellectual Property Protection?

A.



B.



C.



D.



E.



Answer: Page no. 151

Pictionary (Logos)

Identify the brand name or company associated with following logos

A.



B.



C.



D.



E.



F.



G.



H.



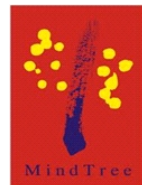
I.



J.



K.



(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)

Answer: Page no. 151

Group the following into trademark, traditional knowledge, copyright, geographical indication and industrial design

(Images used for illustration purposes only. IP ownership rests with respective owners as applicable)



Banarasi Saree



Basmati Rice



Nataraj (dance form)

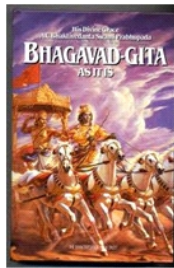


Scotch Whiskey





Music Note



Coorg Oranges



Answer: Page no. 152

Pictionary answers: Symbols

- A. Copyright
- B. Trademark
- C. Copyleft
- D. Disney Infinite copyright
- E. Phonographic copyright

Pictionary answers: Logos

- A. Puma
- B. McDonalds
- C. Twitter
- D. The Times of India
- E. Nike
- F. Audi
- G. State Bank of India
- H. Pepsi
- I. NBC
- J. Bajaj Auto
- K. Mind Tree

Answer (identifying different types of IP)

Trademarks: **Google, Maggi, Tanishq, Asian Paints, Woodland, Windows**

Traditional Knowledge: **Nataraj (dance form), Neem, Turmeric, Bhagavad Gita**

Copyright: **Magazines, Music notes**

Geographical indication: **Banarasi Saree, Basmati Rice, Scotch Whisky, Darjeeling Tea, Kampot Pepper, Coorg Oranges**

Industrial Design: **Phone design (iphone), Car design (Nano), Bottle design (Coke)**

