

# **INTELLECTUAL PROPERTY RIGHTS (IPR)**

## **WHAT IS AN IPR?**

Intellectual Property Rights are legal rights, which result from intellectual activity in industrial, scientific, literary & artistic fields. These rights Safeguard creators and other producers of intellectual goods & services by granting them certain time-limited rights to control their use. Protected IP rights like other property can be a matter of trade, which can be owned, sold or bought. These are intangible and non-exhausted consumption.

## **TYPES/TOOLS OF IPRs:**

- a. Patents.
- b. Trademarks.
- c. Copyrights and related rights.
- d. Geographical Indications.
- e. Industrial Designs.
- f. Trade Secrets.
- g. Layout Design for Integrated Circuits.
- h. Protection of New Plant Variety.

### **a. Patent**

A patent is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. It provides protection for the invention to the owner of the patent. The protection is granted for a limited period, i.e 20 years. Patent protection means that the invention cannot be commercially made, used, distributed or sold without the patent owner's consent. A patent owner has the right to decide who may - or may not - use the patented invention for the period in which the invention is protected. The patent owner may give permission to, or license, other parties to use the invention on mutually agreed terms. The owner may also sell the right to the invention to someone else, who will then become the new owner of the patent. Once a patent expires, the protection ends, and an invention enters the public domain, that is,

the owner no longer holds exclusive rights to the invention, which becomes available to commercial exploitation by others.

All patent owners are obliged, in return for patent protection, to publicly disclose information on their invention in order to enrich the total body of technical knowledge in the world. Such an ever-increasing body of public knowledge promotes further creativity and innovation in others. In this way, patents provide not only protection for the owner but valuable information and inspiration for future generations of researchers and inventors.

General Principles governing the Patent System in India and further details can be viewed at DIP&P website at <http://ipindia.nic.in/ipr/patent/patents.htm>

**b. Trademarks:**

A trademark is a distinctive sign that identifies certain goods or services as those produced or provided by a specific person or enterprise. It may be one or a combination of words, letters, and numerals. They may consist of drawings, symbols, three-dimensional signs such as the shape and packaging of goods, audible signs such as music or vocal sounds, fragrances, or colours used as distinguishing features. It provides protection to the owner of the mark by ensuring the exclusive right to use it to identify goods or services, or to authorize another to use it in return for payment.

It helps consumers identify and purchase a product or service because its nature and quality, indicated by its unique trademark, meets their needs.

Registration of trademark is prima facie proof of its ownership giving statutory right to the proprietor. Trademark rights may be held in perpetuity. The initial term of registration is for 10 years; thereafter it may be renewed from time to time.

General Principles governing the Trademarks System in India and further details can be viewed at DIP&P website at [http://ipindia.nic.in/tmr\\_new/default.htm](http://ipindia.nic.in/tmr_new/default.htm)

**c. Copyrights and related rights:**

Copyright is a legal term describing rights given to creators for their literary and artistic works. The kinds of works covered by copyright include: literary works such as novels, poems, plays, reference works, newspapers and computer programs; databases; films, musical compositions, and choreography; artistic works such as

paintings, drawings, photographs and sculpture; architecture; and advertisements, maps and technical drawings. Copyright subsists in a work by virtue of creation; hence it's not mandatory to register. However, registering a copyright provides evidence that copyright subsists in the work & creator is the owner of the work.

Creators often sell the rights to their works to individuals or companies best able to market the works in return for payment. These payments are often made dependent on the actual use of the work, and are then referred to as royalties. These economic rights have a time limit, (other than photographs) is for life of author plus sixty years after creator's death.

General Principles governing the Copyrights and related rights System in India and further details can be viewed at website of Copyright Office website at <http://copyright.gov.in/>

**d. Geographical Indications (GI):**

GI are signs used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. They may also highlight specific qualities of a product, which are due to human factors that can be found in the place of origin of the products, such as specific manufacturing skills and traditions.

A geographical indication points to a specific place or region of production that determines the characteristic qualities of the product that originates therein. It is important that the product derives its qualities and reputation from that place. Place of origin may be a village or town, a region or a country.

It is an exclusive right given to a particular community hence the benefits of its registration are shared by the all members of the community. Recently the GIs of goods like Chanderi Sarees, Kullu Shawls, Wet Grinders etc have been registered. Keeping in view the large diversity of traditional products spread all over the country, the registration under GI will be very important in future growth of the tribes / communities / skilled artisans associated in developing such products.

General Principles governing the Geographical Indication System in India and further details can be viewed at website of Geographical Indication Registry, website at <http://ipindia.nic.in/girindia/>

**e. Industrial Designs:**

Industrial designs refer to creative activity, which result in the ornamental or formal appearance of a product, and design right refers to a novel or original design that is accorded to the proprietor of a validly registered design. Industrial designs are an element of intellectual property. Under the TRIPS Agreement, minimum standards of protection of industrial designs have been provided for. As a developing country, India has already amended its national legislation to provide for these minimal standards.

The essential purpose of design law is to promote and protect the design element of industrial production. It is also intended to promote innovative activity in the field of industries. The existing legislation on industrial designs in India is contained in the New Designs Act, 2000 and this Act will serve its purpose well in the rapid changes in technology and international developments. India has also achieved a mature status in the field of industrial designs and in view of globalization of the economy, the present legislation is aligned with the changed technical and commercial scenario and made to conform to international trends in design administration.

This replacement Act is also aimed to enact a more detailed classification of design to conform to the international system and to take care of the proliferation of design related activities in various fields.

General Principles governing the Industrial Design System in India and further details can be viewed at DIP&P website link at <http://ipindia.nic.in/ipr/design/designs.htm>

**f. Trade Secrets:**

It may be confidential business information that provides an enterprise a competitive edge may be considered a trade secret. Usually these are manufacturing or industrial secrets and commercial secrets. These include sales methods, distribution methods, consumer profiles, advertising strategies, lists of suppliers and clients, and

manufacturing processes. Contrary to patents, trade secrets are protected without registration.

A trade secret can be protected for an unlimited period of time but a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. Considering the vast availability of traditional knowledge in the country the protection under this will be very crucial in reaping benefits from such type of knowledge. The Trades secret, traditional knowledge are also interlinked / associated with the geographical indications.

**g. Layout Design for Integrated Circuits:**

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 or incidental thereto. The main focus of SICLD Act is to provide for routes and mechanism for protection of IPR in Chip Layout Designs created and matters related to it. The SICLD Act empowers the registered proprietor of the layout-design an inherent right to use the layout-design, commercially exploit it and obtain relief in respect of any infringement. The initial term of registration is for 10 years; thereafter it may be renewed from time to time. Department of Information Technology Ministry of Communications and Information Technology is the administrative ministry looking after its registration and other matters.

General Principles governing the Layout Design for Integrated Circuits System in India and further details can be viewed at DIT website link at <http://mit.gov.in/default.aspx?id=322>

**h. Protection of New Plant Variety:**

The objective of this act is to recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their contribution and to stimulate

investment for R & D for the development new plant varieties to facilitate the growth of the seed industry.

The Plant Variety Protection and Farmers Rights act 2001 was enacted in India to protect the New Plant Variety; the act has come into force on 30.10.2005 through Authority. Initially 12 crop species have been identified for regt. i.e. Rice, Wheat, Maize, Sorghum, Pearl millet, Chickpea, Green gram, Black gram, Lentil, Kidney bean etc. India has opted for sui- generic system instead of patents for protecting new plant variety. Department Agriculture and Cooperation is the administrative ministry looking after its registration and other matters.

General Principles governing the Protection of New Plant Variety System in India and further details can be viewed at Protection of Plant Varieties and Farmers' Rights Authority, India (PPV&FR) website link at <http://www.plantauthority.gov.in/>

### **Scheme For “Building Awareness On Intellectual Property Rights (IPR)” For Micro, Small And Medium Enterprises (MSMEs) Under National Manufacturing Competitiveness Programme (NMCP)**

The objective of the scheme is to enhance awareness of MSME about Intellectual Property Rights (IPRs) to take measure for the protecting their ideas and business strategies. Effective utilisation of IPR tools by MSMEs would also assist them in technology upgradation and enhancing competitiveness.

These initiatives are proposed to be developed through Public-Private Partnership (PPP) mode to encourage economically sustainable models for overall development of MSMEs. Under this programme financial assistance will be provided for taking up the identified initiatives. Eligible applicants/beneficiaries will have to contribute minimum 10% of the GoI financial support for availing assistance under the scheme.

The detail guidelines, eligibility criteria, funding pattern and prescribed format etc. are available on <http://www.dcmsme.gov.in/schemes/Guidelines-UK.pdf>

#### **Related Links:**

**[www.wipo.int](http://www.wipo.int)**

**<http://www.tifac.org.in/do/pfc/pfc.htm>**