16BEBME8E08 INTELLECTUAL PROPERTY RIGHTS 3003 100

OBJECTIVES:

The student should be made to:

Learn how to value intangible assets, taking into account their commercial potential and legal status.

Explore the legal & business issues surrounding marketing of new products related to technology.

OUTCOMES:

Upon completion of the course, students will be able to:

Review an intellectual property portfolio and comprehend the extent of their protection.

Develop a business plan that advances the value of their intellectual property portfolio

Develop a strategy of marketing their intellectual property and understand some negotiation basics.

Explain some of the limits of their intellectual property rights and comprehend some basic legal pitfalls.

UNIT I INTRODUCTION 9

Introduction – Invention and Creativity – Intellectual Property (IP) – Importance – Protection of IPR – Basic types of property (i) Movable Property (ii) Immovable Property and (iii) Intellectual Property.

UNIT II PATENTS, COPYRIGHTS AND TRADEMARKS 9

IP – Patents – Copyrights and related rights – Trade Marks and rights arising from Trademark registration – Definitions – Industrial Designs and Integrated circuits – Protection of Geographical Indications at national and International levels – Application Procedures.

UNIT III INTERNATIONAL STANDARDISATION 9

International convention relating to Intellectual Property – Establishment of WIPO – Mission and Activities – History – General Agreement on Trade and Tariff (GATT).

UNIT IV INDIAN STRATEGIES 9

Indian Position Vs WTO and Strategies – Indian IPR legislations – commitments to WTO-Patent

Ordinance and the Bill – Draft of a national Intellectual Property Policy – Present against unfair competition.

UNIT V CASE STUDIES 9

Case Studies on – Patents (Basumati rice, turmeric, Neem, etc.) – Copyright and related rights – Trade Marks – Industrial design and Integrated circuits – Geographic indications – Protection against unfair competition.

Total : 45

TEXT BOOK:

S.NO.	Author(s) Name	Title of the book	Publisher	Year of publication
1	Subbaram N.R	Handbook of Indian Patent Law and Practice	S. Viswanathan, Printers and Publishers Pvt. Ltd	1998

REFERENCES:

S.NO.	Author(s) Name	Title of the book	Publisher	Year of publication
1	Eli Whitney	United States Patent Number: 72X	Cotton Gin	March 14, 1794
2	Derwent IP Matters	Using the Internet for non-patent prior art searches	-	July 2000.

KARPAGAM ACADEMY OF HIGHER EDUCATION

(Deemed to be University Established Under Section 3 of UGC Act 1956)

Pollachi Main Road, Eachanari Post,

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FACULTY OF ENGINEERING

DEPARTMENT OF BIOMEDICAL ENGINEERING

LECTURE PLAN

NAME OF THE STAFF : Mr. S. SREE SANJANAA BOSE

DESIGNATION : ASSISTANT PROFESSOR

CLASS : B.E-IV YEAR BME

SUBJECT : INTELLECTUAL PROPERTY RIGHTS

SUBJECT CODE : 16BEBME8E08

S.No	TOPICS TO BE COVERED	TIME DURATION	SUPPORTING MATERIALS	TEACHING AIDS
UNIT-I INTRODUCTION				
1	Introduction – Invention and Creativity	01	T1- Page.no 1-1	BB
2	Intellectual Property (IP)	02	T1- Page.no 1-1 to 1-5	BB
3	Importance – Protection of IPR	02	T1 Page.no 1.55 to 1.63	BB
4	Basic types of property	02	T1- Page.no 3.8 to 3.13	BB
5	(i) Movable Property	01	T1 Page.no.1-23 to 1-28	BB, PPT
6	(ii) Immovable Property	01	T1 page.no.1-23 to 1-28	BB, PPT
7	Intellectual Property.	01	T2 page.no 404-407	BB, PPT
Introduction		**01**		
Total Lecture Hours		**09**		
Total Hours		**10**		
UNIT-II PATENTS, COPYRIGHTS AND TRADEMARKS				
8	IP – Patents – Copyrights and related rights	02	T2 Page.no 292 to 294	PPT
9	Trade Marks and rights arising from Trademark registration	01	T2 Page.no 296 to 298	PPT
10	Definitions – Industrial Designs and Integrated circuits –	01	T2 Page.no 295 to 296	PPT
11	Protection of Geographical Indications at national and International levels	02	T2 Page.no 237 to 240	PPT
12	Application Procedures.	01	T2 Page.no 358 to 359	PPT
13	Application Procedures.	01	T2 Page.no 126	PPT
Total Lecture Hours		**08**		
Total Hours		**08**		

UNIT-III INTERNATIONAL STANDARDISATION				
14	International convention relating to Intellectual Property	01	T3 Page.no.13 to 15	BB, PPT
15	Establishment of WIPO	03	T2 Page.no.104 to 108	BB, PPT
16	Mission and Activities – History	01	T2 Page.no.458	BB, PPT
17	General Agreement on Trade and Tariff (GATT).	01	T3 Page.no.136 to 141	BB
18	Mission and Activities – History	01	T2 Page.no.172 to 175	BB
Total Lecture Hours		**07**		
Total Hours		**07**		

UNIT-IV INDIAN STRATEGIES				
19	Indian Position Vs WTO and Strategies	01	T2 Page.no.241 to 244	PPT
20	Indian IPR legislations	01	T2 Page.no 237 to 240	PPT
21	commitments to WTO	01	T2 Page.no 109	PPT
22	Patent Ordinance and the Bill	02	T2 Page.no 129 to 135	PPT
23	Draft of a national	01	T2 Page.no 121 to 122	PPT
24	Intellectual Property Policy	01	T2 Page.no 122 to 123	
25	Present against unfair competition.	01	T2 Page.no 124 to 125	PPT
26	Present against unfair competition.	01	T2 Page.no 125 to 126	PPT
Total Lecture Hours		**09**		
Total Hours		**09**		

UNIT-V CASE STUDIES				
27	Case Studies on – Patents	02	T2 Page.no 266 to 269	PPT
28	Copyright and related rights	02	T2 Page.no 489 to 491	PPT
29	Trade Marks – Industrial design and Integrated circuits	03	T2 Page.no 167 to 172	PPT
30	Geographic indications	01	T2 Page.no 444 to 450	PPT
31	Protection against unfair competition.	03	T2 Page.no 323 to 327	PPT
Total Lecture Hours		**11**		
Total Hours		**11**		

Total No of Hours for Introduction: 01 Hrs

Total No of Lecture Hours Planned: 44 Hrs

Total No of Hours Planned : 45 Hours

TEXT BOOK:

S.NO.	Author(s) Name	Title of the book	Publisher	Year of publication
1	Subbaram N.R	Handbook of Indian Patent Law and Practice	S. Viswanathan, Printers and Publishers Pvt. Ltd	1998

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STAFF – IN –CHARGE **HOD/ECE**

CHAPTER-1
INTRODUCTION TO IPR

S. Sree Sanjanaa Bose
AP/BME

DIFFERENCE BETWEEN CREATIVITY & INNOVATION

CREATIVITY	INNOVATION
1) Creativity is dreaming of new things	1) Innovation means making those dream come true.
2) The thinking up of new things and concepts can be termed creativity	2) Innovation is the process of converting these thoughts into practical usage.
3) Creativity is that if something new has been brought into existence.	3) Innovation is to make improvements to something which already exists.
4) Creativity is generating ideas	4) Innovation is bringing these ideas to life.
5) Creativity is related to experience	5) innovation is related to observation

Intellectual property

- Intellectual property (IP) refers to the creations of the human mind like inventions, literary and artistic works,and symbols, names, images and designs used in commerce.
- Intellectual property is divided into two categories:
  - Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source;
  - Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs andsculptures, and architectural designs.

IP

- The most noticeable difference between intellectual property and other forms of property, however, is that intellectual property is intangible, that is, it cannot be defined or identified by its own physical parameters.
- It must be expressed in some discernible way to be protectable.
- Generally, it encompasses four separate and distinct types of intangible property namely — patents, trademarks, copyrights, and trade secrets, which collectively are referred to as “intellectual property.”

Importance of IPR

- The importance of intellectual property was first recognized in the
  - Paris Convention for the Protection of Industrial Property (1883)
  - Berne Convention for the Protection of Literary and Artistic Works (1886).
- Both treaties are administered by the World Intellectual Property Organization (WIPO).

Protection of IPR

- There are several compelling reasons.
- First, the progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture.
- Second, the legal protection of new creations encourages the commitment of additional resources for further innovation.
- Third, the promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.

- An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social and cultural well-being.
- The intellectual property system helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish, for the benefit of all.

Types of property

- Most legal systems distinguish between different types of property, especially between land (immovable property, estate in land, real estate, real property) and all other forms of property—goods and chattels, movable property or personal property, including the value of legal tender if not the legal tender itself, as the manufacturer rather than the possessor might be the owner.
- They often distinguish tangible and intangible property. One categorization scheme specifies three species of property:
  - land,
  - improvements (immovable man-made things),
  - personal property (movable man-made things)

Movable and Immovable property

- The term ‘property’ is very vast, and thus it is difficult to give it a simple definition. Before defining the term, we have to ask ourselves, in which context it is being used. As the law is ever-changing, the meaning of property is also not fixed and changes with time. The term may have different sense depending on the connection in which it is used; its purpose should be gathered from then prevailing concepts as reflected by contemporaneous construction. the concept of movable and immovable property explained there under.
- For Indian legislation, it is necessary to determine which property is movable and which is immovable. It is important because both of these properties are guided by different laws such as limitation period, registration, transfer of property.

- Section 6 of TPA says that property of any kind may be transferred, but it neither talks about all types of property neither it is feasible to include all type of property. Much other legislation also uses the word “property”, but they haven’t given any comprehensive definition to it. It is neither feasible nor possible of doing so because every kind of interest or right which has an economic content is included under the terms “property”.

- Property includes everything which may be owned and have a value. It denotes:
- Right in nature of the property
- The right of exclusive possession and enjoyment, short of ownership
- Merely rights, which do not involve possession, though they may include a use
- According to TPA, the word ‘property’ includes not only the corpus or the physical thing but also all the rights which are attached to it.

- There are many rights in a property such as the right of possession, the right of enjoying the usufruct. These all are subject rights, and the absolute right is of ownership. It is also known as interest in property according to TPA and real right in English law Thus these rights can vest in a different person. For example, the right of ownership may be in person X but he has given the property on lease and thus right of possession is in the hand of Y.
- According to TPA, a property may be transferred by the way of
- Sale
- Mortgage
- Charge
- Lease
- Exchange
- Gift
- According to most of the jurist, the term ‘property’ in summary forms means “the unrestricted and exclusive right to a thing, the right to dispose of a substance of a thing in every legal way; and to use and exclude everyone else from interacting with it.”

Immovable property

- TPA has classified property into the movable property and immovable property unlike English law which has classified property as real and personal property.
- The Privy Council observed: “The term ‘immovable property’ comprehends undoubtedly all that would be real property according to English law and possibly more.

Importance of nature of the property

- It is essential to classify property as TPA has different rules of procedure for the movable and immovable property. Transfer of movable property may be completed by mere giving of possession, but for immovable property, it is necessary to have it registered.
- Thus for a valid transfer, it is essential that the nature of property should be known.

- Under TPA
- Section 3 provides “”immovable property” does not include standing timber, growing crops or grass;” The definition is not comprehensive, and it just says that standing timber, growing crops and grass are not immovable property.

- Under Indian Registration Act
- Section 2 (6) says “”immovable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass; (6) “immovable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass;” thus the definition is not exhaustive, and it is somewhat related to definition of TPA

Under General Clauses Act:

- Section 3 (26) says “immovable property” shall include land, benefits to arise out of the land, and things attached to the earth, or permanently fastened to anything attached to the earth;” thus according to this definition immovable property include
- Land
- Benefits arising out of the land
- Things attached to the earth
- Combining all the 3 acts the meaning of the immovable property include
- Land
- Benefits arising out of the land
- Things attached to the earth
  - Things Embedded in earth
  - Things attached to what is so embedded in the earth
  - Things rooted in the earth, except:-
    - Standing timber,
    - Growing crop
    - Grass

- **Land**
- The land includes everything on the surface, below the surface and above the surface of the land. Anything, till it is not removed from the land, will be considered as the immovable land.
- **Benefits arising out of the land**
- Property may be classified as
  - Tangible property/ corporeal property
  - Intangible property/ incorporeal property
- Tangible properties are all those properties which can be touched or which have physical existence. Intangible property is the exact opposite, and thus they have no physical existence and hence they cannot be touched and have no physical existence. They are in the form of some rights or benefits which a person gets from land. Therefore any right by which a person makes profit or gain is known as his beneficial rights.
- Thus a benefit arising out of land will also be immovable property. It is so because it is incidental to earth and it cannot be served from it. Right to capture fishes from the lake is an example of benefit arising out of the land.

- **Things rooted in Earth**
- **General Rule:** The general rule is that all the things that are attached to the earth are said to be attached to the earth. Thus all the plants, trees are permanently attached to the surface and will be considered as immovable property.
- **Exception:** Growing crops, Grass and standing timber though rooted in the earth are considered as movable property.
- **Standing Timber vs Fruit bearing trees:** Timber is useful for construction of houses, but for that, it has to be cut and served from the land and then only it can be used, that is why it is considered as movable property
- On the other hand, trees bearing fruits are useful when they are rooted in the earth, and that is why they are regarded as immovable property.

- **Things embedded in the earth**
- Things which are fixed below the level, to which it will go by its weight are considered as things embedded in the earth. The concept intends to include those that are manually or mechanically put down deep in earth much beyond what would it otherwise go by its weight.
- Where the things are just placed without the intention of making them part of the land, they are treated as movable property. The main thing that is needed to consider whether the property is movable or immovable is the intention of the parties.
- The general rule is that what is annexed to the land becomes part of the land. But it is nearly impossible to accurately tell the degree on annexation required to consider it as immovable property.

- **Things attached to what is so embedded**
- The test for it is
- The thing must be attached permanently
- Must be attached for the beneficial enjoyment of house or building or to which it is attached
- They have no separate existence of their own and form part of the house. The word ‘permanent’ and ‘beneficial enjoyment’ must be read together. The attachment must be permanent and for the beneficial enjoyment of the thing to which it is attached.

Movable property

- Similar to immovable property the term ‘movable’ property has also not been clearly defined anywhere clearly.
- **TPA:** It says that standing timer, growing crops and grass are not immovable hence movable property
- **General clauses Act:** It says property of every description except immovable
- **Sales of goods act:** Section 2 (7) states “goods” means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which is agreed to be severed before sale or under the contract of sale;

Movable property	Immovable property
According to sale of goods act Section 2 it includes stock and shares, growing crops, grass, and things attached to or forming part of the land which is agreed to be severed before sale or under the contract of sale	According to section 3 of general clauses Act, it includes land, benefits arising out of land, and things attached to earth
If thing is resting within it's own weight it is movable property	If thing is fixed on land by external force, it is considered to be immovable property
It is generally used to enjoy the thing	It is generally used to enjoy the land
No registration is required	It requires registration

CHAPTER-2
PATENTS, COPYRIGHTS AND TRADEMARKS

S.Sree Sanjanaa Bose

AP/BME

Intellectual property right

- Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property is divided into two categories:
  - **Industrial Property** includes patents for inventions, trademarks, industrial designs and geographical indications.
  - **Copyright** covers literary works (such as novels, poems and plays), films, music, artistic works(e.g., drawings, paintings, photographs and sculptures) and architectural design.
- Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.

- Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.

PATENT

- A patent is an exclusive right granted for an invention a product or process that provides a new way of doing something, or that offers a new technical solution to a problem.
- A patent provides patent owners with protection for their inventions. Protection is granted for a limited period, generally 20 years.

COPYRIGHTS

- Copyright laws grant authors, artists and other creators protection for their literary and artistic creations, generally referred to as “works”. A closely associated field is “related rights” or rights related to copyright that encompass rights similar or identical to those of copyright, although sometimes more limited and of shorter duration. The beneficiaries of related rights are:
  - performers (such as actors and musicians) in their performances;
  - producers of phonograms (for example, compact discs) in their sound recordings;
  - broadcasting organizations in their radio and television programs.

- Works covered by copyright include, but are not limited to: novels, poems, plays, reference works, newspapers, advertisements, computer programs, databases, films, musical compositions, choreography, paintings, drawings, photographs, sculpture, architecture, maps and technical drawings.

TRADEMARKS

- A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. Its origin dates back to ancient times when craftsmen reproduced their signatures, or “marks”, on their artistic works or products of a functional or practical nature.
- Over the years, these marks have evolved into today’s system of trademark registration and protection. The system helps consumers to identify and purchase a product or service based on whether its specific characteristics and quality – as indicated by its unique trademark – meet their needs.

INDUSTRIAL DESIGNS

- An industrial design refers to the ornamental or aesthetic aspects of an article. A design may consist of three-dimensional features, such as the shape or surface of an article, or two-dimensional features, such as patterns, lines or color.
- Industrial designs are applied to a wide variety of industrial products and handicrafts: from technical and medical instruments to watches, jewelry and other luxury items; from house wares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods.

- To be protected under most national laws, an industrial design must be new or original and non- functional. This means that an industrial design is primarily of an aesthetic nature, and any technical features of the article to which it is applied are not protected by the design registration. However, those features could be protected by a patent.

GEOGRAPHICAL INDICATIONS

- A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin. Most commonly, a geographical indication consists of the name of the place of origin of the goods.
- Agricultural products typically have qualities that derive from their place of production and are influenced by specific local geographical factors, such as climate and soil. Whether a sign functions as a geographical indication is a matter of national law and consumer perception.

- Geographical indications may be used for a wide variety of gricultural products, such as, for example, “Tuscany” for olive oil produced in a specific area of Italy, or “Roquefort” for cheese produced in that region of France.

What is a “ generic” geographical indication?

- If the name of a place is used to designate a particular type of product, rather than to indicate its place of origin, the term no longer functions as a geographical indication.
- For example, “Dijon mustard”, a kind of mustard that originated many years ago in the French town of Dijon, has, over time, come to denote mustard of that kind made in many places.
- Hence, “Dijon mustard” is now a generic indication and refers to a type of product, rather than a place.

INTEGRATED CIRCUITS

- Another field in the protection of intellectual property is that of layout-designs(topographies) of integrated circuits.
- The layout-designs of integrated circuits are creations of the human mind.
- They are usually the result of an enormous investment, both in terms of the time of highly qualified experts, and financially.
- There is a continuing need for the creation of new layout-designs which reduce the dimensions of existing integrated circuits and simultaneously increase their functions.

- The smaller an integrated circuit, the less the material needed for its manufacture, and the smaller the space needed to accommodate it.
- Integrated circuits are utilized in a large range of products, including articles of everyday use, such as watches, television sets, washing machines, automobiles, etc., as well as sophisticated data processing equipment.

WIPO

- Established in 1970, the World Intellectual Property Organization (WIPO) is an international organization dedicated to helping ensure that the rights of creators and owners of intellectual property are protected worldwide, and that inventors and authors are therefore recognized and rewarded for their ingenuity.

- This international protection acts as a spur to human creativity, pushing back the limits of science and technology and enriching the world of literature and the arts.
- By providing a stable environment for marketing products protected by intellectual property, it also oils the wheels of international trade.

- WIPO works closely with its Member States and other constituents to ensure the intellectual property system remains a supple and adaptable tool for prosperity and well-being, crafted to help realize the full potential of created works for present and future generations.

Protection against unfair competition

- Protection against unfair competition has been recognized as forming part of industrial property protection for almost a century.
- It was in 1900, at the Brussels Diplomatic Conference for the Revision of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the Paris Convention), that this recognition was first manifested by the insertion of Article 10*bis* in the Convention.

- As a result of the subsequent revision conferences, the Article now reads as follows (in the Stockholm Act (1967) of the Paris Convention):
- (1) The countries of the Union are bound to assure to nationals of such countries effective protection against unfair competition.
- Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.

- The following in particular shall be prohibited:
  - all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;
  - false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;
  - indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”

What is WIPO?
WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. We are a self-funding agency of the United Nations, with 192 member states.

MISSION:
Our mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all. Our mandate, governing bodies and procedures are set out in the WIPO Convention, which established WIPO in 1967.

ACTIVITIES:
Each WIPO division, led by its Director, is responsible for specific programs to achieve our nine strategic goals and objectives:
- WIPO activities by unit
- The Year in Review: Report of the DG to the WIPO Assemblies
- WIPO – Making IP Work

WIPO's nine strategic goals were adopted by our member states in December 2008 in the first phase of a comprehensive strategic realignment process within the Organization. They reflect the evolving challenges for WIPO and for intellectual property (IP) in today's rapidly changing environment:
- Balanced Evolution of the International Normative Framework for IP
- Provision of Premier Global IP Services
- Facilitating the Use of IP for Development
- Coordination and Development of Global IP Infrastructure
- World Reference Source for IP Information and Analysis
- International Cooperation on Building Respect for IP
- Addressing IP in Relation to Global Policy Issues
- A Responsive Communications Interface between WIPO, its Member States and All Stakeholders
- An Efficient Administrative and Financial Support Structure to Enable WIPO to Deliver its Programs.

HISTORY OF WIPO:

WIPO — A BRIEF HISTORY

1883 – PARIS CONVENTION

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

- Inventions (patents)
- Trademarks
- Industrial designs

1886 – BERNE CONVENTION

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

- novels, short stories, poems, plays;
- songs, operas, musicals, sonatas; and
- drawings, paintings, sculptures, architectural works.

A stamp issued in 1986 to commemorate the centenary of the adoption of the Berne Convention.

1891 – MADRID AGREEMENT

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

1893 – BIRPI ESTABLISHED

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

1970 – BIRPI becomes WIPO

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

1974 – WIPO joins the UN

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

1978 – PCT System launched

The PCT international patent system begins operation. The PCT expands rapidly to become WIPO's largest international IP filing system today.

1994 – AMC established

The WIPO Arbitration and Mediation Center is established. The Center offers alternative dispute resolution services to help solve international commercial disputes between private parties.

1998 – WIPO Academy opens its doors

The WIPO Academy is established to provide general and specialized courses on IP. Academy courses are interdiscplinary in their approach and targeted at a wide range of IP professionals.

2007 – WIPO Development Agenda adopted

WIPO formally adopts its Development Agenda, with the aim of ensuring that development issues are taken into consideration throughout the Organization's work.

GATT(GENERAL AGREEMENT ON TARIFFS AND TRADE):

The General Agreement on Tariffs and Tradewas a free trade agreement between 23 countries that eliminated tariffs and increased international trade. It was the first worldwide multilateral free trade agreement. It was in effect from January 1, 1948 until January 1, 1995. It ended when it was replaced by the more robust World Trade Organization.

PURPOSE:

The purpose of GATT was to eliminate harmful trade protectionism. That had sent global trade down 65 percent during the Great Depression. GATT restored economic health to the world after the devastation of the depression and World War II.
Three Provisions:
GATT had three main provisions.
1) The most important requirement was that each member must confer most favored nation status to every other member. All members must be treated equally when it comes to tariffs. It excluded the special tariffs among members of the British Commonwealth and customs unions. It permitted tariffs if their removal would cause serious injury to domestic producers.
2) Second, GATT prohibited restriction on the number of imports and exports. The exceptions were:

- When a government had a surplus of agricultural products.
- If a country needed to protect its balance of payments because its foreign exchange reserves were low.
- Emerging market countries that needed to protect fledgling industries.

In addition, countries could restrict trade for reasons of national security. These included protecting patents, copyrights, and public morals.

3) The third provision was added in 1965. That was because more developing countries joined GATT, and it wished to promote them. Developed countries agreed to eliminate tariffs on imports of developing countries to boost their economies. It was also in the stronger countries' best interests in the long run. It would increase the number of middle-class consumers throughout the world.

HISTORY:

GATT grew out of the Bretton Woods Agreement. The summit at Bretton Woods also created the World Bank and the International Monetary Fund to coordinate global growth.

The summit almost led to a third organization. It was to be the highly ambitious International Trade Organization. The 50 countries that started negotiations wanted it to be an agency within the United Nations that would create rules, not just on trade, but also employment, commodity agreements, business practices, foreign direct investment, and services. The ITO charter was agreed to in March 1948, but the U.S. Congress and some other countries' legislatures refused to ratify it. In 1950, the Truman Administration declared defeat, ending the ITO.

At the same time, 15 countries focused on negotiating a simple trade agreement. They agreed on eliminating trade restrictions affecting $10 billion of trade or a fifth of the world's total. Under the name GATT, 23 countries signed the deal on October 30, 1947. It was put into force on June 30,1948. GATT didn't require the approval of Congress. It was technically just an agreement under the provisions of U.S. Reciprocal Trade Act of 1934. It was only supposed to be temporary until the ITO replaced it.

Throughout the years, rounds of further negotiations on GATT continued. The main goal was to further reduce tariffs. In the mid-1960s, the Kennedy round added an Anti-Dumping Agreement. The Tokyo round in the seventies improved other aspects of trade. The Uruguay round lasted from 1986 to 1994 and created the World Trade Organization.

GATT and WTO:

GATT lives on as the foundation of the WTO. The 1947 agreement itself is defunct. But, its provisions were incorporated into the GATT 1994 agreement. That was designed to keep the trade agreements going while the WTO was being set up. So, the GATT 1994 is itself a component of the WTO Agreement.

MEMBER COUNTRIES:

The original 23 GATT members were Australia; Belgium; Brazil; Burma, now called Myanmar; Canada; Ceylon, now Sri Lanka; Chile; China; Cuba; Czechoslovakia, now Czech Republic and Slovakia; France; India; Lebanon; Luxembourg; Netherlands; New Zealand; Norway; Pakistan; Southern Rhodesia, now Zimbabwe; Syria; South Africa; the United Kingdom and the United States. The membership increased to more than 100 countries by 1993.

PROS:

For 47 years, GATT reduced tariffs. This boosted world trade 8 percent a year during the 1950s and 1960s. That was faster than world economic growth. Trade grew from $332 billion in 1970 to $3.7 trillion in 1993.

It was such a success that many more countries wanted to join. By 1995, there 128 members, generating at least 80 percent of world trade.
By increasing trade, GATT promoted world peace. In the 100 years before GATT, the number of wars was 10 times greater than the 50 years after GATT. Before World War II, the chance of a lasting trade alliance was only slightly better than 50/50.
By showing how free trade works, GATT inspired other trade agreements. It set the stage for the European Union. Despite the EU's problems, it has prevented wars between its members.
GATT also improved communication. It provided incentives for countries to learn English, the language of the world's largest consumer market. This adoption of a common language reduced misunderstanding. It also gave less developed countries a competitive advantage. English gave them insight into the developed country's culture, marketing, and product needs.
For example, most Indians know English. It allows them to work in call centers that support U.S. countries. It has been a major reason for call center outsourcing.

CONS:

Low tariffs destroy some domestic industries, contributing to high unemployment in those sectors. Governments subsidized many industries to make them more competitive on a global scale. U.S. and EU agriculture were major examples. In the early 1970s, the textile and clothing industries were exempted from GATT. When the Nixon Administration took the U.S. dollar off the gold standard in 1973, it lowered the value of the dollar compared to other currencies. That further lowered the international price of U.S. exports.
By the 1980s, the nature of world trade had changed. GATT did not address the trade of services that allowed them to grow beyond any one country's ability to manage them. For example, financial services became globalized. Foreign direct investment had become more important. As a result, when U.S. investment bank Lehman Brothers collapsed, it threatened the entire global economy. Central banks scrambled to work together for the first time to address the 2008 financial crisis. They were forced to provide the liquidity for frozen credit markets.
Like other free trade agreements, GATT reduced the rights of a nation to rule its own people. The agreement required them to change domestic laws to gain the trade benefits. For example, India had allowed companies to create generic versions of drugs without paying a license fee. This helped more people afford medicine. GATT required India to remove this law. That raised the price of drugs to a level out of reach for many Indians.
Trade agreements like GATT often destabilize small, traditional economies. Countries like the United States that subsidize agricultural exports can put local family farmers out of business. Unable to compete with low-cost grains, the farmers migrate to cities looking for work, often in factories set up by multi-national corporations. Often these factories can move to other countries with lower-cost labor, leaving the farmers unemployed.

TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) AGREEMENT:

With the establishment of the world trade Organization (WTO), the importance and role of the intellectual property protection has been Crystallized in the Trade-Related Intellectual Property

Systems (TRIPS)Agreement. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) treaty in 1994.

The general goals of the TRIPS Agreement are contained in the Preamble to the Agreement, which reproduces the basic Uruguay Round negotiating objectives established in the TRIPS area by the 1986 Punta del Este Declaration and the 1988-89 Mid-Term Review. These objectives include the reduction of distortions and impediments to international trade, promotion of effective and adequate protection of intellectual property rights, and ensuring that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade.

- The TRIPS Agreement encompasses, in principle, all forms of intellectual property and aims at harmonizing and strengthening standards of protection and providing for effective enforcement at both national and international levels.
- It addresses applicability of general GATT principles as well as the provisions in international agreements on IP (Part I).
- It establishes standards for availability, scope, use (Part II), enforcement (Part III), acquisition and maintenance (Part IV) of Intellectual Property Rights.
- Furthermore, it addresses related dispute prevention and settlement mechanisms (Part V).
- Formal provisions are addressed in Part VI and VII of the Agreement, which cover transitional, and institutional arrangements, respectively.

The obligations under TRIPS apply equally to all member states. However developing countries were allowed extra time to implement the applicable changes to their national laws, in two tiers of transition according to their level of development. The transition period for developing countries expired in 2005. For least developed countries, the transition period has been extended to 2016, and could be extended beyond that.

The TRIPS Agreement, which came into effect on 1 January 1995, is to date the most comprehensive multilateral agreement on intellectual property.
The areas of intellectual property that it covers are:
(i) Copyright and related rights (i.e. the rights of performers, producers of sound recordings and broadcasting organisations);
(ii) Trade marks including service marks;
(iii) Geographical indications including appellations of origin;
(iv) Industrial designs;
(v) Patents including protection of new varieties of plants;
(vi) The lay-out designs (topographies) of integrated circuits;
(vii) The undisclosed information including trade secrets and test data.

The TRIPS agreement broadly focuses on following issues:
— How basic principles of the trading system and other international intellectual property agreements should be applied.
— How to give adequate protection to intellectual property rights.
— How countries should enforce those rights adequately in their own territories.

— How to settle disputes on intellectual property between members of the WTO.
— Special transitional agreements during the period when the new system is being introduced.

FEATURES OF THE AGREEMENT:

The main three features of the TRIPS Agreement are as follows-

Standards: The TRIPS Agreement sets out the minimum standards of protection to be provided by each Member.

Enforcement: The second main set of provisions deals with domestic procedures and remedies for the enforcement of intellectual property rights. The Agreement lays down certain general principles applicable to all IPR enforcement procedures.

Dispute settlement: The Agreement makes disputes between WTO Members about the respect of the TRIPS obligations subject to the WTO's dispute settlement procedures.

In addition the Agreement provides for certain basic principles, such as national and most-favoured-nation treatment (non-discrimination), and some general rules to ensure that procedural difficulties in acquiring or maintaining IPRs do not nullify the substantive benefits that should flow from the Agreement.

The TRIPS Agreement is a minimum standards agreement, which allows Members to provide more extensive protection of intellectual property if they so wish. Members are left free to determine the appropriate method of implementing the provisions of the Agreement within their own legal system and practice.

PATENT BILL 2005

Indian Parliament has passed the Patents (Amendment) Bill 2005 that would replace the Patents (Amendment) Ordinance 2004 earlier issued by Government of India in December 2004. The Patents (Amendment) Bill 2005 introduces product patent regime for food, chemicals and pharmaceuticals. India was required to introduce product patent protection in these sectors from 1.1.2005 in accordance with the obligation under the TRIPS Agreement of the WTO. To fulfill this requirement, Government of India had issued an Ordinance in 2004. The Ordinance was to be approved by the Parliament. While introducing the Patents (Amendment) Bill 2005 in the Parliament, Government introduced certain changes from the provisions in the Ordinance.

Salient features of the Patents (Amendment) Bill 2005 Features in the Patents (Amendment) Bill, 2005 that are same as the provisions in the Patents (Amendment) Ordinance, 2004

a) Extension of product patent protection to all fields of technology (i.e., drugs, foods and chemicals);

b) Deletion of the provisions relating to Exclusive Marketing Rights (EMRs) (which would now become redundant), and introduction of a transitional provision for safeguarding EMRs already granted;

c) Introduction of a provision for enabling grant of compulsory license for export of medicines to countries which have insufficient or no manufacturing capacity, to meet emergent public health situations (in accordance with the Doha Declaration on TRIPS and Public Health);

d) Modification in the provisions relating to opposition procedures with a view to streamlining the system by having both Pre-grant and Post-grant opposition in the Patent Office;

e) Addition of a new proviso in respect of mailbox applications so that patent rights in respect of the mailbox shall be available only from the date of grant of patent, and not retrospectively from the date of publication.

f) Strengthening the provisions relating to national security to guard against patenting abroad of dual use technologies;

g) Rationalization of provisions relating to time-lines with a view to introducing flexibility and reducing the processing time for patent applications, and simplifying and rationalizing procedures. Important changes incorporated in the Patents (Amendment) Bill, 2005 as compared to the Patents (Amendment) Ordinance 2004 (The Bill was moved by Shri Kamal

Nath, Minister of Commerce & Industry, in the Lok Sabha on 22/3/05 and in Rajya Sabha (Upper House) on 23/3/05)

1. The 2nd amendment in the Patents Act had made a provision under Section 107A (b) providing for 'parallel import'. However, this required that the foreign exporter was duly authorized by the patentee to sell and distribute the product. In the Bill this has been amended to say that the foreign exporter need only be 'duly authorized under the law'.

Scope of patentability:

2. Modification in Section 2 – Definitions as follows: • Section 2 (ja) "Inventive step" means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art; • New definition "New invention" means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art. • New definition "Pharmaceutical Substances" means any new entity involving one or more inventive steps.

3. Changes in Section 3: (Section 3 lists out the exceptions to patentability, i.e., what are not considered to be inventions) Section 3 (d): the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant. Explanation to Section 3 (d): "Salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations, and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy.

4. The word "mere" introduced by the Ordinance before the words "new use" in Section 3 (d) is now deleted.

5. The clarification relating to patenting of software related inventions introduced by the Ordinance as Section 3(k) and 3 (ka) is omitted. Strengthening of Pre-grant Opposition:

6. Opposition to grant of patent: The new Chapter heading concerning opposition, namely,

"Representation and Opposition Proceedings" is substituted with the heading, namely, "Opposition Proceedings to Grant of Patent".

7. Hearing at pre-grant opposition stage: A provision for hearing at pre-grant opposition stage has been made in the Rules. This is now introduced upfront in the law itself, as follows: "25 (1) Where an application for a patent has been published but a patent has not

been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent within the prescribed period on the grounds of (a) .. …..... (b) .. …..... and the Controller shall if requested by such person for being heard, hear him and dispose of the representation in such manner and within such period as may be prescribed.

8. Extension of time for filing pre-grant opposition: A minimum period of 6 months, from the date of publication is provided for making representation as against the present period of 3 months. (Since all time-lines have been provided in the subordinate legislation, this will also be done in the Rules).

9. Expanding the grounds for pre-grant opposition: The grounds of pre-grant opposition in the Ordinance were novelty, inventive step and industrial applicability, non-disclosure or wrongful mentioning of source and geographical origin of biological material and anticipation of invention by knowledge, oral or otherwise, available in public domain. These are substantive grounds of opposition. Now the grounds are listed in the same way as in the Act before the Ordinance. Accordingly, in the pre-grant opposition also all the eleven grounds (formal as well as technical) are being specifically mentioned.

10. Deletion of Section 25(2): Section 25 (2) introduced by the Ordinance denies the person making an opposition representation the right of becoming a party to any proceedings under the Act. Sub-section 2 of Section 25 is deleted.

11. Facilitation of pharmaceutical exports to LDCs: The new provision (Section 92A) relates to compulsory license for export of patented pharmaceutical products (provided for in Para 6 of Doha Declaration), to such countries, as have inadequate production capacities. Here the condition of obtaining compulsory license is expanded, (in case of LDCs having no Patent Law or provision for compulsory license) to include an 'authorization' or notification from such a country. This is done by modifying sub-section (1) of section 92A as follows: Adding the following words after the words "provided compulsory license has been granted by such country":

"or such country has by notification or otherwise allowed importation of the patented pharmaceutical products from India."

12. Transitional arrangement applications: A 3rd new proviso is added under Section 11 A (7) as follows: "Provided also that after a patent is granted in respect of applications made under sub-section (2) of section 5, the patent holder shall only be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to 1.1.2005 and which continue to manufacture the product covered by the patent on the date of grant of the patent, and no infringement proceedings shall be instituted against such enterprises."

13. Quantifying 'reasonable period' in relation to compulsory licensing: The present Act already contains provisions under Section 84 (7) (a) (iv) whereby a compulsory license could be requested on the ground that "the establishment or development of commercial

activities in India is prejudiced". Similarly, Section 84 (6) (iv) provides that in considering an application for compulsory license the Controller of Patents is required to take into account "as to whether the applicant has made efforts to obtain a license from the patentee on reasonable terms and conditions and such efforts have not been successful within a reasonable period as the Controller may deem fit. An explanation is now incorporated to the existing Section 84 (6) (iv) for quantifying the 'reasonable period' referred to above, as under: "Explanation: - The reasonable time period under this clause shall not ordinarily exceed six months".

14. Amendment to Section 90 relating to compulsory license: Section 90 (1) (vii) and (viii) has been redrafted in the Ordinance. A further modification is now made to clarify that even when compulsory license is granted for pre-dominant purpose of supply in Indian market, the licensee may export the patented product, if need be; Similar facility of export is also permitted when license is granted to remedy a practice determined after judicial or administrative process to be anti-competitive. Sub-Section (vii) and (viii) of Section 90 (1) is modified, and a new sub-section (ix) is introduced, which is as follows: (vii) that the license is granted with a predominant purpose of supply in the Indian market and that the licensee may also export the patented product, if need be in accordance with Section 84 (7) (a) (iii); (viii) that in the case of semi-conductor technology, the license granted is to work the invention for public non-commercial use; (ix) that in case the license is granted to remedy a practice determined after judicial or administrative process to be anti-competitive, the licensee shall be permitted to export the patented product, if need be.

NATIONAL IPR POLICY

- Intellectual property rights (IPR) are the rights given to persons over the creations of their minds: inventions, literary and artistic works, and symbols, names and images used in commerce. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.
- These rights are outlined in **Article 27 of the Universal Declaration of Human Rights,** which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.
- The importance of intellectual property was first recognized in the **Paris Convention for the Protection of Industrial Property (1883)** and the **Berne Convention for the Protection of Literary and Artistic Works (1886)**. Both treaties are administered by the **World Intellectual Property Organization (WIPO)**.

Intellectual property rights are customarily divided into two main areas:(i) Copyright and rights related to copyright:

- The rights of authors of literary and artistic works (such as books and other writings, musical compositions, paintings, sculpture, computer programs and films) are protected by copyright, **for a minimum period of 50 years after the death of the author**.

(ii) Industrial property: Industrial property can be divided into two main areas:

- **Protection of distinctive signs,** in particular **trademarks and geographical indications**.
    - **Trademarks** distinguish the goods or services of one undertaking from those of other undertakings.
    - **Geographical Indications (GIs)** identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin.
    - The protection of such distinctive signs aims to **stimulate and ensure fair competition and to protect consumers,** by enabling them to make informed choices between various goods and services.
    - The protection **may last indefinitely,** provided the sign in question continues to be distinctive.
- **Industrial designs and trade secrets:** Other types of industrial property are protected primarily to **stimulate innovation, design and the creation of technology**. In this category fall inventions (protected by **patents**), **industrial designs** and **trade secrets**.

What is the need of IPR?

The progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture.

- **Encourages innovation:** The legal protection of new creations encourages the commitment of additional resources for further innovation.
- **Economic growth:** The promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.
- **Safeguard the rights of creators:** IPR is required to safeguard creators and other producers of their intellectual commodity, goods and services by granting them certain time-limited rights to control the use made of the manufactured goods.
- It promotes innovation and creativity and **ensures ease of doing business**.
- It **facilitates the transfer of technology** in the form of foreign direct investment, joint ventures and licensing.

India and IPR

- India is a member of the World Trade Organisation and committed to the Agreement on **Trade Related Aspects of Intellectual Property (TRIPS Agreement)**.

- India is also a member of World Intellectual Property Organization, a body responsible for the promotion of the protection of intellectual property rights throughout the world.
- India is also a member of the following important **WIPO-administered International Treaties and Conventions relating to IPRs**.

  - Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure
  - Paris Convention for the Protection of Industrial Property
  - Convention Establishing the World Intellectual Property Organization
  - Berne Convention for the Protection of Literary and Artistic Works
  - Patent Cooperation Treaty
  - Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks- Madrid Protocol
  - Washington Treaty on Intellectual Property in respect of Integrated Circuits
  - Nairobi Treaty on the Protection of the Olympic Symbol
  - Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms
  - Marrakesh Treaty to facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities.

National IPR Policy

- The National Intellectual Property Rights (IPR) Policy 2016 was adopted in May 2016 as a vision document to guide future development of IPRs in the country.
- It's clarion call is **"Creative India; Innovative India"**.
- It encompasses and brings to a single platform all IPRs, taking into account all inter-linkages and thus aims to create and exploit synergies between all forms of intellectual property (IP), concerned statutes and agencies.
- It sets in place an **institutional mechanism for implementation**, monitoring and review. It aims to incorporate and adapt global best practices to the Indian scenario.
- **Department of Industrial Policy & Promotion (DIPP),** Ministry of Commerce, Government of India, has been appointed as the **nodal department** to coordinate, guide and oversee the implementation and future development of IPRs in India.
- The **'Cell for IPR Promotion & Management (CIPAM)'**, setup under the aegis of DIPP, is to be the **single point of reference** for implementation of the objectives of the National IPR Policy.

- India's IPR regime is in compliance with the WTO's agreement on **Trade-Related Aspects of Intellectual Property Rights (TRIPS)**.

Objectives

- **IPR Awareness: Outreach and Promotion -** To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society.
- **Generation of IPRs -** To stimulate the generation of IPRs.
- **Legal and Legislative Framework -** To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest.
- **Administration and Management -** To modernize and strengthen service-oriented IPR administration.
- **Commercialization of IPRs -** Get value for IPRs through commercialization.
- **Enforcement and Adjudication -** To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.
- **Human Capital Development -** To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs.

Achievements under new IPR policy

- **Improvement in GII Ranking:** India's rank in the **Global Innovation Index (GII)** issued by WIPO has improved from 81st in 2015 to 52nd place in 2019.
- **Strengthening of institutional mechanism** regarding IP protection and promotion.
- **Clearing Backlog/ Reducing Pendency in IP applications:** Augmentation of technical manpower by the government, has resulted in drastic reduction in pendency in IP applications.
    - Automatic issuance of electronically generated patent and trademark certificates has also been introduced.
- **Increase in Patent and trademark Filings:** Patent filings have increased by nearly 7% in the first 8 months of 2018-19 vis-à-vis the corresponding period of 2017-18. Trademark filings have increased by nearly 28% in this duration.
- **IP Process Re-engineering** Patent Rules, 2003 have been amended to streamline processes and make them more user friendly. Revamped Trade Marks Rules have been notified in 2017.
- **Creating IPR Awareness**: IPR Awareness programs have been conducted in academic institutions, including rural schools through satellite communication, and for industry, police, customs and judiciary.

- **Technology and Innovation Support Centres (TISCs):** In conjunction with WIPO, TISCs have been established in various institutions across different states.

Issues in India's IPR regime

- **Section 3(d) of the Indian Patent Act 1970 (as amended in 2005)** does not allow patent to be granted to inventions involving new forms of a known substance unless it differs significantly in properties with regard to efficacy.
    - This means that the Indian Patent Act **does not allow evergreening of patents**.
    - This has been a cause of concern to the pharma companies. Section 3(d) was instrumental in the Indian Patent Office (IPO) **rejecting the patent for Novartis' drug Glivec** (imatinib mesylate).
- **Issue of Compulsory licencing (CL):** CL is problematic for foreign investors who bring technology as they are concerned about the misuse of CL to replicate their products. It has been impacting India-EU FTA negotiations.
    - CL is the **grant of permission by the government to entities** to use, manufacture, import or sell a patented invention without the patent-owner's consent. Patents Act in India deals with CL.
    - CL is **permitted under the WTO's TRIPS (IPR) Agreement** provided conditions such as 'national emergencies, other circumstances of extreme urgency and anti-competitive practices' are fulfilled.
- India continues to remain on the United States Trade Representative's (USTR's) **'Priority Watch List'** for alleged **violations of intellectual property rights (IPR)**.
    - In its latest **Special 301 report** released by the United States Trade Representative (USTR), the US termed India as "one of the world's most challenging major economies" with respect to protection and enforcement of IP.
- **Data Exclusivity:** Foreign investors and MNCs allege that Indian law does not protect against unfair commercial use of test data or other data submitted to the government during the application for market approval of pharmaceutical or agro-chemical products. For this they demand a Data Exclusivity law.
- **Enforcement of the Copyright act is weak,** and piracy of copyrighted materials is widespread.

Way Forward

- Promoting an environment of innovations in schools. The academic curricula need to be rebooted.

- A proper resolution mechanism for resolving IPR related issues is needed.
- India will be unable to take full advantage of the transformative benefits of a strong IP system unless and until it addresses gaps in its IP laws and regulations.
- Success of India's flagship programmes - **Make in India** and **Start up India** - depends on the boost of innovation ecosystem with better IPR safeguardings.
- More awareness is needed about the creation, protection and enforcement of IPRs to encourage the Indian industry not only to innovate but also to protect and enforce their innovations.

Conclusion

- India has made a number of changes in its IPR regime to increase efficiency and has cut down the time required to issue patents.The culture of innovation is taking centre stage in the country. India is well poised to focus on R&D. This has been reflected in its improved ranking in **Global Innovation Index** over the years.
- Government's effort to strengthen National IPR policy, IP appellate tribunal, e-governance and commitment to abide by the TRIPS agreement of WTO in letter and spirit will help in improving perception of India globally.
- An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social & cultural well-being.

INDIA AND WTO: CHALLENGES AND STRATEGIES

World Trade Organization (WTO) was setup as a body to regulate the world trade. WTO sets the rules for international trade. Member countries have agreed that no undue advantage should be taken by anyone to increase their business beyond their boundaries. No trade barriers should be created by levying unnecessary duties on imported goods/services. Also, local manufacturing and services should not be supported by direct tax subsidies. Besides trade and taxes, WTO now regulates and monitors Capital Investment, Labour and Technologies too.

Of late concerns are being raised that direct tax concessions or tax holidays are being provided by many countries to support their exports/international trade. Disputes related to taxation have become more frequent involving conflicts between WTO agreements and respective country tax laws.

It has become very vital for India to not only devise its tax laws in a manner that comply with WTO agreements, but to understand the tax laws of competing countries in order to save and enhance its trade by highlighting WTO agreements violations by any member country.

Certain countries are openly violating WTO agreements. China at present faces the biggest number of tax investigations such as providing tax holidays, tax reductions or tax concessions related to import or export. These concessions have the potential to distort trade flows. If these tax concessions are according to WTO agreements, India should also consider offering similar tax concessions to facilitate exports and investments , else raise a strong voice at WTO.

Similarly, the U.S. tax laws of taxing MNCs earnings emboldens corporations to direct more investment abroad because of the fact that the earnings of the foreign subsidiaries of U.S. companies are not taxed until income is repatriated or transferred to the domestic parent company. This in a way points towards an inducement to "forever reinvest" funds in low-tax jurisdictions, and indefinitely defer paying taxes in the home country. Considering that foreign subsidiaries also book expense on royalty payments/IP assignments towards their parent in tax conduit countries, the amount virtually reaches at tax free locations with minimal tax. This very structure provides seamless cash flow and huge reserves to eradicate competition to these MNCs.

These MNCs then further invest through conduit tax countries like Bahamas, Cayman, Cyprus in to countries offering tax/indirect tax concessions to manufacturing/services on exports, thereby pushing countries to violate WTO regulations. By this whole process, MNCs and countries like China are growing at the cost of those complying with WTO regulations or at the cost of companies paying taxes in their home countries on their worldwide income.

India needs to formulate its tax laws in such a manner so as to assist industries to compete as well as to comply with WTO agreements.

SOME TAX/NON- TAX SUGGESTIONS ARE:

Foreign investments in areas of potential employment generation specially in rural/ smaller cities should be encouraged with tax holidays.

India should provide tax incentives to industries for manufacturing locally instead of spending maximum foreign exchange in importing the same. This will reduce our country's dependence on imports from China and other countries. This being domestic tax incentive, should be out of WTO preview from the prohibited concessions list.

India should setup education hubs along with granting tax benefit to all education institutes inside the hub. FDI in Education Hub Infrastructure/Research/Higher Education should be encouraged. At present approx. $ 15 Billion are annually repatriated outside India for higher education and the number is increasing.

Research units should be established to understand the competitive effect of Chinese and other countries' tax Incentives on Indian trade and opportunities. Long term Tax Policies should be framed for emerging sectors like Education, Tourism, and Civic Structure where in mass scale employment can be created.

India should consider reducing the tax rate on employees' salaries for those who are working in tier 2/3 or smaller cities. This will also inspire people to shift base to smaller cities and remove burdens from the bigger cities. Similarly, tax rates on smaller businesses should be reduced in smaller cities. This in turn will promote entrepreneurship spirit considering that government/private jobs are significantly less for existing/future unemployed population.

Dividend Declaration Tax by foreign companies investing in India could be removed as priority should be to create employment instead of tax collection.

ΓY RIGHTS AND TRADITIONAL KNOWLEDGE HOLDERS: RELEVANT CASE STUDIES.

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RESEARCH ARTICLE

TELLECTUAL PROPERTY RIGHTS AND TRADITIONAL KNOWLEDGE HOLDERS: RELEVAN CASE STUDIES.

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Abstract

Intellectual property is a branch of law which protects some of the f manifestations of human achievements that are of commercial va Traditional Knowledge (TK), interchangeably used as indigen knowledge (TK)/ local knowledge generally refer to the matured lo standing traditions and practices of certain regional, indigenous, local communities that is important in protection, conservation sustainable use of biodiversity and various traditions. Traditi knowledge and its relationship to the formalIPR system has emerge a mainstream issue in international negotiations on the conserva ofbiological diversity, international trade, and intellectual prop rights including the TRIPSAgreement. This paper briefly presents various case laws laid down by the international courts as well a India, in its proper perspective to accord legal protection to Traditi Knowledge.

oduction:-

tional Knowledge (TK), interchangeably used as indigenous knowledge (TK)/ local knowledge generally re matured long-standing traditions and practices of certain regional, indigenous, or local communities tha tant in protection, conservation and sustainable use of biodiversity and various traditions **(Amend, 20 en et al., 1995; Semali and kincheloe, 2002)**. Traditional knowledge (TK) is the information that people i community, based on experience and adapted to environment and local culture, have developed over time ontinues to develop (Berkes, 1999). This knowledge is used to sustain the community and its culture, as well ological resources necessary for the continued survival of the community. It encompasses all species of pla als and micro-organisms and variations between them, which form a intangible component of the ecosystems they are part. The knowledge and uses of specific plants for medicinal purposes (often referred to ional medicine) is an important component of TK. Once, traditional medicines were a major source rials and information for the development of new drugs. In the 20th century, however, new sources naceuticals led to a decline in the importance of ethnobotany in drug-discovery programs. However, veries of potentially potent anticancer agents in plants (such as turmeric and taxol), as well as a rapi ing herbal remedies market, have revived industry interest in traditional medicinal knowledge and practices. st in traditional medicine is rekindled, indigenous knowledge of the cultivation and application of gene rces is being exploited at an alarming rate **(Berkes, 2000; Hungtington, 2000; Simali & Kincheloe).**

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ectual property is a branch of law which protects some of the finer manifestations of human achievements t
commercial value. IP (intellectual property) rights should guarantee both a group's and an individual's right
ct and benefit from its own cultural discoveries, creations, and products. An important purpose of recogniz
e proprietary rights is to enable individuals to benefit from the products of their intellect by reward
vity and encouraging further innovation and invention (Wadehra, 2007).

, the international communities are debating the consequences of globalization in its various dimensions
us forums. It is the responsibility of the same international community to debate the means of protection an
rving TK. In many cases, claims in the patents on plants and their genetic resources are not fundamenta
ent from the practices applied by the traditional communities in the utilities of these cases of misappropriat
been successfully challenged but others still remains to be challenged. This raises an important issue of le
ction of TK. Thus, present research throws light on the fact that the traditional and contemporary knowle
able with the indigenous people and local communities have and are been used with impunity with
nized the rights of these communities over the benefit that have accorded to user directly or indirectly
ining the case laws available on the subject laid down by the courts in India as well as abroad, in its pro
ective to accord legal protection to Traditional Knowledge. Thus the present paper discusses the various c
s related with intellectual property right and traditional knowledge.

national Cases:-

Hoodia Case:-

Khomani San tribes of the Kalahari are among the oldest communities in Southern Africa. They are holders
ional knowledge on the use of Hoodia gordonii, a succulent plant found in the Kalahari Desert, which th
historically consumed to stave off hunger on their long journeys. The san peoples were initially unaware t
outh African Council for Scientific and Industrial Research (CSIR), an arm of the South African governme
been granted a patent on P57, an appetite suppressant derived of an extract of the Hoodia succulent throu
rch carried out by the CSIR, and had plans to commercialize a Hoodia pharmaceutical product without th
nt or their sharing of the benefits derived from the patent and commercialization **(Maharaj et al., 20
el, et al., 2009)**.

ase serves as an example of the necessity of ensuring PIC of traditional knowledge holders and, in case wh
prior informed consent has been achieved and a patent or other form of intellectual property is granted o
nts derived from biodiversity of which traditional communities are knowledge holders, ensuring that
its of their commercials exploitation are equitably shared.

Hoodia case also highlights the need to ensure that the national legislation with respect to the biodivers
des adequate recognition to the rights of traditional communities, in accordance with the principle a
tives set out in the CBD andn the Bonn Guidelines. The Hoodia case highlights the fact that South Afr
ntly lacks a regulatory framework that can properly ensure the legal protection of the rights of the r
unities over biodiversity, including recognition of PIC and protection of traditional Knowledge. In this rega
mportant to ensure that adequate legislation is developed, whether based on the intellectual property system
generic model **(Vermeylen, 2007; Foster, 2001)**.

an Pharmaceuticals Case:-

an Pharmaceuticals, a company located in San Francisco (USA), is integrated indigenous knowledge, mod
ce and reciprocity into Novel Drug Discovery Approach and focusing on isolating bio-active compound fr
al plants, particularly those which have history of medicinal use **(Prabuddha, 2001). Hendricks, J.W. (198**
eld research teams consists of ethno-botanists, western trained medical doctors, local botanical collaboratio
enous healers and herbalists. This includes short, medium and long-term reciprocity arrangements.
Short-term compensation included building an airship extension in the Ecuadorian Amazon, organizing pul
ealth workshops and forest conservation workshops, offering direct medical care to their partner communi
and providing clean drinking water system to communities in Ecuador and Indonesia.
Medium term approaches have been to provide scholarships and fellowships to scientists working in the field
raditional medicine and also to enhance infrastructural features for research in science and technology for
community.

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art of their long-term strategy, the company has formed a Healing Forest Conservancy as a nonpr
ization dedicated to conserve cultural and diversity, and sustain the development and management of natu
io-cultural resources that are part of the heritage of native populations.

cting Traditional Medicines in Nigeria:-

92, three U.S. agencies undertook a programme to collect and experiment on plants and traditional medici
ghout the world. The agencies, the National Cancer Institute, the National Science Foundation and the U
cy for International Development, joined together to form an International Co-operative Biodiversity Gr
G) Programme **(Lisa, 2001)**.

of the project teams under the ICBG programme working in Nigeria devised an interesting arrangement
ng the benefits arising out of the bio-prospecting of the programme that had been undertaken. The te
bers agreed to a three-part arrangement for compensating the local people for the traditional knowledge.

- the team was to ensure that specific monetary benefits reach to the communities at each stage of research;
- representatives from these communities were to decide how this money would be spend; and
- a legal trust was to be created to ensure that the decision taken by the representative were actu implemented.

oyalties earned by the project by making the technologies available to commercial enterprises were to
d with the communities, with the latter getting at 25 percent share. Fifty percent of this share was to
ded to the local government in whose jurisdiction the project lay, with the other half going to the town
e where the project was located.

es these arrangements, the team was to also provide 5 percent of all commercial drug profits to all project
rticular region on Nigeria where the project was based in order to promote rural health, traditional medici
iodiversity conservations. The drug company had also to agree to provide the drug at an affordable cost to
ians afflicted with the disease for which the drug was the cure

o-Merck Agreement:-

case involves the National Institute of Biodiversity of Costa Rica (INBio) and the pharmaceutical manufactu
k Sharp and Dohme. It has it's headquarter in the United States. The agreement entered into by the t
izations in 1991 was the first formal attempt to include benefit-sharing arrangement (John, 2000).

r the terms of the Agreement, INBio had the following obligations:

To establish the necessary facilities in Costa Rica for the collection and processing of plants, insects a
environmental samples;

To provide Merck Sharp and Dohme with a specific number of plants, insects and environmental samples fo
period of two years; and

To provide for processing of the samples of plants and insects in a laboratory established by INBIO at
University of Costa Rica.

orresponding obligation of Merck Sharp and Dohme were the following:-

Merck was to provide INBIO with a research fund of US$ 1 million during the first two years of the Agreem
nd was to contribute to the establishment of laboratories needed for processing of the samples at INBIO an
he University of Costa Rica;

Merck was to make an assessment of the samples provided by INBIO through biological experiments owned
Merck to detect potential activity of compounds for use on human and animal health and agriculture; and

Merck was to give unique numeric identification to all samples sent by INBIO and was to keep an identificat
system which would allow the parties to the contract to identify all parties from which there was a possibility
obtaining royalties.

NBIO- Merck Agreements provided that all inventions arising from the samples supplied by INBIO wo
g to Merck. Consequently, the patents on these inventions were also to be taken out by Merck. Although
O-Merck case was the first significant case of benefit-sharing involving the supplies of genetic resources
ommercial interests, the single most noticeable lacuna was the absence of any involvement of lo
nunities.

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zein Berries Case:-

zein is a sweet-tasting protein extracted from the West African fruits of the climbing plant Oubli. The pl
s in Gabon and Cameron, where the fruit has been consumed by the apes and the natives for a long time.

Texas companies Prodigene and Nectar World side were among the licensees to use Wisconsin Alu
arch Foundation patent on brazzein, and genetically engineer the enzyme into maize **(Someshwar Singh)**.

ite the fact that the sweet taste of the berries was well known in West Africa, the university claims that t
ction of the sweet compound (brazzein) is its own invention and they don't owe anything to the people of West
a as they are not legally required to do so. This fact, which involved appropriation of legal rights by means
ts over indigenous biomedical knowledge without compensation to the indigenous groups, is considered
tic Resources Action International (GRAIN), Geneva and Green Peace of an act of Biopiracy.

Enola Bean Patent:-

Patent the Enola bean, or yellow bean, patent was granted to John Proctor, the President of seed comp
-NERS, LLC, after he brought the bean seeds back from Mexico (Pallottini et al., 2004). With the pat
ed, Proctor has an exclusive monopoly on yellow beans and can exclude the import or sale of any yellow b
iting the yellow shade of the Enola beans. The International Centre for Tropical Agriculture (CIAT) is leg
enging the patent, arguing that the patent claims are invalid, failing to meet novelty and non-obviousn
rements and disregarding available prior art. The USPTO has yet to rule on the re-examination **(Danie
Neil, 2009)**.

n Cases:-

Turmeric Patent Case:-

U.S. based Indian nationals were granted U.S Patent [US Patent 5401504], on the "Use of Turmeric in Wou
ng", which was assigned to the University of Mississippi Medical Centre, U.S.A. The media coverage of
t generated debate and discussion on the issue, and the Council of Scientific and Industrial Research (CSIR),
omous institution under the Department of Science and Technology, Government of India, decided to file
amination of the patent. The challenges before CSIR were many. The claimed subject matter was the use
neric powder and its administration", both oral as well as locally applied, for wound healing. It was therefore
sary to find adequate evidence in the form of printed and published in formation that would constit
cipation" of the claimed invention **(WTO, 1996)**.

an extensive search, thirty-two references were located, some of which were more than one hundred years
n the languages of Sanskrit, Urdu and Hindi. These were then translated, and authenticated as being t
ations. They were then filed as part of the re-examination request, which was admitted by the USPTO
g substantially new questions of patentability. Based on the references filed, the examiner rejected the cla
ing obvious and anticipated, and concluded that the use of turmeric in powder form was an old art of heal
guli, 2001).

n Patent Case:-

European Patent No. 436257B1was granted to the United States Department of Agriculture and
national corporation W.R. Grace in 1995 based on the patent application number 90250319.2 filed

.1990. The main claim of the patent was: "A method for controlling fungi on plants comprising contacting the with a Neem oil formulation containing 0.1 to 10% of hydrophobic extracted Neem oil which is substantia of azadirachtin, 0.005 to 5.0% of emulsifying surfactant, and 0 to 99% water. In essence the said patent was gicide made from the seeds of the Neem Tree **(EPO, 1997; Cormac, 2005)**.

ıe 1995, a legal opposition against the grand of this patent was filed in the European Patent Office (EPO) ree groups i.e., the Delhi-based Research Foundation for Science, Technology and Ecology, the Green Party uropean parliament, Brussels, and the international Federation of Organic Agriculture Movements (IFOAI in Germany in solidarity with the Neem Campaign.

ıain grounds of opposition to the present patent was that the claimed fungicidal effect of hydrophobic extra ɜem seeds was known and used for centuries on a broad scale in India, both in Ayurvedic medicine to c ɜtological diseases, and in traditional Indian agriculture practice to protect crops from being destroyed

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l infections. Since this traditional Indian knowledge was in fact known to Indians since ancient times, t ɜed that the patent in question lacked two basic statutory requirements for the grant of a European pat ly: "novelty". Article 54 of the European Patent convention (EPC) lays down requirements of novelty **(WTO**

An invention shall be considered to be new if it does not form part of the state of the art.
The state of the art shall be held to comprise everything made available to the public by means of a writter ɔral description, by use, or in any other way, before the date of filing of the European patent application.

ɔpposition panel of the EPO ruled out that patentee's claim of novelty had been destroyed on the basis of y demonstrated prior public use.

econd ground that was raised was that the patent was contrary to "morality", because the so-called invento ɜd monopoly property rights on a method which forms part of the TK base of India- in essence stealing it, a is regarded as immoral in European culture.

Neem patent became the first case to challenge European and US patents on ground of biopiracy. The s ted patent was revoked on the 8th of May, 2005 by the **EPO (WTO, 1996)**.

ıati Rice Patent Case:-
Tec Inc, Alvin Texas, USA was issued the Patent on Basmati rice on September 2, 1997 under US Patent 184 This patent application No. 272353 was filed on July 8, 1994. This caused grave repercussions for In

o grow and sell rice under the Basmati brand name in order to protect India's interests, particularly those o ɜrs and exporters **(Braithwaite and Drahos, 2000)**.

Patent has been challenged by the Agricultural and Processed Foods Exports Development Authority (APED ɜ USPTO on behalf of Government of India. The use of the term "Basmati" by Rice Tec has also bee ɜnged on the grounds of inappropriate Trademark usage and violation of "geographical indication". Basmati ıas been grown for centuries in the Greater Punjab Region (India and Pakistan).Furthermore, a high in terial group comprising of representatives of the Ministries and Departments of Commerce, Industry, Exter rs, Council for Scientific and Industrial Research (CSIR), Agriculture, Bio-technology, All India R rters Association (AIREA), APEDA and Indian Council of Agriculture Research (ICAR) were mobilized an in-depth examination of the case. The contents and implications of the patent are currently being analy nsultation with patent attorneys and agricultural scientists, in the presence of widespread uprising amo ɜrs and exporters; India has felt confident of being able to successfully challenge the Basmati patent by R

nc. However, judgements on these issues are awaited with interest **(WIPO, 1998)**.

at Patent Case:-

it, the Golden grain, is called *"Kanak"* in North Western India. On 21st May 2003, the European Patent Off nich granted a patent to Monsanto under patent no. EP445929, with the sample title "plants", even though are atentable in European Law. The patent covers wheat exhibiting a special baking quality, derived from nat n wheat. With the patent, Monsanto hols a monopoly on the farming, breeding, and processing of a range t varieties with low elasticity. The wheat variety which has been pirated from India has been recorded lal in the gene banks from which Monsanto got the wheat and in Monsanto's patent claims. The name NapHa the name of an Indian variety. Indian varieties were fully documented by Howard in Wheats of India. Nap s "no seeds", and cannot be an indigenous seed variety because farmers bred seed to produce seed. NapHal ame given by W. Koelz, USDA. However, Koelz clearly did not make the collections himself, but was han the varieties, since the locations are inaccurate. Thus, the discrepancy in the locations and the name indic he variety referred to as NapHal was pirated, not collected. Vandana Shiva, Director of Research Foundat cience, Technology and Ecology (RFSTE) has challenged Monsanto wheat bio-piracy both in the Ind me Court and in the European Patent Office in Munich with Greenpeace. Monsanto's wheat biopiracy paten d be a wakeup call to citizens and governments of the world. It is yet another example of why the TRI ement need to be changed, and why traditional knowledge and community rights need to be legally recogni rotected **(RFSTE, 2004; Vandana, 2004)**.

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fit-Sharing Arrangements with the Kani Tribes of Kerala:-

case-study relates to benefit-sharing arrangements arrived at between the Tropical Botanical Garden arch Institute (TBGRI)- a publicly funded research institute based in Trivandrum- and the Kani tribes of Ker ving the medicinal plant called Arogyapaacha (Trichopus zenlanicus). The Kani tribes were using the fruits lant as a source of instant energy and vitality. The knowledge related to the plant was divulged by three K members to the scientist of TBGRI during an expedition to the forest areas inhabited by the Kanis **(Anurad** Subramoniam, 1999).

led scientific investigation of the plant was subsequently carried out by the TBGRI, including chemi ming to isolate the active principles, and pharmacological screening. The TBGRI scientists developed a dr *ani"*, by adding three other medicinal plants as ingredients **(**Pushpangada, 1998).

ovember 1997, with the assistance of the TBGRI, a trust was registered named the Kerala Kani Samud ma Trust. All the nine registered members of the trust were Kani tribesmen. The president and vice-presiden rust were the two Kanis who imparted the traditional knowledge to the TBGRI regarding Arogyapaacha. tives of the trust are:

Welfare and development activities for Kanis in Kerala.
Preparation of the biodiversity, Registered to the document the Knowledge-base of the Kanis; and
Evolving and supporting methods to promote sustainable use conservation of biological resources.

st payment of US$ 13,000 and royalties of US$ 500 for the benefit-sharing formula, were deposited in nt of the Kani Samudaya Kshema Trust at Kuttichal Trust Union Bank.
ase involving the Kanis appeared to be a solution towards the evolution of a framework for benefit-shar raditional communities at the first instance **(WIPO, 1999)**.

clusion:-

eview explains the various case studies related with intellectual property rights and Traditional knowledge. emand on natural resources is continually on the rise, productivity of traditional knowledge in agriculture, fo

rement and development of new medicines is plateauing. Using traditional community knowledge to f
l leads and exploiting advances in biotechnology for discontinuous increase in productivity are imperatives
iture. Establishing inventiveness and non-obviousness in patenting of inventions in genetic engineering v
nue to challenge legal frameworks. Ownership of knowledge and legal use in cooperative development
naceutical activities, making rapid innovations with quick diffusion in the market place with fair sharing
its will be the key means to success. This will require a "mother's" committed touch from governments
s, corporates and communities to create cooperative frameworks for intellectual property rights, respect
nunity/ traditional knowledge systems and the need to nurture all forms of innovations for the benefit
ind. However, in the longer term, changes to both the domestic and global IP regimes might be required. Y
dless of the exact type of IP rights protection employed, the end result must always be aimed toward a balan
s, to better protect and provide equitable benefit to the originators of that TK while serving the broader pul
st. In other words, access, development, and distribution must be balanced against equitable benefit shari
nable development, and conservation.

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In case of ___	literary wo	sound reco	artistic wo	none of the above	artistic work
In case of ___	cinematogr	sound reco	literary wo	none of the above	cinematography film
In case of ___	sound reco	artistic wo	computer p	literary work	sound recording
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For broadcas	20	25	30	35	25
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Designs and T	Controller	Ministry of	Ministry of	Ministry of Agriculture	Ministry of Commerce and Industry
Copyright is u	Ministry of	Ministry of	Ministry of	Ministry of Agriculture	Ministry of Human Resource Devel
The Act on La	Controller	Ministry of	Ministry of	Ministry of Agriculture	Ministry of Telecommunication an
_____	Controller	Ministry of	Ministry of	Ministry of Agriculture	Ministry of Agriculture
The Geograph	2000	1998	1997	1999	1999
The Protectio	2000	1999	2001	2002	2001
Among the fol	Geographic	Protection	patents	none of the above	Protection of Undisclosed Informa
The Semicond	1995	1996	2002	2000	2000
The Copyright	1982	1983	1984	1999	1983
A patent in th	gifted	inherited	licensed	all the above	all the above
A _____	Letters Pate	Certificate	Authority p	none of the above	Letters Patent
A patentee mu	during the p	after the pa	after transf	after the expiry term	after the expiry term
_____	Discovery	Finding	Invention	all the above	Invention
Capable of in	patented	made	sold	none of the above	made
is defined as	Inventive st	Creative ste	Discovery s	none of the above	Inventive step
Inventive step	Inventivene	Creativity	Uniqueness	all the above	Inventiveness
Which among	an inventio	an inventio	a substanc	all the above	all the above
A mere _____	scintilla	whit	iota	all the above	all the above
A grace perio	10 months	12 months	6 months	3 months	12 months
_____	date of pat	date of filir	date of pat	none of the above	date of filing application
Term of the pa	10 years	20 years	30 years	25 years	20 years

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Questions	option1	Option 2	Option 3	Option4	Answer
A Diplomatic Confer	Jun-99	Jul-99	June and Ju	None of th	June and July 1999
A patent has to be m	checking fo	paying the	checking th	all the abo	paying the maintenance fees
There are _____ t	three	four	two	five	two
A_____spe	complete	provisional	profession	combined	provisional
The provisional spec	permanen	permanent	independe	autonomo	permanent and independent
Provisional specifica	complete s	payment	case filing	None of th	complete specification
Complete specificati	10 months	12 months	6 months	3 months	12 months
The contents of a co	title of the	field of inv	backgroun	all the abo	all the above
IDA stands for _____	Internatior	Internatior	Internatior	Indian Dep	International Depositary Authority
Indian patents act w	1960	1980	1970	1990	1970

Questions	option1	Option 2
A Diplomatic Conference was held in_____to	Jun-99	Jul-99
A patent has to be maintained by _____ every ye	checking for infringement	paying the maintenanc
There are _____ types of patent documents usually knov	three	four
A_____specification is usually filed to establish pri	complete	provisional
The provisional specification is a_____ scientific cu	permanent and independe	permanent
Provisional specification has to be followed by a _____	complete specifiation	payment
Complete specification must be submitted within_____	10 months	12 months
The contents of a complete specification include	title of the invention	field of invention
IDA stands for _____	International Depositary Ai	International Depositai
Indian patents act was enacted in	1960	1980
Intellectual Property Rights (IPR) protect the use of	Ethical value	moral value
The term 'Intellectual Property Rights' covers	trade dress	Know-how
In 'quid-pro-quo', quo stands for	knowledge disclosed to the	monopoly granted for t
Trade mark is_____-	is represented graphically	is capable of distinguis
Symbol of Maharaja of Air India is	Copyright	Patent
In India, the literary work is protected until	Lifetime of author	25 years after the deat
Design does not include	features of shape	composition of lines or
The agreement that is enforceable by law is known as	Valid agreement	Void agreement
Which of the following is (are) included in Geograph	handicraft	food stuff
Which among is the principal features of the Paris Convent	Right of priority	Independence of pater
_____ refers to creation of minds	Intellectual property	inventions
Intellectual Property is divided into ____ categories	four	five
Industrial property includes patent for_____	inventions	trademark
Copywrite covers _____kinds of works	literary	novels
IPR rights are outlined in article___ of the universal declara	25	26
The importance of intellectual property was first recognize	1883	1884
The significance of IP was recognized initially by _____	Berne	Paris
The importance of intellectual property was secondly recog	London	Berne
In_____, Berne convention for the protection of literary	1896	1876
The Paris and Berne Convention are administered by	WIPO	WHO
Which among the following is the full form of WIPO	World Intelligent property	World Intelligent prope
_____ is an exclusive right granted for an invention of a	Patent	trademark
Patent provides _____ to individuals, by recognizing	salary	stipend
Patent invention cant be _____ commercially without the p	used	distributed
Sewing machines patent is held by _____	edison and Swan	Edison and Howe
Damadian holds the patent of _____	iPhone	electric lighting
Edison and swan hold the patent of	iPhone	electric lighting
What is the full form of PCT	patent co-operation treaty	patent co-ordination tr
Tangible property is also known as _____	corporeal	continuous
Intangible property is also known as	Intellectual	incorporeal

Option 3	Option4
June and July 1999	None of the above
checking the patent sear	all the above
two	five
professional	combined
independent	autonomous
case filing	None of the above
6 months	3 months
background of invention	all the above
International Depository	Indian Depositary Authority
1970	1990
social value	commercial value
copyrights	all the above
exclusive privilege of ma	None of the above
may includes shapes of g	All of the above
Trademark	All of the above
40 years after the death	60 years after the death of author
mode or principle of con	None of the above
Illegal agreement	Unenforceable agreement
manufactured	all the above
Parallel importation	all the above
patent making	industrial property
two	three
industrial designs	all the above
poems	all the above
27	37
1873	1863
London	None of the above
Paris	None of the above
1886	1888
WPO	All the above
World Intellectual Prope	Wide Intellectual Property Organization
copyrights	None of the above
incentives	all the above
made	all the above
Howe and Singer	Howe and Swan
MRI	Sewing machine
MRI	Sewing machine
patent co-operation test	None of the above
incorporeal	None of the above
conventional	all the above

Answer
June and July 1999
paying the maintenance fees
two
provisional
permanent and independent
complete specification
12 months
all the above
International Depositary Authority
1970
commercial value
all the above
monopoly granted for the term of the patent
All of the above
Trademark
60 years after the death of author
mode or principle of construction
Valid agreement
all the above
all the above
Intellectual property
two
all the above
all the above
27
1883
Paris
Berne
1886
WIPO
World Intellectual Property Organization
patent
incentives
all the above
Howe and Singer
MRI
electric lighting
patent co-operation treaty
corporeal
incorporeal

Questions	**option 1**	**Option2**	**option3**	**option4**
A _____is a sign used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin.	geographical indication	industrial design	interated circuit	none of the above
The Berne Convention Moral Rights:	Have always been part of UK copyright law	Are not implemented in common law countries	Were implemented for the first time in the UK by the CDPA 1988	Are required by the TRIPs agreement
At present how many members are in the WTO?	160	164	207	195
Which of these events potentially triggers the right of attribution:	Broadcasting a recording of a song on the radio	Selling a postcard which shows a photograph of a sculpture	Broadcasting a recitation of a poem on the radio	Uploading a song to a file-sharing website
Which of these works does the right of attribution apply to:	Computer programs	Typeface	Databases	Works created for the purpose of reporting current events
The right to object to derogatory treatment:	Requires that the "internal structure" of a work is altered	Is infringed by any mutilation of the work	Applies to any derogatory action in relation to a work	Protects against derogatory statements about the work

Which of the following statements is not true about derogatory treatment:	The test is the same as for the law of defamation	The author's artistic reputation must be affected	Evidence of the author's actual reputation is required	The author's views on the matter are relevant
A false attribution as an author:	Requires the claimant to be clearly identified as author	Can only be made where copyright exists in the work	Is made if a reasonable reader of the work would think the claimant was the author	Is made where particular words are attributed to the claimant unless the claimant actually wrote or said them, or has given consent
The right of privacy in photographs and films:	Applies to all photographs and films	Gives a right to prevent publication where privacy would be breached	Where it applies, Gives a right to prevent any publication of the photograph or film	Is only available to the copyright owner
Which country becomes the 161st member of the World Trade Organization (WTO) on 26th April 2015?				
General Agreement on Tariffs and Trade (GATT) went into effect?	1945	1948	1946	1947
GATT was originally signed by how many countries including the USA?	22	20	23	25

Name the agreement which was signed by the United States. Canada and Mexico towards removing trade barriers?	SEATO	CENTO	NAFTA	None of them
When was GATT replaced with WTO?	1994	1992	1995	1993
When did World Trade Organisation come into effect?	5-Feb-94	1/1/1995	3/6/1996	4/8/1994
By the backing of how many founder members was WTO established?	80	82	85	84
WTO comes as the third economic pillar of world-wide dimensions along with the World Bank and _____?	International Monetary Funds (IMF)	international Economic Association (IEA)	International Funding Organisation (IFO)	International Development Bank (IDB)
Which of the following is the main objective behind the establishment of WTO?	To settle disputes between nations	To widen the principle of free trade to sectors such as services and agriculture	To cover more areas than GATT	All of them
Which of the following is the headquarters of World Trade Organisation (WTO)?	Paris	New York	Geneva	Madrid
China became a member of world trade Organization in_____?	1945	1960	1990	2001
How many countries are the current members of WTO?	181	191	161	123
When did Pakistan join the WTO?	1-Jan-95	1-Feb-95	1-Jan-01	Pakistan is not a member

Who is the current Director-General of WTO?	ChedliKlibi	Mahmoud Riad	Pascal Lamy	Michael Johnson
Which country becomes the 161st member of the World Trade Organization (WTO) on 26th April 2015?	Seychelles	Vanuatu	Yemen	Samoa

Answer
geographical
indication

Were
implemented
for the first
time in the UK
by the CDPA
1988

164

Broadcasting a
recitation of a
poem on the
radio

Databases

Requires that
the "internal
structure" of a
work is altered

The test is the same as for the law of defamation

Is made where particular words are attributed to the claimant unless the claimant actually wrote or said them, or has given consent

Where it applies, Gives a right to prevent any publication of the photograph or film

1948

23

NAFTA

1995

1/1/1995

85

International
Monetary
Funds (IMF)

All of them

2001

161

1-Jan-95

Pascal Lamy

Seychelles

Questions	Option A	Option b	Option c	option d
Where is th	New York	Washington DC	Geneva	Austria
Which of t	WTO is a permanent	Uruguay round gave	Ministerial Conferen	WTO was officially c
Which of th	IBRD	WTO	IDA	IFC
Which of th	Iran	Azerbaijan	Belarus	None of these
Which of th	Both the IMF & IBRD	Both IMF & World B	IBRD is known as W	India's vote share in
Which of th	To improve the stan	To enlarge productic	To protect environm	To improve the Bala
Which of th	Dispute Settlement I	Trade Policy Review	Council of trade in g	Exchange Rate Mana
Which of th	IMF & International	IMF & World Trade	IBRD & World Trade	None of the above
Which of th	World Bank	International Monet	World Trade Organiz	United Nations Orga
Which of fc	A DVD	An unrecorded spee	Written lyrics of a so	A hand knitted jump
What is the	A novel will not gain	The day the author c	The end of the calen	70 years from the en
Which one	To import copied CD	To make a copy of a	To borrow a CD from	To purchase a CD an
Which of th	Be a product.	Be new to the public	Involve an inventive	Be capable of industr
Which one	A patent must be re	Copyright must be re	The owner of a pate	The definition of an i
The law go	The Intellectual Prop	Copyright, Designs a	The Registered Trad	The Trade Marks Act
Which one	The mark is an imag	The mark is made up	The mark is made up	The mark represents
Which one	The maximum durat	A registered design r	A registered design r	The maximum durati
Unless a co	The person who con	The manufacturer of	The government.	The designer.
The tort of	The Passing-off Act 1	The Tort Act 1977.	The Unfair Contract	There is no statute th
Which of th	Copyright Act, 1957	Trademark Act, 19	Patent Act, 1970	Customs Act, 1962

	Answer
	Geneva
onstituted on 1 January 1991.	WTO was officially constituted on 1 January 1991.
	WTO
	None of these
the International Monetary Fund is 10%	India's vote share in the International Monetary Fund is 10%
nce of Payment situation of the member c	To improve the Balance of Payment situation of the member count
agement Body	Exchange Rate Management Body
	IMF & International Bank for Reconstruction and Development (IBI
nization	World Trade Organization
er	An unrecorded speech
ıd of the calendar year in which the autho	70 years from the end of the calendar year in which the author die
d copy it to your laptop for your own priv	To purchase a CD and copy it to your laptop for your own private u
rial application.	Be a product.
invention is set out in the Patents Act 197	A patent must be registered in order to gain protection.
: 1994.	The Trade Marks Act 1994.
; the natural or technical shape of the goo	The mark represents the natural or technical shape of the goods.
ion for a registered design right is 25 year	A registered design right only applies to 3 dimensional objects.
	The designer.
hat governs the law of passing-off.	There is no statute that governs the law of passing-off.
	Customs Act, 1962

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Questions	option1	Option2	Option3
Any act of competition contrary to *honest practices* in industrial and commercial matters" is called	Intellectual property	Fair Competition	unfair competition
UC, in principle, destroys the trust in the development of _____	markets	products	markets and products
The repression of unfair competition along with patents, utility models, trademarks, industrial designs and appellations of origin are the objects of ___	Paris Convention Art.1(2)	Paris Convention Art.1(12)	Paris Convention Art.1(22)
Unfair competition is not an_____ in itself, but its protection has been recognized as forming *part of IP protection* .	IP right	Patent right	copyright
_____another form of *unfair free- riding* , characterized by a *systematic and methodical appropriation* and by the *modus operandi* of the competitor.	Unfair competition	Parasitic competition	Free competition
is the gradual lessening of the *distinctive quality* or advertising value of a mark, trade name or business identifier by using marks for different goods or services of a certain renown.	Dilution	Strengthening	Declining
Disclosure, acquisition or use by others of ***trade secrets*** or *undisclosed information comes under* _____	TRIPS art(49)	TRIPS art(40)	TRIPS art(39)
The term of a registered design in IPR is	12 years	15 years	10 years
The Hague Agreement Concerning the International Deposit of _____ first came into existence in 1925.	Copyright	Patents	Industrial designs
World Trade Organization (WTO) was setup as a body to_____ the world trade	regulate	control	direct
The Register of Designs is a document maintained by the_____ Office	Design	Patent	Copyright
Article means any article of manufacture and any substance, artificial, or partly artificial and partly natural according to_____	Patent bill 2005	Designs Act 2000	Copyright act 1995
The TRIPS Agreement, which came into effect on _____, is to date the most comprehensive multilateral agreement on intellectual property.	1-Jan-95	1-Feb-95	1-Oct-95
TRIPS stands for	Trade-Related Assets of Intellectual Property Rights	Trade-Rated Aspects of Intellectual Property Rights	Trade-Related Aspects of Intellectual Property Rights

In India the trademarks have been protected for over four decades as per the provisions of the _____	Trade and Merchandise Mark (TMM) Act of 1958	Indian Patents and Designs Act, 1911	Designs Act, 1911
How many countries are the current members of WTO?	181	191	161
When did Pakistan join the WTO?	1-Jan-95	2/1/1995	1/1/2001
Who is the current Director-General of WTO?	ChedliKlibi	Mahmoud Riad	Pascal Lamy
Which country becomes the 161st member of the World Trade Organization (WTO) on 26th April 2015?	Seychelles	Vanuatu	Yemen

Option4	Answer
none of the above	unfair competition
policy	markets and products
Paris Convention Art.1(32)	Paris Convention Art.1(2)
none of the above	IP right
none of the above	Parasitic competition
All the above	Dilution
TRIPS art(19)	TRIPS art(39)
20 years	15 years
Integrated circuits	Industrial designs
none of the above	regulate
trademark	patent
none of the above	Designs Act 2000
1-Sep-95	1-Jan-95
none of the above	Trade-Related Aspects of Intellectual Property Rights

Copyright Act, 1957	Trade and Merchandise Mark (TMM) Act of 1958
123	161
1/1/2002	1-Jan-95
Michael Johnson	Pascal Lamy
Samoa	Seychelles