

Goldmine Professional Opportunities under The Intellectual Property Rights



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 20+ Certificate courses; 75+ Self Development Courses, Student of: MA (Psychology), MA (Economics), PGD CSR,
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Ranks ALL INDIA 1st in Inter CA; 6th in CA Final; 3rd in CMA Final, 5th in Mumbai University +++
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Professional Expertise:

A Chartered Accountant by profession, he stands at the helm of his own consulting firm, specializing in managing wealth for HNIs and emerging millennials. With a repertoire that includes Company Secretaryship, Law, and a Masters in Business Finance, his qualifications speak volumes about his expertise. His credentials extend beyond traditional finance; he is a Certified Financial Planner, well-versed in the art of creating holistic financial strategies tailored to individual needs.

His expertise is not confined to boardrooms; he has actively engaged with regulatory bodies and law enforcement agencies. He has addressed esteemed gatherings at institutions like the Central Bureau of Investigation (CBI) Academy and the Serious Fraud Investigation Office (SFIO). His insights have been invaluable in helping individuals safeguard their financial interests in an increasingly complex world.

GOLDMINE PROFESSIONAL OPPORTUNITIES UNDER THE INTELLECTUAL PROPERTY RIGHTS (A 2 Z OF INTELLECTUAL PROPERTY RIGHTS WITH LATEST AMENDMENTS)

By



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MENTOR TO ASSIST YOU IN ACHIEVING YOUR GOALS FROM GAINING EXPERTISE & CAREER GROWTH TO BECOMING GLOBAL PROFESSIONAL AND AUTHORIZING BOOKS

Dear reader

The road to progress and development doesn't just end with knowledge and experience gained. Knowledge continues to grow when it is shared among fellow aspirants.

I feel proud of the fact that I am amidst hardworking people who have made their way to the pinnacle of success, by overcoming obstacles and hurdles in their journey through professional life and achieving the most needed knowledge and expertise.

My unquenchable thirst for knowledge has been my constant inspiration to read more and gain more knowledge. It has also been the source of motivation to author books, which has enabled me to author 350 plus books on a wide range of subjects over a period of time.

I find it apt to remember English Historian and Geologist Charles Darwin's famous quote:

"In the long history of humankind those who learned to collaborate and improvise most effectively have prevailed."

In collaboration lies the spirit of greater achievements and carving a niche for ourselves by setting the most inspiring example for others to follow.

For students and debutant professionals, having a mentor can significantly help gain a comprehensive understanding of the career path ahead. Because of my experience, you can learn from my mistakes, become aware of potential pitfalls and circumvent them with ease. I want to mentor each reader to achieve their goals in life. Whether it is to pass an exam, advancement in career, balancing studies and job, supplementing methods of earning income, advise to start or advance your practice or overcoming any roadblock in professional and personal life – I want to welcome you to contact me and I will surely guide and assist you in the same.

I take this opportunity to invite both budding and established professionals/entrepreneurs/academicians/readers to join me in sharing the knowledge and

expertise with our fellow professionals and aspirants by developing knowledge series in the form of books on a wide range of topics for example, business laws, various forms of audits, accounting standards, arbitration and mediation, self-help and self-development and management topics to name a few.

It will be my pleasure to co-author books with esteemed colleagues who will be interested in presenting an innovative approach with respect to any subject within the ambit of finance and its related fields.

You may feel free to contact me at rajkumar@cadrrajkumaradukia.com or reach me on my mobile phone 9820061049 by WhatsApp for further details and discussions in this regard.

Regards

CA (Dr.) Rajkumar S. Adukia

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1. Introduction

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

Intellectual property rights (IPR) can be defined as the rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time.

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

Intellectual property shall include the right relating to:

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

Why IPR?

- To create public awareness about the economic, social and cultural benefits of IPRs among all sections of the society.
- To stimulate the generation of IPRs.
- To have strong IPR laws which protect the rights of the owners with larger public interest.
- To modernize and strengthen service oriented IPR administration.

- To make the IPR more valuable through commercialization of products and services.
- To strengthen the law enforcement as well as the judiciary related to IPR to avoid the IPR irregularities.
- To strengthen human resources and expand such for teaching, learning, training and skill development related to IPR.

Types of Intellectual Property Rights

1. Patents
2. Copyrights
3. Trademarks and trade secrets
4. Industrial Design
5. Plant variety Rights
6. Geographical indications
7. Biological Diversity
8. Layout Design

2. Global Intellectual Property Trends

1. Recently, India ranks 42nd on the International Intellectual Property (IP) Index 2024 released by the U.S. Chambers of Commerce, with a score of 38.64%, unchanged since 2022, among 55 leading global economies.
2. According to the World Intellectual Property Organization (WIPO), Chinese telecoms giant Huawei filled highest patent in 2022, with well over 7,600 to its name. South Korea's Samsung came in second, followed by Qualcomm of the US, Mitsubishi of Japan, and Ericsson of Sweden.
3. In 2022, PCT filings rose slightly by 0.3%, totaling 278,100 - the highest number ever recorded in a single year. India (+25.4%) and the Republic of Korea (+6.2%) saw sharp growth in PCT filings.
4. In 2022, the number of designs included in international applications under WIPO's Hague System for the International Registration of Industrial Designs increased by 11.2% to reach 25,028.
5. In the education sector, the University of California remained the top applicant with 552 published PCT applications in 2022. Zhejiang University came in second (309 applications) followed by Suzhou

- University (303), Leland Stanford Junior University (217) and the University of Texas System (187)
6. Cross-border payments for the use of intellectual property (IP) reached nearly a trillion US dollars (USD) in 2021.
 7. Patent filings worldwide grew by 3.6% in 2021. Trademark and industrial design filing activity grew by 5.5% and 9.2%, respectively. Patent filings around the world exceeded 3.4 million, trademark filing activity totaled 18.1 million and industrial design filing activity amounted to 1.5 million. Applications for utility models – a special form of patent right – dropped by 2.5% to 2.9 million applications.

Top Patent Cooperation Treaty (PCT) filers-2022

1. China- 70,015
2. US- 59,056
3. Japan- 50,345
4. Republic of Korea- 22,012
5. Germany- 17,530

IP Trends in India

IP applications in 2022-23:

- Patent- 82811
- Design- 22698
- Trade mark- 466580
- Geographical Indication- 211
- Copyrights- 29466
- Semiconductor Integrated Layout Designs (SCILD) - 23

Patents - Every 6 minutes one technology is seeking IP protection in India. In 2023, an all-time high of 90,300 patent applications were received. Patent office granted over one lakh patents in the last one year (March 15, 2023 to March 14, 2024). Every working day, 250 patents were granted.

Geographical Indications - There has been a notable surge in Geographical Indication (GI) registrations, demonstrating a threefold increase compared to the previous year. As on 16th March 2024, 573 GIs are registered in India.

Copyright - The fiscal year 2023-24 witnessed a record-breaking number of copyright registrations, totaling 36,378, thus underscoring the vast potential within the creative sector.

Design - During the fiscal year 2023-24, the highest number of design registrations to date, totaling 27,819, were recorded, alongside final disposal of 30,450 applications.

3. Theories of Intellectual Property Rights

A. The Natural Rights Theory

It is based on the theory that everyone has a natural property right on his, or her ideas. Anyone who violates the intellectual rights of an author, creator or inventor is considered to commit a duplicity or theft. It is constructed on the basis of John Locke's idea.

B. Utilitarian Theory

This theory was championed by great economists Bentham and Mill. The idea was "the greatest good for the greatest number." The term "utilitarian" signifies "social welfare", the theory essentially is based on the fact that industrial progress and cultural goods together can promote a better and significant economic impact on the society, and the people at large. To fill the need of promoting the inventions and creations, there should be nominal certification that the outcome will be superior as compared to the expenses incurred for his work.

C. The deterrence theory

It Supports morality. The term "deterrence" signifies discouragement. The theory discourages misappropriation of a creation, information, etc as the secrecy of the same is focused in this theory.

D. The ethic and reward theory

It promotes the ethical and moral aspect of intellectual property rights. The term "ethic" signifies "fairness" whereas the term "reward" symbolises "validation of the efforts contributed in a particular thing". This theory is based on the fact that a creator must be rewarded for the creation and in doing so the ethics behind intellectual property rights will be realized.

E. The personhood theory

It was propounded by Kant and Hegel. As per this theory, the personality of everyone frames itself up in the environment of work, innovation, ideas and creation. The augmentation of the personality is deep seated to our property rights.

It provides that it is the creator's creation that builds his or her personality thereby clarifying an individual's personality is inherent to his or her property right.

4. Constitutional Provisions

The Indian Constitution provides for fundamental rights but Intellectual Property rights neither expressly find place in any of the fundamental rights nor have been expressly excluded by any constitutional provision from the purview of the fundamental rights. At the commencement of the Constitution of India, Right to Property was a Fundamental right under Article 19 (1) (f) but it was degraded to a mere Constitutional right in 1978 by the Constitution (Forty-Fourth Amendment) Act, 1978 by inserting Article 300A. According to Article 300-A of the Constitution of India 300A, no person shall be deprived of his property save by authority of law.

The Seventh Schedule to the Constitution of India specifies the allocation of powers and functions between the Union and the State legislatures. It embodies three lists; namely, List I-the Union List, List II-the State List, and List III-the Concurrent List. Entry 49 of List I of Seventh Schedule of the Indian Constitution provides for Patents, inventions and designs; copyright; trade-marks and merchandise marks. Thus, it gives power to the Parliament to enact law relating to Intellectual property rights. However, it does not specifically mention the intellectual property related to traditional knowledge, biodiversity, geographical indications. Since Article 248 confers exclusive power to parliament to make law on any matter not listed in State List (List-II) and Concurrent List (List III), and traditional knowledge, biodiversity, geographical indications are not mentioned in either of these Lists, hence it can be assumed that such IPRs would also be included in Entry 49 of List I as IPRs, and Parliament can make laws related to them.

Also, Article 253 of the Constitution of India deals with the law to give effect to international agreements. It states that Parliament has the power to make laws for the whole or any part of the country for carrying into effect the agreements with one or more countries. Also, it has the power to decide in respect of such matters at any international conference or on other occasions. Thus, the Parliament has power to implement international conventions, agreement and treaties relating to Intellectual property rights.

5. Authorities/ Departments related to Intellectual Property Rights in India

1. The Department for Promotion of Industry and Internal Trade under the Ministry of Commerce and Industry handles matters related to Protection of Intellectual Property Rights (IPR) and administers acts related to IPRs - <https://dpiit.gov.in/>
2. The Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM), a subordinate Office under the Department for

- Promotion of Industry and Internal Trade, carries out statutory functions related to Patents, Trade Marks, Designs, Copyrights, Geographical Indications and Semiconductor Integrated Circuits Layout Designs. - <https://ipindia.gov.in/>
3. Copyright Office, under The Department for Promotion of Industry and Internal Trade - <https://copyright.gov.in/>
 4. The National Biodiversity Authority (NBA), under the Ministry of Environment, Forests and Climate Change - <http://nbaindia.org/>
 5. The Semiconductor Integrated Circuits Layout-Design Registry, under the Ministry of Electronics & Information Technology - <https://sicldr.gov.in/>
 6. Protection of Plant Varieties and Farmers' Rights Authority, under the Ministry of Agriculture and Farmers' Welfare - <https://plantauthority.gov.in/>

6. Overview of Laws related to Intellectual Property Rights in India

The Laws governing Intellectual Property Rights in India are as follows:

1. Copyright- The Copyright Act, 1957, The Copyright Rules, 2013 (The Copyright Rules, 1958 Superseded) and the International Copyright Order, 1999
2. Patent-The Patents Act, 1970 and The Patents Rules, 2003
3. Trademarks- The Trade Marks Act, 1999 and The Trade Marks Rules, 2017 (The Trade Marks Rules, 2002 superseded)
4. Geographical Indications-The Geographical Indications of Goods (Registration and Protection) Act, 1999, The Geographical Indications of Goods (Registration and Protection) Rules, 2002 and the Geographical Indications of Goods (Forms & making an appeal and fees therefore) Rules, 2013.
5. Designs- The Designs Act, 2000 and The Designs Rules, 2001
6. Layout Designs- The Semiconductors Integrated Circuits Layout-Design Act, 2000 and The Semiconductors Integrated Circuits Layout-Design Rules, 2001
7. Plant varieties-The Protection of Plant varieties and Farmers' Rights Act, 2001 and The Protection of Plant varieties and Farmers Rights' Rules, 2003

8. Biological Diversity-The Biological Diversity Act, 2002 and The Biological Diversity Rules, 2004
9. The Intellectual Property Rights (Imported Goods) Rules, 2007

Other laws

1. Laws relating to Internet, Web and Information Technology - The Information Technology Act, 2000
2. Laws relating to Competition- The Competition Act, 2002

7. Copyright

Copyright is the set of exclusive rights granted to the author or creator of an original work, including the right to copy, distribute and adapt the work. Copyright lasts for a certain time period after which the work is said to enter the public domain. Copyright gives protection for the expression of an idea and not for the idea itself. For example, many authors write textbooks on physics covering various aspects like mechanics, heat, optics etc.

Copyright law in India

The Copyright Act, 1957, The Copyright Rules, 2013 and the International Copyright Order, 1999 governs the copyright protection in India. The Copyright Act, 1957 was notified on 4th June, 1957. It consists of XV Chapters, 79 Sections

Definition of Copyright

According to Section 14 of the Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely: -

- (a) in the case of a literary, dramatic or musical work, not being a computer programme, -
 - (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;
 - (ii) to issue copies of the work to the public not being copies already in circulation;
 - (iii) to perform the work in public, or communicate it to the public;
 - (iv) to make any cinematograph film or sound recording in respect of the work;
 - (v) to make any translation of the work;
 - (vi) to make any adaptation of the work;

- (vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);
- (b) in the case of a computer programme,-
 - (i) to do any of the acts specified in clause (a);
 - (ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:

Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.
- (c) in the case of an artistic work, -
 - (i) to reproduce the work in any material form including—
 - (A) the storing of it in any medium by electronic or other means; or
 - (B) depiction in three-dimensions of a two-dimensional work; or
 - (C) depiction in two-dimensions of a three-dimensional work;
 - (ii) to communicate the work to the public;
 - (iii) to issue copies of the work to the public not being copies already in circulation;
 - (iv) to include the work in any cinematograph film;
 - (v) to make any adaptation of the work;
 - (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to (iv);
- (d) In the case of cinematograph film, -
 - (i) to make a copy of the film, including-
 - (A) a photograph of any image forming part thereof; or
 - (B) storing of it in any medium by electronic or other means;
 - (ii) to sell or give on commercial rental or offer for sale or for such rental, any copy of the film
 - (iii) to communicate the film to the public
 - (a) In the case of sound recording, -
 - (i) to make any other sound recording embodying it including storing of it in any medium by electronic or other means;

- (ii) to sell or give on commercial rental or offer for sale or for such rental, any copy of the sound recording;
- (iii) to communicate the sound recording to the public.

Explanation: For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.

Ownership of Copyright

The Copyright Act, 1957 intends to safeguard the rights of the owner as well as the author, whether the copyrightable work is published or unpublished. The author is the first owner of the Copyright.

Who is an author?

- In literary or dramatic works, the author of such work shall be the author.
- In musical works, the music composer shall be the author.
- In artistic works, the artist shall be the author.
- For a photograph, the person clicking such photograph shall be the author.
- In cinematographic films, the producer of such a film shall be the author.
- For a sound recording, the producer of such sound recording shall be the author.
- When a literary, dramatic, artistic or musical work is a computer generated then the person who causes such work to be created is the author.

Statutory exception under Section 17 of the Copyright Act, 1957

Section 17 of the Copyright Act, 1957 is an exception to the general rule of the author being the first owner of the copyright.

The author of the work will be the first owner of the copyright in the following instances:

- (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work, in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the

- reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;
- (b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
 - (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
 - (cc) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;
 - (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
 - (dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.
 - (e) in the case of a work to which the provisions of Section 41 apply, the international organisation concerned shall be the first owner of the copyright therein.

Provided that in case of any work incorporated in a cinematograph work, nothing contained in clauses (b) and (c) shall affect the right of the author in the work referred to in clause (a) of sub- section (1) of Section 13.

Assignment of copyright

Sec.18 of the Copyright Act, 1957 deals with assignment of copyright. The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof.

The mode of assignment should be in the following manner:

- Assignment should be given in writing and signed by the assignor or by his duly authorized agent.
- The assignment should identify the work and specify the rights assigned and the duration and territorial extent of such assignment.
- The assignment should also specify the amount of royalty and any other compensation payable, if any, to the author or his legal heirs during the currency of the assignment and the assignment may be subject to revision, extension or termination on terms mutually agreed upon by the parties.
- Where the assignee does not exercise the rights assigned to him within a period of one year from the date of assignment, the assignment in respect of such rights will be deemed to have lapsed after the expiry of the said period unless otherwise specified in the assignment.

The period of assignment will be deemed to be 5 years from the date of assignment unless specifically mentioned. If the territorial extent of assignment of the rights is not specified, it will be presumed to extend within India.

The assignment of copyright in any work contrary to the terms and conditions of the rights already assigned to a copyright society in which the author of the work is a member shall be void

No assignment of copyright in any work to make a cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable in case of utilisation of the work in any form other than for the communication to the public of the work, along with the cinematograph film in a cinema hall.

No assignment of the copyright in any work to make a sound recording which does not form part of any cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable for any utilization of such work in any form.

If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act or omission of the assignor, then, the Commercial Court may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

If any dispute arises with respect to the assignment of any copyright, the Commercial Court may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable

Relinquish copyright

The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to [the Registrar

of Copyrights or by way of public notice and thereupon such rights shall, cease to exist from the date of the notice.

The Registrar of Copyrights shall, within fourteen days from the publication of the notice in the Official Gazette, post the notice on the official website of the Copyright Office so as to remain in the public domain for a period of not less than three years.

Term of Copyright

In the case of a literary, dramatic, musical or artistic work (other than photograph), which is published anonymously or pseudonymously, copyright shall subsist until sixty years from the beginning of the calendar year next following the years in which the work is first published

Term of copyright in posthumous works

In the case of a literary, dramatic or musical work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which, or any adaptation of which, has not been published before that date, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year

Term of copyright in cinematograph films -

In the case of a cinematograph film, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the film is published.

Term of copyright in sound recordings -

In the case of a sound recording, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the sound recording is published.

Term of copyright in Government works -

In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

Term of copyright in works of public undertakings -

In the case of a work, where a public undertaking is the first owner of the copyright therein, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published.

Term of copyright in works of international organization -

In the case of a work of an international organisation to which the provisions of Section 41 apply, copyright shall subsist until sixty years from the

beginning of the calendar year next following the year in which the work is first published.

Rights of Broadcasting Organisation and of Performers

Every broadcasting organisation will have a special right to be known as 'broadcast reproduction right' in respect of its broadcasts. The broadcast reproduction right will subsist until twenty-five years from the beginning of the calendar year next following the year in which the broadcast is made.

This would prevent any person other than the broadcasting organisation from:

- i) Re-broadcasting what has already been broadcasted
- ii) Causing the broadcast to be seen or heard by the public on payment of charges
- iii) Making any sound/visual recording of the broadcast
- iv) Making any reproduction of such sound recording or visual recording where such initial recording was done without licence or, where it was licensed, for any purpose not envisaged by such licence
- v) Selling or hiring or offering to sell or hire sound/visual recordings.

International Copyright

Copyrights of works of the countries mentioned in the International Copyright Order are protected in India, as if such works are Indian works. Copyright of nationals of countries who are members of the Berne Convention for the Protection of Literary and Artistic Works, Universal Copyright Convention and the TRIPS Agreement are protected in India through the International Copyright Order. The list of such countries is mentioned in the schedule of the International Copyright Order, 1999.

Licences

Provisions with regard to licences are detailed in Chapter VI of the Copyright Act, 1957.

The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing by him or by his duly authorised agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to the Commercial Court that the owner of copyright

in the work—

- (a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

- (b) has refused to allow communication to the public by broadcast of such work or in the case of a sound recording the work recorded in such sound recording, on terms which the complainant considers reasonable; the Commercial Court, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry, as it may deemed necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by broadcast, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Commercial Court may determine; and thereupon the Registrar of Copyrights shall grant the licence to such person or persons who, in the opinion of the Commercial Court, is or are qualified to do so] in accordance with the directions of the Commercial Court, on payment of such fee, as may be prescribed.

Registration of a work under the Copyright Act, 1957

Copyright comes into existence as soon as a work is created and no formality is required to be completed for acquiring copyright. However, facilities exist for having the work registered in the Register of Copyrights maintained in the Copyright Office of the Department of Education. The entries made in the Register of Copyrights serve as prima-facie evidence in the court of law.

Register of Copyright

There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which may be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

Copyright Infringements

Some of the commonly known acts involving infringement of copyright:

- o Making infringing copies for sale or hire or selling or letting them for hire;
- o Permitting any place for the performance of works in public where such performance constitutes infringement of copyright;
- o Distributing infringing copies for the purpose of trade or to such an extent so as to affect prejudicially the interest of the owner of copyright;
- o Public exhibition of infringing copies by way of trade; and
- o Importation of infringing copies into India.

Civil Remedies for infringement of copyright.

- (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled

to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right: Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

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8. Patent

A Patent is a statutory right for an invention granted for a limited period of time to the patentee by the Government, in exchange of full disclosure of his invention for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent. It is an exclusive right granted by law to applicants / assignees to make use of and exploit their inventions for a limited period of

time (generally 20 years from filing). The patent holder has the legal right to exclude others from commercially exploiting his invention for the duration of this period. In return for exclusive rights, the applicant is obliged to disclose the invention to the public in a manner that enables others, skilled in the art, to replicate the invention. The patent system is designed to balance the interests of applicants / assignees (exclusive rights) and the interests of society (disclosure of invention).

Patent protection is a territorial right and therefore it is effective only within the territory of India. There is no concept of global patent. However, filing an application in India enables the applicant to file a corresponding application for the same invention in convention countries or under Patent Cooperation Treaty (PCT), within or before expiry of twelve months from the filing date in India. PCT is an international treaty with 157 Contracting States, making it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an international patent application.

Legislation governing Patent system in India

The patent system in India is governed by the Patents Act, 1970 (No.39 of 1970) as amended and the Patents Rules, 2003. The Patent Rules are regularly amended in consonance with the changing environment, most recent being in 2024.

The Ministry of Commerce and Industry has notified and published the Patent (Amendment) Rules, 2024 on March 15, 2024 which have come into effect immediately from the date of the publication. These rules introduce several provisions aimed at simplifying the process of obtaining and managing patents, thereby facilitating a conducive environment for inventors and creators. Some salient features of the revamped Rules are as follows:

- Introduction of unique provision for 'Certificate of Inventorship' to acknowledge the contribution of inventors in the patented invention. As the Indian patent certificate does not identify the inventors, this provision will allow inventors to be identified for their inventions.
- The Amended Rules have shortened certain timelines, such as those for requesting examinations and opposition proceedings, while relaxing the timelines for submission of working statements (in Form 27) and details of corresponding foreign applications (in Form 3). Additionally, the Amended Rules have relaxed the provisions for seeking extensions.
- Provision for claiming benefits of Grace period under section 31 has been streamlined by incorporating new form, i.e., Form 31.
- Time limit to furnish foreign application filing details in Form 8 has been changed from six months from the date of filing of application to three months from the date of issuance of first examination report.
- The timeline for filing the Request for Examination (RFE) is now reduced from 48 months to 31 months from the priority date of

application or from the date of filing of application, whichever is earlier. The reduced timeline for filing a RFE will accelerate the patent examination process.

- Frequency to file the statements of working of patents in Form 27 has been reduced from once in a financial year to once in every three financial years. Further, the provision to condone delay in filing of such statement for a period up to three months upon a request in prescribed manner has been incorporated.
- Provision to extend time limit and condone delay in filing has been further simplified and made more explicit to ease in practice. Now, the time for doing any act/proceeding may be extended any number of times up to six months by a request in prescribed manner.
- Renewal fee has been reduced by 10% if paid in advance through electronic mode for a period of at least 4 years.
- The procedure to file and dispose the Pre-grant representation by way of opposition under section 25(1) has been further streamlined and made more explicit by providing ways to dispose of the representation and fixing fees to file such representation in order to curb benami and fraudulent pre-grant oppositions and simultaneously encouraging the genuine oppositions. The official fee for filing a pre-grant opposition is now INR 20,000 for large entities and INR 4,000 for others.

The Patent Act, 1970

India inherited its patent regime from the British rule. When the British colonization of India ended, the Indian Patents and Designs Act, 1911, was in force and had created a system of patent administration in India under an administrative office – the Controller of Patents and Designs. Post-independence, India enacted its first independent patent law in 1970.

The Patent Act 1970 was notified on 19th September, 1970. It contains XXIII Chapters, 163 Sections and the Schedule.

What can be Patented?

An invention relating either to a product or process that is new, involving inventive step and capable of industrial application can be patented. However, it must not fall into the categories of inventions that are non-patentable under sections 3 and 4 of the Act.

“invention” means a new product or process involving an inventive step and capable of industrial application; “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;

- ▶ Invention — A product requires to satisfy the following tests in order to qualify as “invention”: An invention is patentable subject matter if it meets the following criteria –
 - i) It should be novel.
 - ii) It should have inventive step or it must be non-obvious
 - iii) It should be capable of Industrial application.
 - iv) It should not attract the provisions of section 3 and 4 of the Patents Act 1970.

What are the inventions not Patentable?

An invention may satisfy the condition of novelty, inventiveness and usefulness but it may not qualify for a patent under the following situations:

- (a) an invention which is frivolous or which claims anything obviously contrary to well established natural laws;
- (b) an invention the primary or intended use or commercial exploitation of which could be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment; (For e.g. process of making brown sugar will not be patented.)
- (c) The mere discovery of a scientific principle or the formulation of an abstract theory (or discovery of any living thing or non-living substances occurring in nature);
- (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 mere 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;
- (e) a substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance;
- (f) the mere arrangement or re-arrangement or duplication of known devices each functioning independently of one another in a known way;
- (g) a method of agriculture or horticulture; (For e.g. the method of terrace farming cannot be patented.)
- (h) any process for the medicinal, surgical, curative, prophylactic, diagnostic, therapeutic or other treatment of human beings or any process for a similar treatment of animals to render them free of disease or to increase their economic value or that of their products; (For e.g. any new technique of hand surgery is not patentable)

- (i) plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals;
- (j) a mathematical or business method or a computer programme per se or algorithms;
- (k) a literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions;
- (l) a mere scheme or rule or method of performing mental act or method of playing game; (m) a presentation of information;
- (n) topography of integrated circuits;
- (o) an invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components.
- (p) Inventions relating to atomic energy and the inventions prejudicial to the interest of security of India.

Applications for Patents

An application for a patent for an invention may be made by any of the following persons, that is to say,—

- (a) by any person claiming to be the true and first inventor of the invention;
- (b) by any person being the assignee of the person claiming to be the true and first inventor in respect of the right to make such an application;
- (c) by the legal representative of any deceased person who immediately before his death was entitled to make such an application.

An application can be filed by any of the above mentioned persons either alone or jointly with any other person.

Appropriate office for filing an application & for other Proceedings

Application is required to be filed according to the territorial limits where the applicant or the first mentioned applicant in case of joint applicants, for a patent normally resides or has domicile or has a place of business or the place from where the invention actually originated. For the applicant, who is non-resident or has no domicile or has no place of business in India, the address for service in India or place of business of his patent agent determines the appropriate patent office where applications for patent can be filed.

Territorial Jurisdiction of Appropriate Office for the Applicants

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

From 20th July, 2007 the Indian Patent Office has put in place an online filing system for patent application.

Procedure

Where, in an application for a patent made by virtue of an assignment of the right to apply for the patent for the invention, if the proof of the right to make the application is not furnished with the application, the applicant shall within a period of six months after the filing of such application furnish such proof.

Every international application under the Patent Cooperation Treaty for a patent, as may be filed designating India shall be deemed to be an application under this Act, if a corresponding application has also been filed before the Controller in India.

Where the application is made by virtue of an assignment of the right to apply for a patent for the invention, there shall be furnished with the application, or within such period as may be prescribed after the filing of the application, proof of the right to make the application.

Every such application not being a convention application or an application filed under the Patent Cooperation Treaty designating India shall be accompanied by a provisional or a complete specification.

Publication and Examination of Applications

All the applications for patent, except the applications prejudicial to the defence of India or abandoned due to non-filing of complete specification within 12 months after filing the provisional or withdrawn within 15 months of filing the application, are published in the Patent Office Journal just after 18 months from the date of filing of the application or the date of priority whichever is earlier.

The period for which an application for patent shall not ordinarily be open to public shall be eighteen months from the date of filing of application or the date of priority of the application, whichever is earlier.

The applicant may, in the prescribed manner, request the Controller to publish his application at any time before the expiry of the period prescribed, the Controller shall publish such application as soon as possible. A request for publication shall be made in Form, 9.

Examination

Application for patent, where request has been made by the applicant or by any other interested person, will be taken up for examination, according to the serial number of the requests received on Form 18. A First Examination Report (FER) stating the objections/requirements is communicated to the applicant or his agent according to the address for service ordinarily within six (06) months from the date of request for examination or date of publication whichever is later. Application or complete specification should be amended in order to meet the objections/requirements within a period of 12 months from the date of First Examination Report (FER). No further extension of time is available in this regard. If all the objections are not complied with within the period of 12 months, the application shall be deemed to have been abandoned. When all the requirements are met the patent is granted, after 6 months from the date of publication, the letter patent is issued, entry is made in the register of patents and it is notified in the Patent Office, Journal.

Consideration of the report of examiner by Controller.

Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, the Controller, before proceeding to dispose of the application in accordance with the provisions hereinafter appearing, shall communicate as expeditiously as possible the gist of the objections to the applicant and shall, if so required by the applicant within the prescribed period, give him an opportunity of being heard.

Power of Controller to refuse or require amended applications, etc., in certain cases

Where the Controller is satisfied that the application or any specification or any other document filed in pursuance thereof does not comply with the requirements, the Controller may refuse the application or may require the application, specification or the other documents, as the case may be, to be amended to his satisfaction before he proceeds with the application and refuse the application on failure to do so.

Withdrawal of patent application

The application for patent can be withdrawn at least 3 (Three) months before the first publication which will be 18 (Eighteen) months from the date of filing or date of priority whichever is earlier. The application can also be withdrawn at any time before the grant of the patent. The application withdrawn after the date of publication cannot be filed again as it is already laid open for public inspection. However, application withdrawn before the publication can be filed again provided it is not opened to public otherwise.

Grant of Patent

When all the requirements are met or in case of opposition under section 25(1) of the Patents Act, if the opposition is decided in favour of the applicant, the patent is granted, after 6 months from the date of publication under section 11 A, the letter patent is issued, entry is made in the register of patents and it is notified in the Patent Office, Journal, thereafter opening the application, specification and other related documents for public inspection on payment of prescribed fee.

Term and Date of Patent

Term of every patent will be 20 years from the date of filing of patent application, irrespective of whether it is filed with provisional or complete specification. Date of patent is the date on which the application for patent is filed. The term of patent in case of International applications filed under the Patent Cooperation Treaty designating India, will be 20 years from the International filing date accorded under the Patent Cooperation Treaty. A patent will have cease to effect on the expiration of the period prescribed for the payment of any renewal fee, if that fee is not paid within the prescribed period.

Renewal and restoration

To keep the patent in force, Renewal fee is to be paid every year. The first renewal fee is payable for the third year and must be paid before the expiration of the second year from the date of patent. If the patent has not been granted within two years the renewal fees may be accumulated and paid immediately after the patent is granted, or within three months of its record in Register of Patents or within extended period of 9 months, by paying extension fees of six month on Form 4, from the date of record. If the renewal fee is not paid within the prescribed time, the patent will cease to have effect. However, provision to restore the patent is possible provided application is made within eighteen months from the date of cessation.

Renewal fee is counted from the date of filing of the Patent application. Six month's grace time is available with extension fee for payment of renewal fee. No renewal fees is payable on Patents of Addition, unless the original patent is revoked and if the Patent of Addition is converted into an independent patent; renewal fee, then, becomes payable for the remainder of the term of the main patent. Application for restoration of a patent that lapses due to

non- payment of renewal fees must be made within 18 months of lapse. The application is to be filed in the appropriate office according to the jurisdiction.

Request for permission to file abroad:

If any application is to be filed abroad without filing in India, it should be made only after taking a written permission from the Controller. The request for permission for making patent application outside India shall be made in Form-25 along with a fee of Rs 1000/- or Rs 4000/- for natural person and other than natural person respectively. A gist of invention should also be filed along with the Form-25.

Specifications

Provisional specification - Application for patent may be accompanied by the provisional specification. It should contain the description of invention with drawing, if required. It is not necessary to include Claim. However, the complete specification should be fairly based on the matter disclosed in the provisional specification and should be filed within 12 months. If the complete specification is not filed within 12 months the application is deemed to have been abandoned. Usually, a provisional specification is filed to establish priority of the invention in case the disclosed invention is only at a conceptual stage and a delay is expected in submitting full and specific description of the invention. Although, a patent application accompanied with provisional specification does not confer any legal patent rights to the applicants, it is, however, a very important document to establish the earliest ownership of an invention.

Complete specification - The complete specification is an essential document in the filing of patent application along with the drawing to be attached according to the necessity. Complete specification should fully describe the invention with reference to drawing, if required, disclosing the best method known to the applicant and end with Claim/Claims defining the scope of protection sought. The specification must be written in such a manner that person of ordinary skill in the relevant field, to which the invention pertains, can understand the invention. Normally, it should contain the following matter-

- 1) Title of invention,
- 2) Field of invention,
- 3) Background of invention with regard to the drawback associated with known art,
- 4) Object of invention,
- 5) Statement of invention,
- 6) A summary of invention,
- 7) A brief description of the accompanying drawing,

- 8) Detailed description of the invention with reference to drawing/examples,
- 9) Claim(s),
- 10) Abstract.

The specification must start with a short title, which describes the general nature of invention. The title should not contain anyone's name, a fancy name and trade name or personal name or any abbreviation etc.

Rights of the Patentee

Where a patent covers a product, the grant of patent gives the patentee the exclusive right to prevent others from performing, without authorisation, the act of making, using, offering for sale, selling or importing that product for the above purpose

Where a patent covers a process, the patentee has the exclusive right to exclude others from performing, without his authorisation, the act of using that process, using and offering for sale, selling or importing for those purposes, the product obtained directly by that process in India.

Restoration of lapsed patents

Where a patent has ceased to have effect due to failure to pay the renewal fee within the prescribed period, the patentee or his legal representative can within 18 months from the date on which the patent ceased to have effect make an application in Form 15 for restoration of the patent. If the Controller is satisfied that failure to pay the renewal fee was unintentional and that there has been no undue delay in the making of the application, then the patent will be restored.

Compulsory Licence

Compulsory Licensing (CL) allows governments to license third parties (that is, parties other than the patent holders) to produce and market a patented product or process without the consent of patent owners.

Chapter XVI i.e. Sections 82 to 94 of the Patents act, 1970 deals with 'Working of Patents, Compulsory Licenses and Revocation'. Chapter XVII also deals with use of inventions for the purpose of government and acquisition of inventions by Central Government.

Section 84 of the Patents Act, 1970 deals with general Compulsory Licences to be issued by the Controller on application.

Any time after three years from date of grant of a patent, application for compulsory licence can be made, provided

- a) reasonable requirements of public have not been satisfied;
- b) patented invention is not available to public at a reasonably affordable price or

c) patented invention is not worked in India.

Applicant's capability including risk taking, ability of the applicant to work the invention in public interest, nature of invention, time elapsed since sealing, measures taken by patentee to work the patent in India will be taken into account by the Controller of Patents before granting licence. In case of national emergency or other circumstances of extreme urgency or public non commercial use or an establishment of a ground of anti- competitive practices adopted by the patentee, the above conditions will not apply.

Section 92 of the Patents Act, 1970 deals with special provision for compulsory licences on notifications issued by Central Government. If the Central Government is satisfied in respect of any patent in force, in case of national emergency or extreme urgency or in case of public non- commercial use, then compulsory licences can be granted at any time to work the invention and make a declaration in this regard in the Official Gazette.

Section 92A of the Patents Act, 1970 provides for compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems. This section is an "enabling provision" for export of pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector in certain exceptional circumstances, to address public health problems. Such country has either to grant compulsory licence for importation or issue a notification for importation into that country.

Procedure to check if invention is already patented

The person concerned can perform a preliminary search on Patent Office website in the Indian patent data base of granted patent or Patent Office journal published every week or by making search in the documents kept in the Patent Office Search and Reference Room, which contains Indian patents arranged according to international patent classification system as well in serial number. It is open to the general public from Monday to Friday, except Gazetted holidays. The public can also conduct search free of charge on the website of Patent Office. The person concerned can also make a request for such information under section 153 of the Act.

Patent Agents

Chapter XXI- Section 125 to 132 deals with the Patent Agents.

The Controller shall maintain a register to be called the register of patent agents in which shall be entered the names, addresses and other relevant particulars, as may be prescribed, of all persons qualified to have their names so entered.

Qualifications for registration as patent agents.

A person shall be qualified to have his name entered in the register of patent agents if he fulfils the following conditions, namely:—

- (a) he is a citizen of India;
- (b) he has completed the age of 21 years;
- (c) he has obtained a [degree in science, engineering or technology from any University established under law for the time being in force] in the territory of India or possesses such other equivalent qualifications as the Central Government may specify in this behalf, and, in addition,—
 - (i) has passed the qualifying examination prescribed for the purpose; or
 - (ii) has, for a total period of not less than ten years, functioned either as an examiner or discharged the functions of the Controller under Section 73 or both, but ceased to hold any such capacity at the time of making the application for registration;
- (e) he has paid such fee as may be prescribed.

Infringement of Patents

Infringement of a patent consists of the unauthorized making, importing, using, offering for sale or selling any patented invention within the India.

Remedies against infringement of a patented invention

1. **Interlocutory Injunction:** A patent owner at the start of a trial can request for an interim injunction to restrain the defendant from committing the acts complained of until the hearing of the action or further orders. Permanent injunction is given based on the merits of the case at the end of the trial.
2. **Relief of damages:** An award of damages focuses on the losses sustained by the claimant. A patent owner is entitled to the relief of damages as compensation to the patentee and not punishment to the infringer.
3. **Account of profits:** Account of profits focuses on the profits made by the defendant, without reference to the damage suffered by the claimant at the hands of the defendant. The purpose of the account is to prevent the unjust enrichment of the defendant by the use of the claimant's invention. The patent owner may also opt for the account of profits where he has to prove use of invention and the amount of profit derived from such illegal use.

Certain acts not to be considered as infringement. —

- (a) any act of making, constructing, using, selling or importing a patented invention solely for uses reasonably related to the development and submission of information required under any law for the time being in force, in India, or in a country other than India, that regulates the manufacture, construction, use, sale or import of any product;

- (b) importation of patented products by any person from a person who is duly authorised under the law to produce and sell or distribute the product, shall not be considered as an infringement of patent rights.

Penalties

- 1) Contravention of secrecy provisions relating to certain inventions (Sec.118) - If any person fails to comply with any directions given under section 35 or makes or causes to be made an application in contravention of section 39 he shall be punishable with imprisonment up to 2 years or with fine or with both. (Section 35 deals with secrecy directions relating to inventions relevant for defence purposes and Section 39 deals with residents not to apply for patents outside India without prior permission.
- 2) Falsification of entries in register etc (Sec.119) - If any person makes, or causes to be made, a false entry in any register kept under this Act, he shall be punishable with imprisonment for a term that may extend to 2 years or with fine or with both.
- 3) Unauthorized claim of patent rights (Sec.120) - If any person falsely represents that any article sold by him is patented in India or is the subject of an application for a patent in India, he will be punishable with fine that may extend to Rs.1,00,000. The use of words 'patent', 'Patented', 'Patent applied for', 'Patent pending', 'Patent registered' without mentioning the name of the country means they are patented in India or patent applied for in India.
- 4) Wrongful use of words, "patent office" (Sec.121) - If any person uses on his place of business or any document issued by him or otherwise the words "patent office" or any other words which reasonably lead to the belief that his place of business is, or is officially connected with, the patent office, he will be punishable with imprisonment for a term that may extend to 6 months, or with fine, or with both.
- 5) Refusal or failure to supply information (Sec.122) - If any person refuses or fails to furnish information as required under section 100(5) and 146 he shall be punishable with fine, which may go up to Rs 10,00,000/-. If he furnishes false information knowingly he shall be punishable with imprisonment that may extend to 6 months or with fine or with both.
- 6) Practice by non-registered patent agents (Sec.123) - Any person practicing as patent agent without registering is liable to be punished with a fine of Rs 5,00,000/- in the first offence and Rs.5,00,000/- for subsequent offence.
- 7) Deals with offences by companies (Sec.124) - When offence is committed by a company as well as every person in charge of and responsible to the company for the conducts of its business at the time of the commission of the offence will be deemed to be guilty and

contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

E-filing of Patent applications Procedure for e-filing

1. Acquire Class 3 Digital Signatures either from (n) Code Solutions, Tata Consultancy Services (TCS) & Safe Script.
2. New users (Applicants, Agents or Attorneys), can complete online registration by providing Digital Signature details to get a User ID and Password for using the e-Filing System of Indian Patent Office (IPO).
3. Secure Login into the system with created User Id and the Password.
4. Download the Client Software for preparing Patent Application Offline with required documents and Digitally Sign it for uploading on IPO Server.
5. Fill Patent Application offline and generate an XML file using Client Software.
6. After creating application (XML) file offline, Digitally Sign the XML file (Max. file size permitted 5MB) for uploading on to the IPO Server.
7. Login into e-Patent portal (<http://ipindia.gov.in>) for uploading Application XML file on IPO Server.
8. Upload & Submit Digitally Signed XML file to IPO Server
9. Process Application for EFT (Electronic Fund Transfer) using State Bank of India(SBI) & Axis Bank Payment Gateways.
10. Review Application Status on e-Patent Portal.
11. On successful EFT acknowledgement details would be displayed/generated.
12. Print Acknowledgement. Click on "Print" to generate printout of acknowledgement.

9. Trademark

What is Trademark?

A trade mark (popularly known as brand name) in layman's language is a visual symbol which may be a word signature, name, device, label, numerals or combination of colours used by one undertaking on goods or services or other articles of commerce to distinguish it from other similar goods or services originating from a different undertaking.

Trade Marks are distinctive symbols, signs, logos that help consumer to distinguish between competing goods or services. A trade name is the name of an enterprise which individualizes the enterprise in consumer's mind. It is legally not linked to quality. But, linked in consumer's mind to quality expectation.

Examples of Trademark

For example, the ISI mark and hallmark gold are nowadays popular certification marks in India. Logos and Symbols Trademark: Apple, McDonald's golden arches and The Nike swoosh. Collective Marks: The common example of this trademark is CA and CPA.



Fake brands



Trade Marks law of India

The Trade Marks Act, 1999 and the Trade Marks Rules, 2017 govern the law relating to Trade Marks in India.

In India, the law on trademark was borrowed from the British Trademark Act, 1938. Later, it was, with several changes, enacted as the 'Trade and Merchandise Mark Act', 1958. This Act has been now replaced by the 'Trade Marks Act, 1999'. Further, the 'Trade Marks Rules 2017' has also been replaced with the 'Trade Marks Rules 2002' that deals with various proceedings required to implement the provisions of the Act.

The Trade Marks Act, 1999

The Trade Marks Act, 1999 (TMA) protects the trade marks and their infringement can be challenged by a passing off or/and infringement action. The Act protects a trade mark for goods or services, on the basis of either use or registration or on basis of both elements. It was notified on 30th December, 1999. It contains XIII Chapters, 159 Sections and the Schedule.

Definition of Trade Mark:

Section 2 (zb) of the Trademark Act, 1999 defines a trademark as “a mark capable of being represented graphically and which is capable of distinguishing the goods and services of one person from those of others and may include shape of goods, their packaging and combination of colours”

According to Section 2(1)(m), mark includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof;

Trade Mark Registry

The Trade Marks Registry was established in India in 1940 and presently it administers the Trade Marks Act, 1999 and the rules made thereunder. It acts as a resource and information Centre and is a facilitator in matters relating to trademarks in the country.

The Head Office of the Trade Marks Registry is at Mumbai and branch offices are at Ahmedabad, Chennai, Delhi and Kolkata. For the purposes functions related to international applications and registrations under the Madrid Protocol, an International Registration wing is set up in the Head Office of the Trade Marks Registry at Mumbai.

The Controller General of Patents, Designs and Trade Marks heads the TRADE MARKS Registry offices and functions as the Registrar of TRADE MARKS. He, from time to time, assigns functions of the Registrar to other officers appointed by the Central Government and such officers also function as Registrar in respect of matters assigned to them.

Presently all the functions of the Trade Marks Registry are performed through an automated Trade Marks System. The Central Server of TMR is at Intellectual Property Office (IPO) Building in Delhi and Disaster Recovery server is at IPO, Mumbai. All branches of the Trade Marks Registry are connected to the main server in Delhi with Virtual Private Network (VPN). All the actions done by the office staffs through the TMS are recorded in the central server on real time basis.

Entry of the appropriate office in the register.

In respect of every trade mark on the register at the notified date or registered thereafter the Registrar shall cause to be entered in the register, the appropriate office of the Trade Marks Registry and the Registrar may, at any time, correct any error in the entry so made.

Transfer of pending applications and proceedings to appropriate offices of the Trade Marks Registry. —

Every application and proceeding pending before the Registrar at the notified date in relation to a trade mark shall be deemed to have been transferred to the appropriate office of the Trade Marks Registry.

Application for registration

An application for the registration of a trade mark in respect of specification of goods or services shall be made in TM-A and shall be signed by the applicant or his agent.

Particulars to be filed with application for registration

- (a) the application number or numbers, if any;
- (b) the date and place of filing;
- (c) the appropriate class or classes, as the case may be, in relation to which the application is filed;
- (d) an address for communication; and
- (e) the concerned agent's code, if any, and the concerned Proprietor's code, if allotted.

Other Particulars

- (1) Names and addresses of the applicants and other persons shall be given in full, together with their nationality, and such other particulars as may be necessary for identification.
- (2) In the case of a partnership firm, the full name and nationality of every partner thereof shall be given.
- (3) In the case of an application from a convention country and persons having no principal place of business in India, their addresses in their home country shall be given in addition to their address for service in India.
- (4) In the case of a body corporate or firm, the country of incorporation or the nature of registration, if any, as the case may be, shall be given.

Procedure for series registration

Section 15 (3) makes provision for registration of trade mark as series in respect of the same or similar goods /services where the marks, while resembling each other in the material particulars thereof and yet differ in respect of –

1. Statement of goods or services in relation to which they are respectively used or proposed to be used; or
2. Statement of number, price, quality or names of places; or

3. Other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
4. Colour

Though it is permissible to file a single application for registration of trade mark in more than one class, it is to be noted that each series marks must be in respect of the same goods or services or description of goods/ services. Where a group of marks are applied for registration as series in one registration and the Registrar does not consider them eligible for registration of series marks under section 15 the applicant will be required to delete any of the mark which is under objection.

Where an application is made for the registration of trade marks as a series under, copies of representation of each trade mark of the series shall accompany the application in the manner set forth in Rule 26.

The Registrar, if satisfied that the trade marks constitute a series, shall proceed further with the applications. At any time before the publication of the application in the Journal, the applicant may request in Form TM-M, for the division of the application into separate application or applications, as the case may be, in respect of one or more trade marks in that series and the Registrar shall, if he is satisfied that the division requested conforms with sub-section (3) of Section 15, divide the application or applications accordingly on payment of divisional fees.

Registration of Collective Marks

Special provisions have been made for registration of collective marks in section 61 to 68 of the Act. “**Collective mark**” is defined to mean a trade mark distinguishing the goods or services of members of an association of persons (not being a partnership within the meaning of the Indian Partnership Act, 1932) which is the proprietor of the mark from those of others”- section 2(1) (g). To be registerable, the collective mark must be capable of being represented graphically and meet other requirements as are applicable to registration of trade marks in general. The following points should be noted for registering collective marks -

- The collective mark is owned by an association of persons not being a partnership.
- The collective marks belong to a group and its use thereof is reserved for members of the group.
- The association may not use itself the collective mark but it ensures compliance of certain quality standards by its members who may use the collective mark.
- The primary function of a collective mark is to indicate a trade connection with the association or organization who is the proprietor of the mark.

Administrative procedure of registration of trademarks

To register a trademark, the owner needs to go through the following steps:

- Conducting an exhaustive trademark search;
- Filing an application with necessary documents;
- Examination of the application by the Trademark Registry;
- Post examination procedures;
- Advertisement of the application in the Trademark Journal;
- Opposition by any third party;
- Registration and renewal of the same after every 10 years.

An application for registration of trademarks is received at the Head office of Trademark Registry, Mumbai and its branches according to territorial jurisdiction. Applications are then examined mainly with regard to the distinctiveness, possibility of deceptiveness and conflicting trademarks. The registrar on consideration of the application and any evidence of use or distinctiveness decides whether the application should be accepted for registration or not, and if accepted, publishes the same in the official gazette i.e., Trade Marks Journal (published in CD- Rom). Within a prescribed period, any person can file an opposition, a copy of which is served to the applicants who is required to file a counterstatement within two months failing which the application shall be treated as abandoned.

Thereafter, the opponent leads evidence in support of his case by way of affidavit followed by the applicant's evidence also by way of affidavit in support of the application. After that the opponent files evidence by way of rebuttal. On completion of evidence, the matter is set down for a hearing and the case is decided by a Hearing officer.

Offences & Penalties

There are mainly two classes of Offences relating to Trademarks –

- a) Falsification of Trademark
- b) Falsely applying the trademark to goods or services

The punishment for the above offences shall not be less than 6 months' imprisonment which may extend to three years and a fine which shall not be less 50,000/-, but may extend to Rupees Two Lakh. Wherever the court proposes a lower punishment than the minimum, it has to record, adequate and special reasons for the same.

However, second and subsequent offences shall be more severely punished. There shall be an Imprisonment of not less than one year which may extend to three years and a fine which shall not be less Rupees One lakh, but may extend to Rupees Two Lakh. The court can propose a lower punishment than the minimum, only after recording adequate and special reasons for the same.

E-filing of Trademark application

E-filing is the service provided by the Trademark Registry in order to enable customers to apply for a Trade Mark on-line allowing from the applicant's browser to:

- Complete an electronic application form;
- Provide the associated attachments;
- Complete the necessary payment details

Procedure for e-filing

In order to submit an electronic application form, following steps should be followed -

- 1) Acquire Class 3 Digital Signatures from Licensed Certifying Authority like (n)Code Solutions or Tata Consultancy Services (TCS) or SafeScript from Sify Technologies Ltd. The Procedure for getting the Digital Signature and the location of their Offices is available at their website.
- 2) For users (Proprietors/Agents or Attorneys), already registered with TMR (Trademark Registry) Office India can complete online registration by providing a desired User ID, their User Type (Proprietor/Agent/Attorney) and User Code.
- 3) For Users who are not registered as Proprietor / Attorney with TMR Office, they can search and fill online form to obtain User code (Party Code).
- 4) Secure Login into the system with created User Id and the Digital Signatures.
- 5) Obtain a New Reference Number for New Application. Use this option when the applicant wants to apply for a new Trademarks Application.
- 6) Update Application Details: Use this option to edit / update the application details along with relevant images and attached documents. Final Submission to TMR-India with Digital Signature is included in this option after which application cannot be edited.
- 7) The Cases which are Digitally Submitted to TMR, India are available for online payment. The applicant can pay for more than one application in a single transaction. Once the payment is realized as confirmed by the Payment Gateway, an acknowledgement receipt for the fees paid is generated by the system indicating the Receipt Number, Application Number and Date of Filing.
- 8) An applicant can also view online History and status of the applications filed by him / her by clicking Status of Filed Application.
- 9) An applicant can also view the online status of e-Payments

10. Geographical Indications of Goods

Geographical Indications of Goods are defined as that aspect of industrial property which refers to the geographical indication referring to a country or to a place situated therein as being the country or place of origin of that product. As per DPIIT's Annual Report 2022-23, A total of 429 Geographical Indications (GIs) have been registered as on date in India, including 31 foreign products. The list of Geographical Indications registered from 2004-05 till 31st December, 2022 is available at <http://www.ipindia.nic.in/registered-gls.htm>.

What is a Geographical Indication?

- It is an indication
- It originates from a definite geographical territory.
- It is used to identify agricultural, natural or manufactured goods
- The manufactured goods should be produced or processed or prepared in that territory.
- It should have a special quality or reputation or other characteristics

Examples of Indian Geographical Indications –

- Basmati Rice,
- Alphonso Mango,
- Nagpur Orange,
- Kolhapuri Chappal,
- Bikaneri Bhujia,
- Agra Petha,
- Paithani and Banaras Saree,
- Feni (Liquor from Goa),
- Lonavala Chikki,
- Tirunelveli Halwa,
- Mysore Rasam

Legislation governing Geographical Indications of Goods

The Geographical Indications of Goods (Registration and Protection) Act, 1999, which came into force on September 15, 2003, The Geographical Indications of Goods (Registration and Protection) Rules, 2002 and The Geographical Indications of Goods (Forms & making an appeal and fees therefore) Rules, 2013 deal with registration and better protection of geographical indications relating to goods. The Geographical Indications

Registry (GIR) is a statutory organization set up for the administration of the Geographical Indications of Goods (Registration and Protection) Act, 1999.

Registration of Geographical Indication

The registration of a geographical indication is not compulsory; however, it offers better legal protection to facilitate an action for infringement. The registered proprietor and authorized users can initiate infringement actions. The authorized users can exercise the exclusive right to use the geographical indication. The registration of a geographical indication is valid for a period of 10 years. It can be renewed from time to time for further period of 10 years each. If a registered geographical indication is not renewed it is liable to be removed from the register.

Form and signing of application

1. Every application for the registration of a geographical indication shall be made in the prescribed form (GI-1A to 1D) accompanied by the prescribed fee (Rs.5,000).
2. It shall be signed by the applicant or his agent.
3. It must be made in triplicate along with three copies of a Statement of Case accompanied by five additional representations.

Fees

1. Fees may be paid in cash or sent by money order or by a bank draft or by a cheque.
2. Bank Drafts or cheques shall be crossed and be made payable to the Registrar at the appropriate office of the Geographical Indication Registry.
3. It should be drawn by a scheduled bank at the place where the appropriate office of the Geographical Indications Registry is situated.
4. Where a document is filed without fee or with insufficient fee such document shall be deemed to have not been filed.

Sizes

1. All applications, shall be typewritten, lithographed or printed in Hindi or in English.
2. It should be in large and legible characters with deep permanent ink upon strong paper, on one side only.
3. The size should be approximately 33 cms by 20 cms and shall have on the left and part thereof a margin of not less than 4 centimeters.

Signing of documents

1. In case of

- i. An association of persons or producers shall be signed by the authorized signatory.
 - ii. A body corporate or any organization or any authority established by or under any law for the time being in force shall be signed by the Chief Executive, or the Managing Director or the secretary or other principal officer.
 - iii. In case of partnership it shall be signed by at least one of the partners.
2. The capacity in which an individual signs a document shall be stated below his signature.
 3. Signatures shall be accompanied by the name of the signatory in English or in Hindi and in capital letters.

Principal place of business in India

1. Every application for registration of a G.I shall state the principal place of business in India.
2. A body corporate should state the full name and nationality of the Board of Directors.
3. Foreign applicants and persons having principal place of business, in their home country should furnish an address for service in India.
4. In the case of a body corporate or any organization or authority established by or under any law for the time being in force, the country of incorporation or the nature of registration, if any, as the case may be shall be given.

Convention Application should contain the following

1. A certificate by the Registry or competent authority of the Geographical Indications Office of the convention country.
2. The particulars of the geographical indication, the country and the date or dates of filing of the first application.
3. The application must be the applicants' first application in a convention country for the same geographical indications and for all or some of the goods.
4. The application must include a statement indicating the filing date of the foreign application, the convention country where it was filed, the serial number, if available.

Statement of user in applications

An application to register a geographical indication shall contain a statement of user alongwith an affidavit.

Content of Application

Every application shall be made in the prescribed forms and shall contain the following:

1. A statement as to how the geographical indication serves to designate the goods as originating from the concerned territory in respect of specific quality, reputation or other characteristics.
2. The three certified copies of class of goods to which the geographical indication relates
3. The geographical map of the territory.
4. The particulars of the appearance of the geographical indication words or figurative elements or both;
5. A statement containing such particulars of the producers of the concerned goods proposed to be initially resisted. Including a collective reference to all the producers of the goods in respect of which the application is made.
6. The statement contained in the application shall also include the following:
 - An affidavit as to how the applicant claim to represent the interest of the association of persons or producers or any organization or authority established under any law.
 - The standards benchmark for the use of the geographical indication or the industry standard as regards the production, exploitation, making or manufacture of the goods having specific quality, reputation or other characteristic of such goods that is essentially attributable to its geographical origin with the detailed description of the human creativity involved, if any or other characteristic;
 - The particulars of the mechanism to ensure that the standards, quality, integrity and consistency or other special characteristic are maintained by the producers, or manufacturers of the goods.
 - Three certified copies of the map of the territory, region or locality;
 - The particulars of special human skill involved or the uniqueness of the geographical environment or other inherent characteristics associated with the geographical indication.
 - The full name and address of the association of persons or organization or authority representing the interest of the producers of the concerned goods;
 - Particulars of the inspection structure;

- In case of a homonymous indication, the material factors differentiating the application from the registered geographical indications and particulars of protective measures adopted.

Acknowledgement of receipt of applications:

1. Every application of the registration of a geographical indication in respect of any goods shall, on receipt be acknowledged by the Registrar.
2. The acknowledgement shall be by way of return of one of the additional representations with the official number of the application duly entered thereon.

When is a registered Geographical Indication said to be infringed?

- When an unauthorised user uses a geographical indication that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which mislead the public as to the geographical origin of such goods.
- When the use of geographical indication result in an unfair competition including passing off in respect of registered geographical indication.
- When the use of another geographical indication results in false representation to the public that goods originate in a territory in respect of which a registered geographical indication relates.

11. Designs

The essential purpose of design law is to promote and protect the design element of industrial production. It is also intended to promote innovative activity in the field of industries.

The Designs Act, 2000 and the Designs Rules, 2001 presently govern the design law in India. The Act came into force on 25th May 2000 while the Rules came into effect on 11th May 2001.

The Designs Act, 2000

The object of the Designs Act, 2000 is to protect new or original designs so created to be applied or applicable to particular article to be manufactured by Industrial Process or means. Sometimes purchase of articles for use is influenced not only by their practical efficiency but also by their appearance.

Meaning of Design

“design” means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by an industrial process

or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in clause (v) of sub-section (1) of Section 2 of the Trade and Merchandise Marks Act, 1958 (now section 2 (1) (zb) of the Trademarks Act 1999) or property mark as defined in Section 479 of the Indian Penal Code or any artistic work as defined in clause (c) of Section 2 of the Copyright Act, 1957.

Registration of design

The registration of a design confers upon the registered proprietor the exclusive right to apply a design to the article in the class in which the design has been registered. A registered proprietor of the design is entitled to a better protection of his intellectual property. He can sue for infringement, if his right is infringed by any person. He can license or sell his design as legal property for a consideration or royalty. Registration initially confers this right for ten years from the date of registration. It is renewable for a further period of five years. If the fee for extension is not paid for the further period of registration within the period of initial registration, this right will cease. There is provision for the restoration of a lapsed design if the application for restoration is filed within one year from the date of cessation in the prescribed manner.

Essential requirements for registration of Design A design should -

- Be new or original
- Not be disclosed to the public anywhere by publication in tangible form or by use or in any other way prior to the filling date, or where applicable, the priority date of the application for registration.
- Be significantly distinguishable from known Designs or combination of known designs.
- Not comprise or contain scandalous or obscene matter.
- Not be a mere mechanical contrivance.
- Be applied to an article and should appeal to the eye.
- Not be contrary to public order or morality.

Exclusion from scope of Design

Designs that are primarily literary or artistic in character are not protected under the Designs Act.

These will include:

- Books, jackets, calendars, certificates, forms-and other documents, dressmaking patterns, greeting cards, leaflets, maps and plan cards, postcards, stamps, medals.

- Labels, tokens, cards, cartoons.
- Any principle or mode of construction of an article
- Mere mechanical contrivance.
- Buildings and structures.
- Parts of articles not manufactured and sold separately.
- Variations commonly used in the trade.
- Mere workshop alterations of components of an assembly.
- Mere change in size of article.
- Flags, emblems or signs of any country.
- Layout designs of integrated circuits

Who can apply for registration?

Any person or the legal representative or the assignee can apply separately or jointly for the registration of a design. The term “person” includes firm, partnership and a body corporate. An application may also be filed through an agent in which case a power of attorney is required to be filed. An Application for registration of design may be prepared either by the applicant or with the professional help of attorneys.

Register of Design

The Register of Designs is a document maintained by the Patent Office, Kolkata as a statutory requirement. It contains the design number, date of filing and reciprocity date (if any), name and address of proprietor and such other matters as would affect the validity of proprietorship of the design such as notifications of assignments and of transmissions of registered designs, etc. and it is open for public inspection on payment of prescribed fee and extract from register may also be obtained on request with the prescribed fee.

Procedure for submission of application of registration

Any person who desires to register a design is required to submit the following documents to the Design Wing of the Patent Office.

Duration of registration

The duration of the registration of a design is initially ten years from the date of registration, but in cases where claim to priority has been allowed the duration is ten years from the priority date. This initial period of registration may be extended by further period of 5 years on an application made in Form-3 accompanied by prescribed fees to the Controller before the expiry of the said initial period of ten years. The proprietor of a design may make application for such extension even as soon as the design is registered.

Cancellation of registration of Design

The registration of a design may be cancelled at any time after the registration of design on a petition for cancellation in form 8 with a fee of Rs. 1,500/-to the Controller of Designs on the following grounds:

1. That the design has been previously registered in India or
2. That it has been published in India or elsewhere prior to date of registration or
3. The design is not new or original or
4. Design is not registrable or
5. It is not a design under Clause (d) of Section 2.

Piracy of registered design

During the existence of copyright over any design, other persons are prohibited from using the design except or with the permission of the proprietor, his licensee or assignee. The following activities are considered to be infringement.

- To apply the design or any fraudulent imitation of it to any article for sale;
- To import for sale any article to which the design or fraudulent or obvious imitation of it, has been applied;
- To publish or to expose for sale knowing that the design or any fraudulent or obvious imitation of it has been applied to it.

12. Biological Diversity

The preservation of biological diversity in India is under the Ministry of Environment, Forests and Climate Change. India has been a party to the Convention on Biological Diversity (CBD) since 5th June 1992 and ratified the Convention on 18th February 1994. The Convention on Biological Diversity is one of the most broadly subscribed international environmental treaties in the world. Opened for signature at the Earth Summit in Rio de Janeiro Brazil in 1992, it currently has 189 Parties - 188 States and the European Community - who have committed themselves to its three main goals: the conservation of biodiversity, sustainable use of its components and the equitable sharing of the benefits arising out of the utilization of genetic resources. The Secretariat of the Convention is located in Montreal, Canada. India is also a signatory to Cartagena Protocol on Biosafety signed on 23rd January 2001 and ratified on 11th September 2003

The Biodiversity Act, 2002

The Government of India enacted The Biological Diversity Act, 2002 and notified The Biological Diversity Rules, 2004 to fulfill its commitments in the Convention on Biological Diversity and in the Cartagena Protocol on Biosafety.

The Act was enacted to provide for the conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto. It was notified on 5th February, 2003. The Act contains XII Chapters and 65 Sections. It primarily aims at giving effect to the provisions of the CBD suiting to our national needs and requirements. The provisions of the Nagoya Protocol on Access and Benefit Sharing, to which India is a Party, are also being implemented through the Biological Diversity Act.

The Biological Diversity (Amendment) Act, 2023 was passed in the Lok Sabha on 25th of July 2023 and Rajya Sabha on 01st August 2023 respectively, and received the assent of the President on 03rd of August 2023. The Biological Diversity (Amendment) Act, 2023 shall come into force from 1st April 2024. The amendments sought to:

- i. Reduce the pressure on wild medicinal plants by encouraging cultivation of medicinal plants
- ii. Encourage Indian system of medicine
- iii. Facilitate fast-tracking of research, patent application process, transfer of research results while utilizing the biological resources available in India without compromising the objectives of United Nation Convention on Biological Diversity and its Nagoya Protocol
- iv. Decriminalize certain provisions
- v. Bring more foreign investments in the chain of biological resources, including research, patent and commercial utilization, without compromising the national interest.

Access to Biological Diversity

According to Section 2(b) of the Biological Diversity Act, 2002 “Biological Diversity means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems.”

Chapter II of the Biological Diversity Act, 2000 lays down certain regulations with reference to access to Biological Diversity. The following regulations have been placed in Section 3 to 7 of the said act. Section 3 of the above referred act, requires the following categories of persons to seek previous permission of the National Biodiversity Authority, to obtain any biological resource occurring in India or knowledge associated thereto for research or commercial utilization or for bio-survey and bio-utilization –

- A person who is not a citizen of India.
- A citizen of India who is a non-resident as per section 2(30) of the Income-tax Act, 1961.
- A body corporate, association, organization –
 - o Not incorporated or registered in India; or
 - o Incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

Rule 14 of the Biological Diversity Rules, 2004 mentions the procedure for access to biological resources and associated traditional knowledge.

Section 4 of the above referred act requires that every person shall seek the previous approval of the national bio-diversity authority before transferring the results of any research related to any biological resources occurring in, or obtained from India to any person as referred to in section 3 above. Rule 17 of the Biological Diversity Rules, 2004 mentions the procedure for seeking approval for transferring results of research.

Section 5 of the Biological Diversity Act, 2002 provides that section 3 and 4 above shall not apply to collaborative research projects involving transfer of biological resources, between institutions including governments sponsored institutions of India and such institutions in other countries if –

- If they conform to policy guidelines issued by central government in this behalf;
- Be approved by the central government

Section 6 of the Biological Diversity Act, 2002 (18 of 2003) requires that every person applying for any intellectual property rights in or outside India for any invention based on any research or information on a biological resource obtained from India before obtaining prior approval of the national biodiversity authority. The provisions of this section are however not applicable on rights relating to protection of plant varieties. Rule 18 of the Biological Diversity Rules, 2004 mentions the procedure for seeking prior approval before applying for intellectual property protection.

Section 7 of the said Act requires every Indian citizen or a body corporate, association or organization registered in India to prior intimate the state biodiversity board of the concerned area from which he/it plans to obtain any biological resource for commercial utilization or bio- survey and bio utilization for commercial purpose. The Act empowers state biodiversity board, wide section 24 to from prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity

Exclusion under the Biological Diversity Act, 2002

The Act excludes Indian biological resources that are normally traded as commodities. Such exemption holds only so far the biological resources are used as commodities and for no other purpose. The Act also excludes traditional uses of Indian biological resources and associated knowledge and when they are used in collaborative research projects between Indian and foreign institutions with the approval of the central government.

Penalty

In cases where an approval of the National Biodiversity Authority is required for the use of Indian biological resources and associated knowledge and such approval is not obtained, the punishment can extend to five years' imprisonment or a fine of ten lakh rupees or both.

In cases where the State Biodiversity Board needs to be intimated about the use of Indian biological resources and associated knowledge and this is not done, the punishment can extend to three years' imprisonment or a fine of five lakh rupees or both.

Structure for regulation and access to Biological Diversity

The Act provides for a three tier structure for regulation and access to Biological Diversity. The structure can broadly be summed up as –

- I. National Biodiversity Authority (NBA): All matters relating to requests for access by foreign individuals, institutions or companies, and all matters relating to transfer of results of research to any foreigner will be dealt with by the National Biodiversity Authority.
- II. State Biodiversity Boards (SBB): All matters relating to access by Indians for commercial purposes will be under the purview of the State Biodiversity Boards (SBB). The Indian industry will be required to provide prior intimation to the concerned SBB about the use of biological resource. The State Board will have the power to restrict any such activity, which violates the objectives of conservation, sustainable use and equitable sharing of benefits.
- III. Biodiversity Management Committees (BMCs): Institutions of local self government will be required to set up Biodiversity Management Committees in their respective areas for conservation, sustainable use, and documentation of biodiversity and chronicling of knowledge relating to biodiversity.

NBA and SBBs are required to consult the concerned BMCs on matters related to use of biological resources and associated knowledge within their jurisdiction

13. Semiconductor Integrated Circuits Layout-Design

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

The layout-design of a semiconductor integrated circuit means a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in semiconductor integrated circuits.

The Semiconductor Integrated Circuits Layout-Design (SICLD) Act, 2000

The Semiconductor Integrated Circuits Layout-Design Act, 2000 was passed to fulfill India's obligations as a TRIPS signatory. It provides protection for semiconductor Integrated Circuit layout designs. The main purpose of the Act is to provide for routes and mechanism for protection of IPR in Chip Layout Designs created and matters related to it. It contains X Chapters and 96 Sections.

Criteria for registration of Chip Layout Design

A Layout design that is:

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

Duration of registration

A period of 10 years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in India or in any convention country or country specified by Government of India whichever is earlier.

Person entitled to protection of Layout-Designs

Any person(s) who -

- a) Is a creator of a layout design and desires to register it;
- b) is an Indian national or national of country outside India which accords to citizens of India similar privileges as granted to its own citizens in respect of registration and protection of layout-designs and;

- c) has principal place of business in India or if he does not carry out business in India, has place of service in India.

Steps for registration of a layout-design

- 1) Filing of application by the creator of the layout-design at the SICLD Registry.
- 2) The Registrar may accept, refuse the application or accept with some modifications.
- 3) The accepted applications shall be advertised within 14 days of acceptance.
- 4) Any opposition to the advertisement can be filed within 3 months from the date of advertisement.
- 5) The counter-statement to the notice of opposition, if any, to be filed within 2 months from the date of receipt of copy of notice of opposition from the Registrar.
- 6) A copy of the counter statement provided to the opposing party.
- 7) The Registrar may take hearing with the parties.
- 8) The Registrar will decide on the originality of the layout-design and grant or reject the application for registration based on the conclusions reached by him.
- 9) Aggrieved party can appeal to Appellate Board or in its absence Civil Court for relief on any ruling of the Registrar.

Documents to be submitted along with application

- 1) 3 sets of 2D/3D drawings which describe the layout-design applied for registration and or 3 sets of photographs of masks used for the fabrication of the semiconductor integrated circuit by using of the layout-design applied for registration, and or drawings which describe the pattern of such masks.
- 2) Semiconductor integrated circuit [where an integrated circuit has been made using layout-design applied for registration].
- 3) Any related information sought by Registry/Registrar.

In case the applicant for registration of layout-design makes a request in writing for maintaining the secrecy of the layout-design, he may attach in place of the drawings or photographs, the three sets of partially blocked drawings or photographs of such layout-design to the satisfaction of the Registrar. The Registrar may inspect the complete drawing or photographs of such layout-design. The blocking of such drawing or photograph shall be to the satisfaction of the Registrar such that it does not hamper the identification of the applied-for layout-design. The blocked- out area of such drawing or

photograph should not be greater than the area of the remaining portion of layout-design.

Prohibition from registration

A layout-design is prohibited from registration if -

- i. It is not original.
- ii. It has been commercially exploited in India or in a convention country.
- iii. It is not inherently distinctive. Also, those which are not capable of being distinguishable from any other registered layout-design cannot be registered.

Penalties

Infringing the rights of a registered proprietor of a layout-design is a considered an criminal offence. The infringer is punishable with imprisonment for a term that may extend to three (3) years or fine which shall not be less than Rs. 50,000/- but which may extend to Rs. 10.0 lakhs or with both.

It is a criminal offence to falsely represent a layout-design as registered. If a person does so, he can be punished with imprisonment for a term that may extend to 6 months or with fine, which may extend to Rs. 50,000/- or with both.

Semiconductor Integrated Circuits Layout-Design Registry- <https://sicldr.gov.in/>

Semiconductor Integrated Circuits Layout-Design Registry (SICLDR) is the office where the applications on Layout-Designs of integrated circuits are filed for registration of created IPR. The jurisdiction of this Registry is whole of India.

14. Protection of Plant Varieties and Farmers' Right

A plant variety represents a more precisely defined group of plants, selected from within a species, with a common set of characteristics.

The Protection of Plant Varieties and Farmers' Right Act, 2001 has been enacted to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants.

Rules

1. The Protection of Plant Varieties and Farmers' Rights (Use of Denomination of Registered Variety) Rules, 2012- notified on *17th December, 2012*
2. The Protection of Plant Varieties and Farmers Rights (Community Award from the Gene Fund) Rules, 2018- notified on *24th April, 2018*

The Protection of Plant Varieties and Farmers' Right Act, 2001

Important definitions

“essentially derived variety”, in respect of a variety (the initial variety), shall be said to be essentially derived from such initial variety when it—

- (i) is predominantly derived from such initial variety, or from a variety that itself is predominantly derived from such initial variety, while retaining the ex-expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;
- (ii) is clearly distinguishable from such initial variety; and
- (iii) conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;

“extant variety” means a variety available in India which is—

- (i) notified under Section 5 of the Seeds Act, 1966 (54 of 1966); or
- (ii) farmers' variety; or
- (iii) a variety about which there is common knowledge; or
- (iv) any other variety which is in public domain;

“farmers' variety” means a variety which—

- (i) has been traditionally cultivated and evolved by the farmers in their fields; or
- (ii) is a wild relative or land race of a variety about which the farmers possess the common knowledge;

“variety” means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be—

- (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
- (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics; and
- (iii) considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation, and includes

propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.

Protection of Plant Varieties and Farmers' Rights Authority- <https://plantauthority.gov.in/> For the purposes of this Act, Protection of Plant Varieties and Farmers' Rights Authority has been established and is located at: NASC Complex, DPS Marg, Opp- Todapur, New Delhi-110 012.

Rights under the Act

1. **Breeders' Rights** : Breeders will have exclusive rights to produce, sell, market, distribute, import or export the protected variety. Breeder can appoint agent/ licensee and may exercise for civil remedy in case of infringement of rights.
2. **Researchers' Rights** : Researcher can use any of the registered variety under the Act for conducting experiment or research. This includes the use of a variety as an initial source of variety for the purpose of developing another variety but repeated use needs prior permission of the registered breeder.
3. **Farmers' Rights**
 - o A farmer who has evolved or developed a new variety is entitled for registration and protection in like manner as a breeder of a variety;
 - o Farmers variety can also be registered as an extant variety;
 - o A farmer can save, use, sow, re-sow, exchange, share or sell his farm produce including seed of a variety protected under the PPV&FR Act, 2001 in the same manner as he was entitled before the coming into force of this Act provided farmer shall not be entitled to sell branded seed of a variety protected under the PPV&FR Act, 2001;
 - o Farmers are eligible for recognition and rewards for the conservation of Plant Genetic Resources of land races and wild relatives of economic plants;
 - o There is also a provision for compensation to the farmers for non-performance of variety under Section 39 (2) of the Act, 2001 and
 - o Farmer shall not be liable to pay any fee in any proceeding before the Authority or Registrar or the Tribunal or the High Court under the Act.

Duration of protection of a registered plant variety

The duration of protection of registered varieties is different for different crops which are as below:

1. For trees and vines - 18 years.
2. For other crops - 15 years.
3. For extant varieties - 15 years from the date of notification of that variety by the Central Government under section 5 of the Seeds Act, 1966

Registration of Plants

Registration of a plant variety gives protection only in India and confers upon the rights holder, its successor, agent, or licensee the exclusive right to produce, sell, market, distribute, import, or export the variety.

Application for registration

The application for protection under the Act can be made by any of the following persons:

- Any person claiming to be the breeder of the variety;
- Any successor of the breeder of the variety;
- Any person being the assignee or the breeder of the variety in respect of the right to make such application;
- Any farmer or group of farmers or community of farmers claiming to be breeder of the variety;
- Any person authorized to apply on behalf of farmers; or
- Any university or publicly funded agricultural institution claiming to be breeder of the variety.

Criteria for registration of new variety

Novelty - A new variety is deemed to be novel if, at the date of filing of the application for registration for protection, the propagating and harvested material of such variety has not been sold or otherwise disposed of by or with the consent of its breeder or his successor for the purposes of exploitation of such variety for a certain period of time before the date of filing of the application. For sale or disposal of a new variety in India, this time period is earlier than one year. Outside of India, in the case of trees and vines, the time period is earlier than six years. In any other case in India, it is earlier than four years

Distinctiveness - A new variety is deemed distinct if it is clearly distinguishable by at least one essential characteristic from any other variety whose existence is a matter of common knowledge in any country at the time of filing of the application.

Uniformity - A new variety is deemed uniform if subject to the variation that may be expected from the particular features of its propagation it is sufficiently uniform in its essential characteristics.

Stability - A new variety is deemed stable if its essential characteristics remain unchanged after repeated propagation or, in case of a particular cycle of propagation, at the end of each such cycle.

Prerequisites for filing an application form for registration of plant variety

- (i) Denomination assigned to such variety.
- (ii) Accompanied by an affidavit that variety does not contain any gene or gene sequences involving terminator technology.
- (iii) Complete passport data of parental lines with its geographical location in India and all such information relating to the contribution if any, of any farmer (s), village, community, institution or organization etc in breeding, evolving or developing the variety.
- (iv) Characteristics of variety with description for Novelty, Distinctiveness, Uniformity and Stability.
- (v) A declaration that the genetic material used for breeding of such variety has been lawfully acquired.
- (vi) A breeder or other person making application for registration shall disclose the use of genetic material conserved by any tribal or rural families for improvement of such variety.

Guidelines for submission of applications for Registration of Plant Varieties are as under:

- 1) Every application in triplicate must be in writing and signed by the applicant or their representative. Application should be submitted in hard copy along with all essential requirements by hand till further notice.
- 2) Applications will be received only on Monday to Thursday from 10:00 Hours to 15:00 hours. No application will be accepted on Friday, Saturday and Sunday and Public Holidays.
- 3) Every application must have the name of the applicant, their address and nationally as well as the address of service of their agent (if Applicable).
- 4) A person can file upto a maximum of three applications per day.
- 5) Until otherwise notified in the plant Variety Journal of India, each application should be accompanied with an application charge of Rs. 200/- each by demand draft drawn in favour of the "The Registrar, Plant Variety Registrar, New Delhi".
- 6) The Application will be received on "first come first serve" basis.
- 7) No applications will be received after business hours.

- 8) On successful submission of application, the application will receive an acknowledgement slip.
- 9) After submission of application, it will be processed according to the provisions of the Rule 29(2) of the Protection of Plant Varieties and Farmers' Right Rules, 2003.
- 10) After depositing the stipulated fees for conducting DUS tests, the office of the Registrar shall issue receipt and number which shall be used for all future references including the checking of the status of application on line.

15. Undisclosed Information

Trade secrets are protected in India on the basis of the principles of equity and/or through common law approach. The Indian courts regularly pass orders/ Judgements protecting trade secrets/confidential information.

Knowhow is another important form of intellectual property generated by R&D institutions that do not have the benefit of patent or copyright protection. Such know-how is kept undisclosed as trade secrets. A Trade Secret or undisclosed information is any information that has been intentionally treated as secret and is capable of commercial application with an economic interest.

information, provided such information is not readily available with or discernible by the competitors. They include technical data, internal processes, methodologies, survey methods, a new invention for which a patent application has not yet been filed, list of customers, process of manufacture, techniques, formulae, drawings, training material, source code, etc. It therefore becomes imperative to strengthen the confidentiality around the trade secret by ensuring that contractual obligations are enforced on persons who are allowed to use the trade secret, especially, when it is licensed to a third party.

Since there is no documentary evidence such as a Letters Patent or a Copyright registration or a Trademark Registration to prove that the trade secret was originally created by the proprietor, it is essential to maintain proof of creation of trade secret either by mailing the information to oneself and retaining postmarked and sealed envelope or by depositing a copy of the information with a third party that would maintain a dated copy.

Trade secret remains confidential for indefinite period of time as per the will of the proprietor provided the security and its confidentiality is not breached. There is no specific legislation regulating the protection of trade secrets in India. India follows common law approach of protection and all matters relating to it are generally covered under the Contract Act, 1872. So, if the information constituting trade secret is leaked, legal action can be brought against the parties who have leaked it under the Law of Contracts. However, in such a

case the protection of trade secret will be lost and it becomes available in public domain.

The World Intellectual Property Organization (WIPO) defines trade secrets as “any information that is: (1) not generally known to the relevant business circles or the public; (2) confers some sort of economic benefit on its owner. This benefit must derive specifically from the fact that it is not generally known, and not just from the value of the information itself; and (3) the subject of reasonable efforts to maintain its secrecy.”

The World Trade Organization (WTO) defines undisclosed information as “information (that): (a) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question; (b) has commercial value because it is secret; (c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.”

What qualifies as a trade secret?

In general, to qualify as a trade secret, the information must be:

- commercially valuable because it is secret,
- be known only to a limited group of persons, and
- be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements for business partners and employees.

Examples of Trade secrets

- Google’s Search Algorithm
- Coca-Cola’s Coke Syrup Formula
- KFC’s Original Recipe
- McDonald’s Big Mac Special Sauce
- WD-40’s Multi-use Product Formula

16. National Intellectual Property Rights (IPR) Policy

The National Intellectual Property Rights (IPR) Policy was adopted on 12.05.2016. The main goal of the policy is “Creative India; Innovative India”.

The National IPR Policy is a vision document that encompasses and brings to a single platform all IPRs. It views IPRs holistically, 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.

Objectives

1. To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society
2. To stimulate the generation of IPRs
3. To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest
4. To modernize and strengthen service oriented IPR administration
5. Get value for IPRs through commercialization
6. To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements
7. To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs

The policy covers all forms of IP, seeks to create synergies between them and other agencies, and sets up an institutional mechanism for implementation and review.

17. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The WTO is the legal and institutional foundation for the administration and development of trade relations among its 164 members at the multilateral level. It is the successor to the former General Agreement on Tariffs and Trade (GATT), a multilateral trade agreement that was concluded in 1947.

The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most comprehensive multilateral agreement on intellectual property (IP). The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual property (IP) regulation as applied to nationals of other WTO Members. It was negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1986-1994. The TRIPS agreement introduced intellectual property law into the international trading system for the first time and remains the most comprehensive international agreement on intellectual property to date. The GATT 1994 is only one of a number of multilateral trade agreements annexed to the WTO Agreement – like TRIPS,

therefore, it does not have a separate legal existence outside the framework of the overarching WTO Agreement

The main forum for work on the TRIPS Agreement is the Council for TRIPS, which was created by the WTO Agreement. The TRIPS Council is responsible for administering the TRIPS Agreement. In particular, it monitors the operation of the Agreement. In its regular sessions, the TRIPS Council mostly serves as a forum for discussion between WTO members on key issues.

The TRIPS Agreement covers five broad areas:

- how general provisions and basic principles of the multilateral trading system apply to international intellectual property
- what the minimum standards of protection are for intellectual property rights that members should provide
- which procedures members should provide for the enforcement of those rights in their own territories
- how to settle disputes on intellectual property between members of the WTO special transitional arrangements for the implementation of TRIPS provisions.

The following Intellectual Property Rights are covered under the TRIPS –

- copyright;
- geographical indications;
- industrial designs;
- integrated circuit layout-designs;
- patents;
- new plant varieties;
- trademarks;
- undisclosed or confidential information

The TRIPS Agreement is Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) of 15 April 1994, which entered into force on 1 January 1995. The TRIPS Agreement is an integral part of the WTO Agreement, and is binding on each member of the WTO from the date the WTO Agreement becomes effective for that country. The Agreement is administered by the Council for TRIPS (informally called the 'TRIPS Council'), which reports to the WTO General Council.

The Uruguay Round of multilateral trade negotiations produced the Marrakesh Agreement Establishing the World Trade Organization, which governs the institutional operations of the WTO. The Marrakesh Agreement includes four annexes. Collectively, the Marrakesh Agreement and its annexes are sometimes referred to as the WTO's founding agreements.

- Annex 1A – contains Multilateral Agreements on Trade in Goods including the 1994 General Agreement on Tariffs and Trade (GATT 1994)
- Annex 1B – contains General Agreement on Trade in Services (GATS)
- Annex 1C – contains General Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Annex 2 - contains the rules governing the resolution of disputes between WTO member states (the Dispute Settlement Understanding or DSU)
- Annex 3 provides a mechanism for regular, multilateral reviews of the trade policies of WTO member states.
- Annex 4 consists of two plurilateral agreements, the Agreement on Trade in Civil Aircraft and the Agreement on Government Procurement.

The various agreements included in the first three annexes are sometimes referred to as the covered agreements. Unlike the agreements in the first three annexes, which are binding all WTO member states, the plurilateral agreements in the fourth annex are binding only on those WTO member states that have accepted them.

TRIPS Agreement (as amended on 23 January 2017)- divided into VII Parts:

Part I of the Agreement sets out general provisions and basic principles of the Agreement

Part II sets out the minimum standards of IP protection to be provided by WTO members in the specified fields. Part II also contains provisions on the control of anti-competitive practices in contractual licenses.

Part III deals with domestic procedures and remedies for the enforcement of IPRs.

Part IV of the Agreement contains general rules on procedures related to the acquisition and maintenance of IPRs

Part V of the Agreement deals with dispute prevention and settlement.

Part VI of the Agreement contains provisions on transition periods, transfer of technology and technical cooperation.

Part VII deals with institutional arrangements

18. WIPO- World Intellectual Property Organization

The World Intellectual Property Organization (WIPO) is one of the 15 specialized agencies of the United Nations (UN). It is an agency of United Nations, with 193 member states, headquartered at Geneva, Switzerland. WIPO, established by a convention signed in Stockholm in 1967, began operations in 1970 and became a specialized agency of the United Nations in December 1974. It is headquartered in Geneva.

In 1883, the Paris Convention for the Protection of Industrial Property was signed which further established protection for intellectual properties. This was aimed to protect inventions, trademarks, and industrial designs. In 1970, the Convention establishing the World Intellectual Property Organization came to be known as WIPO. In 1974, WIPO became a specialized agency of the United Nations. WIPO helps in collaborating with the member states for the formation of laws, registration of intellectual properties and protection of intellectual properties.

Its Objectives-

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

WIPO's Member States determine the strategic direction and activities of the Organization. They meet in the Assemblies, committees and working groups. The WIPO Secretariat, or International Bureau, is based in Geneva. WIPO staff, drawn from more than 90 countries, includes experts in diverse areas of IP law and practice, as well as specialists in public policy, economics, administration and IT. The respective divisions of the Secretariat are responsible for coordinating the meetings of Member States and implementing their decisions; for administering the international IP registration systems; for developing and executing the programs designed to achieve WIPO's goals; and for providing a repository of IP expertise to assist its members.

In 1978, WIPO's PCT international patent system began operation and expanded rapidly to become WIPO's largest international IP filing system today. The Patent Cooperation Treaty (PCT) assists applicants in seeking patent protection internationally for their inventions, helps patent offices with their patent granting decisions, and facilitates public access to a wealth of technical information relating to those inventions. By filing one international patent application under the PCT, applicants can simultaneously seek protection for an invention in a large number of countries.

WIPO Arbitration and Mediation Centre was created in 1994 for the settlement of international commercial disputes arising between private parties located in Geneva, Switzerland and it has an office in Singapore

WIPO administers 26 treaties including the WIPO Convention

I. The treaties on IP Protection, which WIPO administers are:

1. WIPO Convention
2. Beijing Treaty on Audiovisual Performances
3. Berne Convention
4. Brussels Convention
5. Madrid Agreement (Indications of Source)
6. Marrakesh VIP Treaty
7. Nairobi Treaty
8. Paris Convention
9. Patent Law Treaty
10. Phonograms Convention
11. Rome Convention
12. Singapore Treaty on the Law of Trademarks
13. Trademark Law Treaty
14. Washington Treaty
15. WIPO Copyright Treaty (WCT)
16. WIPO Performances and Phonograms Treaty (WPPT)

II. The Treaties on Global Protection which WIPO administers:

17. Budapest Treaty
18. Hague Agreement
19. Lisbon Agreement
20. Madrid Agreement (Marks)
21. Madrid Protocol
22. Patent Cooperation Treaty (PCT)

III. The Treaties on Classification that WIPO administers are:

23. Locarno Agreement
24. Nice Agreement
25. Strasbourg Agreement
26. Vienna Agreement

WIPO and Government of India have been working together in close cooperation to strengthen the IP ecosystem of the country. In this regard, numerous initiatives have been undertaken by the Government of India in collaboration with WIPO wherein DPIIT serves as the nodal department. A key initiative was the signing of a Service Level Agreement (SLA) between DPIIT and WIPO for establishing the Technology and Innovation Support Centres (TISC) Network in India.

The World Intellectual Property Organization (WIPO), a specialized agency of United Nations in the field of Intellectual Property Rights, in its General Assembly meeting held in September- October 2007 at Geneva recognized the Indian Patent Office as an International Searching Authority (ISA) and International Preliminary Examining Authority (IPEA) under the Patent Cooperation Treaty. The Indian Patent Office started functioning as ISA/ IPEA at Patent Office Delhi with effect from 15th October, 2013

19. Intellectual Property Treaties

Some important Intellectual Property Treaties are:

1. The Paris Convention for the Protection of Industrial Property, signed in Paris, France, on March 20, 1883, was one of the first intellectual property treaties. It established a Union for the protection of industrial property.
2. The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright, which was first adopted in Bern, Switzerland in 1886.
3. The Madrid Protocol is the primary international system for facilitating the registration of trademarks in multiple jurisdictions around the world. It was established pursuant to the Protocol Relating to the Madrid Agreement and the Madrid Agreement Concerning the International Registration of Marks
4. Universal Copyright Convention 1952. It was adopted in Geneva, Switzerland, in 1952. It created a legal structure which could accommodate the United States, the USSR, the industrially developed countries and the developing countries. It was revised in 1971. India signed this convention on 6th September, 1952.
5. Convention Establishing the World Intellectual Property Organization (WIPO Convention), was signed at Stockholm on July 14, 1967, entered into force in 1970 and was amended in 1979. WIPO is an intergovernmental organization which in 1974 became one of the specialized agencies of the United Nations system.

6. World Trade Organization (WTO) agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Adopted on April 15, 1994 at Marrakesh and entered into force on January 1, 1995. The TRIPS agreement covers various types of intellectual property and provides guidelines for minimum standards for protection, procedures and remedies for enforcement of IPR rights and for issues related to dispute settlement. India became a member on January 1, 1995.
7. The Patent Cooperation Treaty (PCT) is an international treaty administered by the World Intellectual Property Organization (WIPO). The treaty was done at Washington on June 19, 1970. It came into force in India from December 7, 1998.
8. World Intellectual Property Organization Copyright Treaty (1996 December 20) is a special agreement under the Berne Convention which deals with the protection of works and the rights of their authors in the digital environment. In addition to the rights recognized by the Berne Convention, they are granted certain economic rights.
9. World Intellectual Property Organization Performances and Phonograms Treaty (1996 December 20) deals with the rights of two kinds of beneficiaries, particularly in the digital environment: (i) performers (actors, singers, musicians, etc.); and (ii) producers of phonograms (persons or legal entities that take the initiative and have the responsibility for the fixation of sounds).
10. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure was adopted in 1977. All states party to the Treaty are obliged to recognize microorganisms deposited as a part of the patent procedure, irrespective of where the depository authority is located.

India signed and acceded to the Patent Cooperation Treaty (PCT) in September 1998, which entered into force in India in December 1998.

India has acceded to the Madrid Protocol, which is a simple, facilitative and cost effective system for international registration of trademarks.

India is a member of the WTO, which came into being on January 1, 1995. The WTO administers the General Agreement on Tariffs and Trade (GATT), which is an international agreement among countries to promote free international trade in goods. The WTO is a package deal in that its members must abide by the GATT agreement and a series of other international agreements. One such agreement is the TRIPS Agreement. TRIPS is one of the most comprehensive multilateral agreements on intellectual property rights.

India is also a member of the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty (PCT), as well as the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

20. IP Strategy

IP Strategy is a plan to develop, grow, leverage and monetize your portfolio of IP assets such as patents, copyrights, trademarks, trade secrets, designs and data. WIPO defines IP Strategy as company's plan of action to manage and protect its intangible assets.

The strategy mainly includes- protection, optimization, and monetization of Intellectual Property. WIPO provides various checklist for IP Strategy.

The checklist is divided into four (4) parts that reflect the general stages of commercialization:

Stage 1: The Ideation Process

Commercial application- Does the idea/concept have commercial application?

2. Identifying intellectual property assets- Does the business have processes and/or procedures for identifying IP assets within the business? (IP Audits, due diligences and utilizing IP checklists)

Capturing intellectual property assets- Does the business have processes and/or procedures for capturing IP assets?

Confidential information- Does the business have processes and/or procedures for preventing disclosure of the idea/concept? (NDAs, trade secrets, restricted access, other agreements)

Likelihood of intellectual property protection- Does the business have processes and/or procedures to identify the likelihood of obtaining IP protection (preliminary patent, design, trademark, copyright, domain name, plant breeders' rights searches)?

Partnerships- Does the business have potential partners to collaborate with in the development and commercialization of the idea/concept?

When collaborating with third parties, has/will the business secure ownership or access to the IP?

Identifying competitors- Does the business have processes and/or procedures to identify competitors or the likelihood of infringing third party rights by applying the idea/concept?

Stage 2: Product / service development

Freedom-to-operate search- Does the business conduct IP landscape, Freedom to Operate (FTO) searches or competitor analysis to identify any potential competing IP rights or technologies?

2. Intellectual property searches- Does the business conduct regular IP and technology searches to determine the likelihood of obtaining IP protection for the incremental innovations or improvements?

3. Third party rights- Does the business have processes and/or procedures for addressing IP ownership considerations when collaborating with third parties to develop its product and services? (marketing, employer, R&D, licensing agreements)

4. Intellectual property strategy implementation- Does the business have technical or an IP review committee to decide on product or service development, taking into account the overall business and IP strategy?

Stage 3: IP Protection

1. IP protection strategy- Has the right protection strategy been identified? (i.e., patent, trade secret, design, trademark, open source, plant breeder's rights, copyright IP).

2. Prioritization of IP protection- Does the business have processes and/or procedures for prioritizing IP protection? I.e. the order in which IP rights and protection are prioritized.

3. Technology landscaping- Does the business conduct IP searchers and/or technology landscape studies for patent, design, trademark, plant breeders rights searchers conducted before seeking protection?

4. IP Strategy Development- Does the business have processes and/or procedures for developing an IP strategy including market, cost or timing considerations?

5. Monitoring ownership- Does the business have processes and/or procedures for monitoring inventorship, authorship and ownership considerations?

6. Non-registerable IP Protection- Does the business have processes and/or procedures for protecting non-registerable forms of IP know-how, trade secrets, goodwill etc.

7. Intellectual Property advice- Is advice sought from IP professionals before seeking IP protection?

8. IP Strategy alignment- Is the IP strategy aligned with the commercialization strategy?

Stage 4: IP Commercialization

1. Commercialization vehicle- Does the business have processes and/or procedures to identify the appropriate commercialization vehicle? (Manufacture, sale, license, etc.)

2. IP asset valuation- Does the business have processes and/or procedures valuation of IP assets, especially for those to be licensed as part of business model / pricing strategy for products? (e.g., claim charting vis-à-vis competitor products/services)

3. Freedom to Operate- Has a Freedom to Operate search been conducted to determine the potential to infringe third party rights?
4. Competition monitoring- Does the business have processes and/or procedures for monitoring competitor activities, potential commercialization partners or enforcement of IP rights?
5. Branding- Is the product and/or service appropriately branded (trademark, packaging, websites, domain names)? Is descriptive or distinctive branding considered?
6. IP review- Does the business have an IP & innovation review board within company to periodically review IP assets, portfolio structure, new innovations & disclosures, competitive landscape, IP budget, etc.?
7. IP audit - Does the business have processes and/or procedures for periodic audits of all IP assets and portfolio optimization, portfolio pruning, possible divestitures?
8. IP policy and education - Does the business have processes and/or procedures for periodic IPR and IP policy and education trainings for employees?

21. Management and Valuation of IPR

IP valuation is the process of determining the value of intellectual property assets such as patents, trademarks, copyrights and trade secrets.

- An intellectual property valuation is an essential part of using intellectual assets internally and in making intellectual property transactions.
- It is relevant whenever an organization is “licensing in” technology in order to commence a new research project, or “licensing out” or assigning (selling) the technology to as part of its strategy for commercialization, or using the intellectual property as collateral for a loan, or securitizing the intellectual property, or raising finance on the capital market (e.g. by means of a bond issue), or donating the intellectual property to write-off taxation, or in a worst case scenario, in cases of bankruptcy or infringement litigation accounting for a loss of revenue.
- The “paradox of valuation” is that while most organizations are aware of the potential value of their intangible property, they invariably neglect to determine its value with any accuracy.
- Patent protection can only contribute to a successful transaction if the intellectual property is valued with an eye to the market, at a realistic price.

- Both public and private investors in R&D stand to gain from more systematic valuation of intangible capital.

Prerequisites

To be able to value an IP asset, the asset should meet the following conditions:

- It must be separately identifiable (subject to specific identification and with a recognizable description)
- There should be tangible evidence of the existence of the asset (e.g. a contract, a license, a registration document, record in financial statements, etc.)
- It should have been created at an identifiable point in time.
- It should be capable of being legally enforced and transferred.
- Its income stream should be separately identifiable and isolated from those of other business assets.
- It should be able to be sold independently of other business assets.
- It should be subject to destruction or termination at an identifiable point in time.

Concept of IP valuation

As a separate asset, IP must be attributed a value. An intellectual property valuation may be made for various purposes, each of which is reflected in the four major concepts of valuation:

- **Replacement cost:** The value of the IP to the owner frequently determines the price in negotiated transactions as indicated by the owner's view of its replacement cost.
- **Market value:** The basis of market value is the assumption that if comparable property has fetched a certain price, then the subject property will realize a price something near to it.
- **Fair value concept:** This is, in essence, the desire to be equitable to both parties. It recognizes that the transaction is not in the open market and that vendor and purchaser have been brought together in a legally binding manner

Methods of Valuation

Market-based: the market-based value uses other recent similar market transactions as a reference to obtain the comparable market value of the intellectual property. The basis of the market value is the assumption that if comparable property has fetched a certain price, then the subject property will realize a price something near to it.

Cost-based: The cost-based methodology attempts to determine the value of the IP by means of determining the actual historical cost of generating the intellectual property or its replacement cost. In the latter case valuation is determined by what it would cost to substitute or “design around” the intellectual property protection.

Income-based: The value of IP, particularly a patent, depends on the predicted future cash flow to be derived through the exploitation of that patent. This, therefore, entails the determination of the cost or value contributed by the intellectual property and is often assessed by determining the volume of the product sold and the margin on that product to obtain the total profit made.

22. Global Professional Opportunities under IPR

In today’s world, the opportunities under IPR for professionals are increasing day by day. As we know the laws are amending and responsibilities of the companies are also increasing. We Professionals can explore more and more opportunities under this area. Some of them are:

1. Patent, Trademark, copyright registration – Patent searches, Process of registration of Patent, Trademark, copyright with the Office of the Controller General of Patents, Designs & Trade Marks, filing of application, e-filing, renewal.
2. IP Audit- IP Audit involves assessment and review of a company’s IP (Intellectual Property), procedures to trace and protect the wealth of intangible assets followed by recommendations on how to improve the processes to safeguard and prevent misappropriation of sensitive forms of IP such as confidential information and trade- secret.
3. Representation before Appellate board, Tribunal and Courts- Whenever needed to file allegations of unfair use of intellectual property, professionals can make representation of individuals and organizations.
4. IP pricing, tax and IP transactions- Treatment of income from an intellectual property rights, tax provisions, pricing and various transactions can be another area of professional opportunities. Accounting Standard, the Income Tax Act provisions, treatment of expenses on R &D.
5. Management, strategy and licensing services- Preparation of Company’s plan of action to manage and protect its intangible assets. Various types of Licensing services can be provided- Technology License Agreement, Franchise or Trademark License Agreement, Copyright License Agreement

6. Drafting of various documents: It Includes-Drafting and filing a patent specification, contract drafting, license agreement.
7. valuations of IP and intangible assets-
8. Documentation for Trade Marks, Copyright, Patents and other Intellectual properties
9. Advice regarding reverse engineering of intellectual property
10. Patent Analytics: Patent data analytics, an analytics platform to secure, store and study data. The global patent analytics market size was valued at \$904.1 million in 2022 & is projected to grow from \$1,007.8 million in 2023 to \$2,364.6 million by 2030
11. Technology Transfer
12. Compliances and other opportunities under Trademark
13. Compliances and other opportunities under Copyright
14. Software and Technology Licensing Agreements
15. IPR investigation
16. Setting R&D hubs-
17. Courses on IPR-Creating Various courses on IPR like Online Certificate Course on IP, PG Diploma in IPR, online e-learning platform,
18. Blogs, journals- Publishing articles & blogs on Intellectual Property Rights, creating awareness about the laws.
19. Consultancy on Indian Patent, Trademark Agent examination- Consultancy can be provided on examination related matters, how to apply, study material and other memory techniques. Interested applicants wishing to apply for this exam are required to do so online on www.ipindia.nic.in.

23. Become Global Practitioner in Traditional, Non-Traditional Areas and Explore New Opportunities

There are a number of **Professional Opportunities** for the CA at the State, National and Global level. The profile of a Chartered Accountant has catapulted to a professional with a high-level of managerial skill with multi-disciplinary talent. He/ She is now looked upon as a complete business provider. Improved information technology is enabling accountants to automate the more mundane tasks, allowing them time to develop their skills and further their knowledge in all areas of business. The CA professional is a complete

business advisor wherein he performs many roles - Setting up companies, improving management processes, increasing opportunities of trade, initiating new lines of diversification, CEO's, MD's, CFO's, Finance controllers, portfolio managers, treasury managers, fund managers, financial directors etc.

Professional Opportunities:

Traditional Areas – Accounting; Auditing; Direct Taxes; Indirect Taxes

A. State Non- traditional practice Areas-Part 1

- S1. Real Estate- RERA
- S2. Charitable Laws
- S3. Cooperative Societies
- S4. Labor laws
- S5. Chit funds State laws
- S6. Stamp Duty
- S7. Subsidies schemes of states

B. National Non-traditional practice areas – part 2

- N8. Presentation before Tribunals - tribunal practice
- N9. MSME sector
- N10. Company law- Oppression and mismanagement, Liquidation etc.
- N11. Consumer and Competition laws
- N12. Disciplinary consultancy to ICAI, ICSI, CMA, Bar Council, Ministries, Government departments- police administration
- N13. Non-Banking Financial Institutions- NBFCS, Nidhi company, Money lenders
- N14. Succession Laws, Hindu laws, family laws
- N15. Recovery mechanism guidance - Insolvency and Bankruptcy, SARFAESI, Criminal Actions etc.
- N16. Opportunities under financial crimes and laws like PMLA, Benami transactions, Black money, Fugitive Offenders Act etc.
- N17. Agriculture and rural development
- N18. SEBI and Capital Market areas

C. Global Non- traditional practice areas –part 3

- G19. Environment & Sustainability, ESG reporting, CSR, Social audit, SSE,17 SDG Climate change mitigation - carbon credit

- G20. Social Media consultancy services- designing, creation of accounts, posting, tagging, sharing
- G21. Corporate Governance & Independent Director
- G22. Marketing consultancy-domestic and International
- G23. Enterprise Risk management
- G24. Start-ups and E-commerce
- G25. Global funding
- G26. International trade - Global import –export services- Marketing
- G27. Coaching/Teaching - Hard skills and soft skills-time management, emotion management, personality development
- G28. Intellectual Property Rights Advisory services
- G29. Cyber security, Digital economy and data protection services
- G30. Industry specific specialisation – Business growth & Development
- G31. Human Resource Management
- G32. Drafting of business and legal documents
- G33. Finance for non-finance executives
- G34. Virtual legal counsel / CFO / Virtual Entrepreneur
- G35. Outsourcing - accounting - drafting – knowledge
- G36. Mergers and Amalgamation
- G37. Valuation services
- G38. Internal Control measures
- G39. ADR –Arbitration, Mediation
- G40. IFRS and country specific GAAPs, IPSAS
- G41. Forensic services

24. Useful websites

1. World Intellectual Property Organization-<https://www.wipo.int/about-ip/en/>
2. Copyright Office-<https://copyright.gov.in/>
3. Intellectual Property India- ipindia.gov.in
4. Cell for IPR Promotion and Management- <https://cipam.gov.in/>

5. Ministry of Education's Innovation Cell (MIC)-<https://mic.gov.in/>
6. National Biodiversity Authority- <http://nbaindia.org/>
7. Semiconductor Integrated Circuits Layout-Design Registry (SICLDR)-
<https://sicldr.gov.in/>
8. The Department for Promotion of Industry and Internal Trade (DPIIT) -
<https://dpiit.gov.in/>
9. Indian Customs IPR Recordation Portal- ipr.icegate.gov.in
10. Ministry of Electronics & Information Technology- <https://www.meity.gov.in/>

PROFILE



CA. (Dr.) Adukia Rajkumar Satyanarayan

ICAI Central Council Member 1998-2016 and 2022 onwards

Chairman of Board of Studies, ICAI

Vice-Chairman, Research Committee, ICAI

Convener – ICAI VISION Document 2049

Chairman of SAFA Committee on Education, Training and CPD

IFAC Board Technical Advisor

Author of more than 350 books & Global Business, NLP Practitioner, Professional Growth & Motivational Coach; Passionate to make everyone Speaker, Writer, Acquiring New Knowledge, Professional Qualifications, Growth in Business & Promotion As CEO

Member IFAC-PAIB committee 2001-04;

Member IFRS SMEIG London 2018-2020

Ex-director - SBI Mutual Fund, BOI Mutual Fund,

Global Mediator and International arbitrator

B. Com (Hons), M. Com, FCA, FCS, FCMA, LL. B, LLM (Constitution), MBA, Ph. D, Dip CG, Dip IFRS (UK), DLL&LW, Dip IPR, Dip in Criminology, Mediation, IP(IBBI), MBF, Dip HRM, Dip Cyber Law

20+ Certificate courses; 75+ Self Development Courses

Student of: MA (Psychology), MA (Economics), PGD CSR,

PGD Crime Investigation, IBBI (RV) ++++++

Ranks ALL INDIA 1st in Inter CA; 6th in CA Final; 3rd in CMA Final,

5th in Mumbai University +++

Chairman western region ICAI 1997;

Council Member ICAI 1998-2016 & 2022-25

Mob: 98200 61049 | Email: rajkumar@cadrrajkumaradukia.com

Website: - www.cadrrajkumaradukia.com

In the past few years I have personally connected with 2 lakhs plus members and 5 lakhs plus students across India and have been encouraging about 3 lakh students in their educational pursuits and have visited more than 150 chapters and branches of the Institute across the world. I have endeavored to be actively involved in causes to benefit members and students and have organized several conferences and seminars for their benefit. I have been

collectively involved with other office bearers of the Institute in the Institute's working and for the betterment of our profession and its members.

Having been continuously involved in Knowledge development for Members by bringing out Publications, Organizing Seminars & Conferences for them, I have also been instrumental in Designing requirement-based Courses & Imparting Quality Training to Future Members so as to empower and encourage them to venture into new areas of practice

Current Positions

- ICAI Central Council Member
- Chairman of Board of Studies, ICAI
- Vice-Chairman, Research Committee, ICAI
- Convener – ICAI VISION Document 2049
- Chairman of SAFA Committee on Education, Training and CPD
- IFAC Board Technical Advisor

Contribution to the Profession & Economy

1. Served on almost all committees of ICAI as Member and/or Chairman/ Vice-Chairman:
 - Founder Convenor of Kalbadevi Study Circle. Actively contributed and participated in Kalbadevi Study circle and workshops conducted by WIRC (1984-1991)
 - Hon Sec.- WIRC (1991)
 - Chairman of WIRC (WIRC was adjudged best out of 5 regions) (1997-1998)
 - Chairman of Public Relations Committee (1998)
 - Chairman of Board of Studies and Bombay Computer Centre (1999)
 - Chairman of University and Higher Secondary Board Liaison committee (2000)
 - Chairman of Committee for Members in Industry (2001)
 - Chairman of Research committee (2002)
 - Chairman of Research committee (2003)
 - Chairman of Corporate & Allied Laws Committee & Chairman of the Committee of Electoral Reforms (2004)
 - Chairman of Insurance & Pension Committee (2005)
 - Chairman of Peer Review Board & Chairman of Committee on Trade law & WTO (2006)

- Member of Executive Committee, Vice- Chairman of Auditing and Assurance Standards Board (2007)
 - Chairman of Professional Development Committee and Committee for Economic and Commercial Laws (2008)
 - Member of Examination Committee, Vice Chairman – Internal Audit Standards Board & Vice Chairman- Committee for Small and Medium Practitioners (2009)
 - Chairman - Internal Audit Standards Board & Committee for Economic and Commercial Laws (2010)
 - Chairman - Internal Audit Standards Board & Member of XBRL India, Accounting Research foundation (2011)
 - Chairman - Committee for Members in Industry & Internal Audit Standards Board & Member of XBRL India, Accounting Research foundation, South Asian Federation of Accountants (PAIB) (2012)
 - Chairman - Ethical Standards Board, Committee on Financial Markets and Investor Protection and Committee on Government Accounting (2013)
 - Chairman - Committee for Co-operatives and NPO Sectors and IndAS (IFRS) Implementation Committee (2014)
 - Chairman - Committee for Co-operatives and NPO Sectors and Committee on Information Technology (2015)
 - From the year 2016 till 2021, have been very active and constantly in touch with the members through deliverance of more than 500 lectures on various topics at different forums, not only in India, but also abroad. Spread knowledge with circulation of 100 plus research papers on topical subjects.
 - Chairman - Continuing Professional Education Committee, Committee for Members in Entrepreneurship & Public Service (CPE) (2022) & CPC and Central Distribution System
2. International Member of Professional Accountants in Business Committee (PAIB) of International Federation of Accountants (IFAC) from 2001 to 2004
 3. Member of Inspection Panel of Reserve Bank of India
 4. Member of J.J. Irani Committee (which drafted Companies Bill 2008)
 5. Member of Secretarial Standards Board of ICSI
 6. Member of Working Group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.
 7. Independent Director of Mutual Fund Company and Asset Management Company.

8. Worked closely with the Ministry of Corporate Affairs on the drafting of various enactments.
9. Served as Independent Director of SBI Funds Management Private limited and Bank of India Asset Management Co. Ltd.
10. Served as Independent director at ICAI Accounting Research Foundation - Section 8 company
11. Actively involved with ICAI as a Central Council Member during the period when the convergence to IFRS was conceptualized in India and has been instrumental in materializing the idea.
12. Group Leader at several Study Circles organized by Professional associations at Mumbai and many places in India. Some of the Study Circles were organized by: i) Study Circle of Western India Regional Council of ICAI at various places; ii) Bombay Chartered Accountants Society; iii) Chamber of Income-tax Consultants and iv) Sales Tax Practitioners' Association of Maharashtra

Contribution to Education & Training

1. Address to Insolvency and Bankruptcy Board of India
2. Address to Institute of Chartered Accountants of India
3. Address to Institute of Company Secretaries of India
4. Address to Institute of Cost Accountants of India
5. Address to Chamber of Indian Micro Small & Medium Enterprises
6. Speaker in IIA's 2013 International Conference in Orlando on Green Audit.
7. Faculty at Indian Institute of Corporate Affairs for courses on Insolvency Laws and Corporate laws.
8. Faculty Speaker in Workshop on Risk Management for Bankers organized by CAFRAL (Centre for advanced Financial Research and Learning)
9. Faculty at National Institute of Securities Management (NISM) and Indian Institute of Corporate Affairs (IICA.)
10. Addressed the Program for Principal Inspecting Officers & Inspecting Officers by Reserve Bank of India- Department of Non-Banking Supervision.
11. Addressed the National apex Chamber of Commerce and State apex Chamber of Commerce including his address to ASSOCHAM, Confederation of Indian Industry (CII), Federation of Indian Chamber of Commerce and Industry (FICCI), and All India Manufacturers Organization(AIMO).
12. Addressed the CBI officers, officers of Serious Fraud Investigation Office (SFIO), and various State Police Academies.
13. Addressed the SCOPE- Standing Conference of Public Enterprises which is an apex professional organization representing the Central Government

Public Enterprises. It has also some State Enterprises, Banks and other Institutions as its members.

14. Addressed the National Academy of Audit and Accounts (NAAA)
15. Addressed Congress of Fiji Institute of Chartered Accountants

My contribution to Government and Global level

1. Member of International Federation of Accountants – professional accountants in business committee - 2001-2004
2. Addressed twice international annual seminar of Institute of Internal auditors
3. Addressed international seminar of association of certified fraud examiners
4. Addressed international seminar of ISACA
5. Gave training to official of Comptroller and Auditor General, Central Bureau of Investigations, officials of various ministries
6. Addressed to almost all training forums of Government of India
7. Visited 90% branches of ICAI and addressed students and members
8. Member of IFRS foundation - small and medium enterprises implementation group - 2018 to 2020
9. On board of SBI mutual fund, BOI Mutual fund
10. Member of Standards board of ICAI, ICSI & ICAI
11. Addressed Reserve Bank of India officials and officers of many private and public sector banks

Positions held in Past

1. INSOL India National Committee for Regional Affairs
2. International Financial Reporting Standards (IFRS) Foundation SME Group
3. CAG Advisory Committee
4. Quality Review Board, Government of India
5. International Member of Professional Accountants in Business Committee (PAIB) of International Federation of Accountants (IFAC) from 2001 to 2004
6. Member of Inspection Panel of Reserve Bank of India
7. Member of J.J. Irani committee (which drafted Companies Bill 2008)
8. Member of Working Group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.
9. President - Association of Indian Investors (A Section 8 Company)

10. Visiting Lecturer at S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA organized by WIRC of ICAI.
11. Hon. Consultant to Bombay Industries Association and many trade bodies.
12. Faculty member for Entrepreneurship Development Programme of Ministry of Industrial Development, Government of India
13. Lecturer at Intensive Coaching Classes conducted by Institute of Chartered Accountants of India for Intermediate & Final C.A. students.
14. Faculty at Direct Taxes Regional Training Institute of CBDT, SFO, CBI and many regulators and banking institutions
15. Hon. Sec. of Western India Regional Council of Institute of Chartered Accountants of India in 1991-92 and Chairman of WIRC in 1997-98.
16. Hon. Sec. of All-India Importers & Exporters Association.
17. President of Rotary Club of Bombay Sea Pearl.
18. Hon. Sec. of All India Manufacturers' Organisation.
19. Hon. Sec. of Western India Chamber of Commerce

Academic Achievements

1. Graduated from Sydenham College of Commerce & Economics & was adjudged Best Student of College, winner of many Scholarships including most coveted award of the college 'Jeejeebhoy Cup for Proficiency & Character'
2. Secured Fifth Rank in Bombay University in April, 1980.
3. Received Gold Medal for highest marks in Accountancy & Auditing in B.Com. Examination.
4. Secured First Rank in Inter CA in November, 1981.
5. Received G. P. Kapadia prize for the best student of the year 1981.
6. Secured Sixth Rank in Final CA in May, 1983.
7. Secured Third Rank in Final I.C.W.A in December, 1983.

Awards and Accolades

1. Recipient of Samajratna Award by Government of Rajasthan.
2. "Rajasthan Shree" by Rajasthan Udgosh, a noted Social Organization of Rajasthan
3. Winner of Rifacimento International award for Asia's Who's Who of Men and Women of achievement. My bio data is published in Reference Asia.
4. State Trainer by the Indian Junior Chamber
5. Winner of National Book Honors Award, 2018

Some Other Publications Authored by CA (Dr.) Rajkumar Adukia

BECOMING AN ENTREPRENEUR AND SETTING UP A SUCCESSFUL ENTREPRENEURSHIP

Including Setting up Enterprises, Developing an Entrepreneurial mindset, Securing a Successful Entrepreneur, Virtual CFO and Start & Entrepreneurship Training

CA (Dr.) Adukia Rajkumar Satyanarayan
 CA (Dr.) Adukia Rajkumar Satyanarayan
 Chief Advisor

CA, Rajshah Adukia
 Chief Advisor

Author of more than 350 books & Global Business, NLP Practitioner, Professional Growth & Motivational Coach, Passion to make everyone a better, Wealth Acquiring New Knowledge, Professional Qualifications, Growth in Business & Innovation & CEO Mentoring, Research Committee, CA, Member of Board of Studies, CA, Vice-Chairman, Research Committee, CA, Chairman of ICAI Committee on Education, Training and CPD, Board Technical Advisor

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 Chairman - ICAI PGD November 2010
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Professional Opportunities in Foreign Trade & Strategies

to get opportunities & provide services related to foreign trade

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HANDBOOK ON MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) SECTOR

CA (Dr.) Adukia Rajkumar Satyanarayan
 CA (Dr.) Adukia Rajkumar Satyanarayan
 Vice-Chairman of Board of Studies, CAI
 Vice-Chairman, Research Committee, CAI
 Chairman - ICAI PGD November 2010
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CA, Rajshah Adukia
 Chief Advisor

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Author's Profile

CA (Dr.) Rajkumar S Adukia

Author of more than 350 books & Global business, Professional Growth and Motivational Coach, NLP Master Practitioner, Thought Leader

Passionate to make anyone Global Speaker, Writer, Entrepreneur, Global Practitioner, Acquiring New Knowledge, Professional Qualifications, Growth in Business & Promotion As CEO.

My Profile:

Educational Qualification

- ❶ Educational Qualification - B. Com (Hons), M. Com, FCA, FCS, FCMA, LL. B, LL.M, Ph. D, MBA, Dip CG, Dip IFRS (UK), DLL&LW, Dip IPR, Dip in Criminology, Mediation, IP(IBBI), MBF, Dip HRD, Dip Cyber Law
- ❷ All India Ranks - AIR 1st Rank in CA-Inter; AIR 6th Rank in CA-Final; AIR 3rd Rank in CMA-Final, AIR 5th Rank in Mumbai University
- ❸ 20+ Certificate courses; 75+ Self Development Courses
- ❹ Ex-director - SBI Mutual Fund, BOI Mutual Fund
- ❺ ICAI Central Council Member 1998-2016 and 2022-2025

CA (Dr.) Adukia left no stone unturned during his career spanning more than 40 years. He is ever enthusiastic and passionate to mentor, guide and assist in matters of professional growth, self-development and goal fulfillment. He is renowned for his competency in identifying new professional opportunities and accelerating professional growth. His education, skill-set, experience, networking aptitude and a positive go-getter mindset make him a sought after professional. Having addressed more than 100 International Conferences, he has shared his vast experience through training, workshops & professional services with banks, financial institutions, corporate, Government departments and Regulators.