



Research about -:

INTELLECTUAL PROPERTY RIGHTS

Contact For any help or assistance -:

Please email us on – info@solslegal.in / solslegal01@gmail.com

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INTELLECTUAL PROPERTY RIGHTS (IPR)

INTRODUCTION

Intellectual Property Rights (IPR) has been expanded and grown to a great extent and has risen to a stature wherein it plays a major role in the development of the Global Economy.

The domain of Intellectual Property is vast. Its manifestation in the form of Copyright, Patent, Trademark and Design as some of the Intellectual Property Rights is very well known to have received recognition for a fairly long period of time. Newer forms of the protections are also emerging particularly stimulated by the exciting developments in scientific and technological activities.

Intellectual property has a dual nature, i.e. it has both a national and international dimension. The conduct of intellectual property as well as its protection both are governed by the national laws and regulations and international treaties, which jointly serves a consolidated set of Regulation of Intellectual Property Rights. In order to be homogeneous with the level of protection all over the world, we have leading international instruments and institutions.

Specific statutes protected only certain type of Intellectual output; till recently only four forms were protected. The protection was in the form of grant of copyrights, patents, designs and trademarks. In India, copyrights were regulated under the Copyright Act, 1957; patents under Patents Act, 1970; trademarks under Trade and Merchandise Marks Act 1958; and designs under Designs Act, 1911. With the establishment of WTO and India being signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), several new legislations were passed for the protection of intellectual property rights to meet the international obligations. These included: Trade Marks, called the Trade Mark Act, 1999; Designs Act, 1911 was replaced by the Designs Act, 2000; the Copyright Act, 1957 amended a number of times, the latest is called Copyright (Amendment) Act, 2012; and the latest amendments made to the Patents Act, 1970 in 2005. Besides, new legislations on geographical indications and plant varieties were also enacted. These are called Geographical Indications of Goods (Registration and Protection) Act, 1999, and Protection of Plant Varieties and Farmers' Rights Act, 2001 respectively.

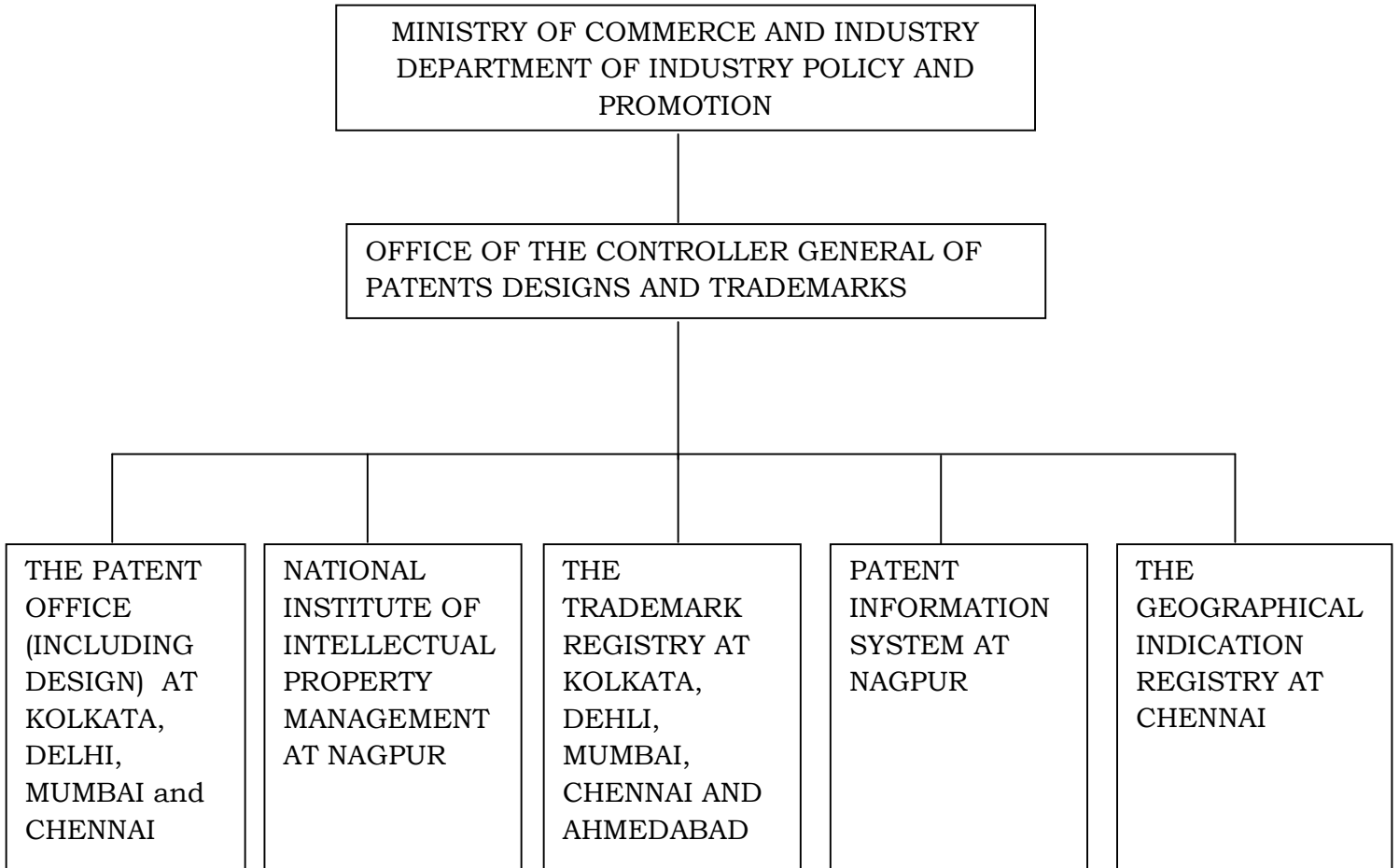
PATENT

Patent law is the branch of intellectual property law that deals with new inventions. Traditional patents protect tangible scientific inventions, such as circuit boards, car engines, heating coils, or zippers. However, over time patents have been used to protect a broader variety of inventions such as coding algorithms, business practices, or genetically modified organisms.

In India, the law relating to Patents is contained in the Patents Act, 1970. This Act has been amended in the years 1995, 1999, 2002 and 2005 respectively to meet the challenges of changing times and also to meet India's obligations under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) which forms a part of the Agreement establishing the World Trade Organization (WTO). The Patents Act, 1970 is now conceived as fully compliant with India's obligations under the TRIPS Agreement of the WTO. Further, as regards the Rules framed under the Act, earlier the Patents Rules, 1972, which were in place for close to three decades, were substituted by the Patents Rules, 2003. The Patents Rules, 2003 have also been amended in the years 2005, 2006, 2012, 2013, 2014, 2015, 2016 and 2017 respectively inter alia in order to keep them in line with the international trends and requirements.

The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) is responsible for the administration of Patents Act, 1970, Designs Act, 2000, The Trade Marks Act, 1999 and Geographical Indications of Goods (Registration and Protection) Act, 1999 through its Intellectual Property Offices located at Mumbai, Delhi, Kolkata, Chennai and Ahmedabad.

PATENT OFFICES IN INDIA



PATENT SEARCH AND DATABASE

An important step before filing a patent application is to conduct a patent search. Just as companies need to do due diligence before taking on any business venture, likewise patent owners need to do patent due diligence before filing a patent application. A patent search is a search conducted in patent databases as well as in the literature available, to check whether any invention similar to the invention in respect of which patent is to be obtained, already exists. In other words, it evaluates inventor's chances of getting a patent grant. Therefore, instead of going forth with the filing, if one conducts the patentability search, one can get a clear idea about the patentability of the invention; whether the application should be filed and the strengths and weakness of his invention.

Patent information is made available to the public through a variety of databases. Each database covers a particular set of patent documents. At present no database has complete coverage of all patent documents ever published worldwide. Thus, it may be necessary to consult multiple databases in order to find and then access patent documents relevant to your interests.

PATENT SEARCH -:

1. Databases on CD-ROM
2. On-line Databases

VARIOUS TYPES OF SEARCHES USING PATENT DOCUMENTATION -:

1. Pre-Application Searches (PAS)
2. State-of-the-Art Searches
3. Novelty Searches
4. Patentability or Validity Searches
5. Name Searches
6. Technological Activity Searches
7. Infringement Searches
8. Patent Family Searches
9. Legal Status Searches

PATENT SEARCH -:

A patent search can help with multiple objectives before filing a patent application. It can help in

- a. Calculating the likelihood of the proposed invention.
- b. Selecting which patent rights to incorporate into patent application.
- c. Determining operating freedom.
- d. Determining whether granted patent can be declared invalid.
- e. Knowing more about related inventions and the status of related patent filings.

PATENTABLE INVENTIONS = BIO – TECHNOLOGY PRODUCTS

Biotechnology comprises of any technology that uses living entities in particular animals, plants, or microorganisms. According to the Organization for Economic Cooperation and Development biotechnology includes any technique that uses living organisms (or parts of organisms to make or modify product, to improve plants or animals or to develop microorganisms for specific uses.

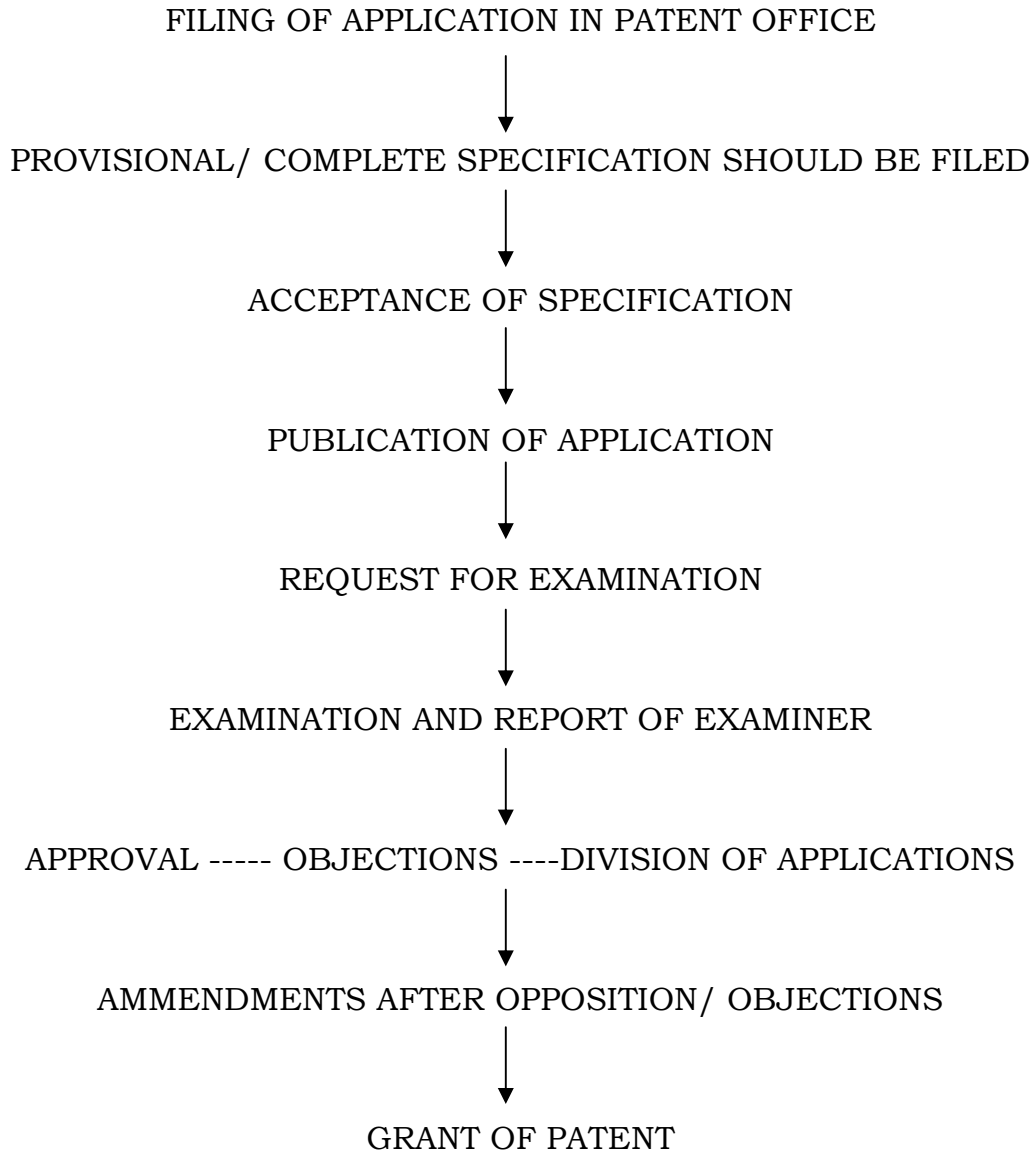
The plants and animals in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals are not patentable. This categorically excludes micro-organisms from being patentable. This is line with India being a signatory to the TRIPS AGREEMENT.

The main technological domains of patenting activity in biotechnology were in microorganism compositions, macromolecular compounds, biocide and plant reproduction techniques.

Due to emergence of modern bio technology one of the most important issues has been raised in legal characterization and Intellectual Property Protection. Invention such as genetic engineering, microbiology, medical invention and bio technological invention that may be patentable by Indian Patent law 1970 can be categorized as

- a) The living entities of natural origin such as animal, plant in whole or any part thereof are not patentable in India.
- b) The biological materials such as organs, tissues viruses etc and process of preparing thereof are not patentable in India. But biotechnological materials such as recombinant DNA, Plasmid and process of manufacturing thereof are patentable.
- c) Gene sequence, DNA Sequence without having disclosed their function are not patentable. But the process relating to micro organism or producing chemical substances using microorganisms are patentable.
- d) The process of cloning human being or animals is not patentable

PROCEDURE FOR OBTAINING PATENT



TERM OF PATENT

The term of every patent granted after the commencement of the Patents (Amendment) Act, 2002 and the term of every patent which has not expired and has not ceased to have effect on the date of such commencement under this Act shall be twenty years from the date of filing of the application of the patent.

For the purpose of the sub – section the term of the patent in case of International applications filed under the Patent Cooperation Treaty designating India shall be twenty years from the international filing date accorded under the Patent Cooperation Treaty.

A patent shall cease to have effect notwithstanding anything therein or in this Act on the expiration of the period prescribed for the payment of any renewal fee, if that is not paid within the prescribed period or within such extended period as may be prescribed.

Notwithstanding anything contained in any other law for the time being in force on cessation of the patent right due to non – payment of renewal fee or on the expiry of the term of patent the subject matter covered by the said patent shall not be entitled to any protection.

RESTORATION, REVOCATION AND SURRENDER OF PATENTS

RESTORATION OF PATENTS

It provides how applications for restoration of lapsed patents are made, procedure for disposal of the same and rights available for restoration of such lapsed patents. Where a patent has ceased to have effect by reason of failure to pay any renewal fee within the prescribed period, the patentee or his legal representative and where the patent has held by two or more person jointly then with the leave of the Controller one or more of them without joining the others may within eighteen months from the date on which the patent ceased to have effect make an application for the restoration of the patent.

REVOCATION OF PATENTS

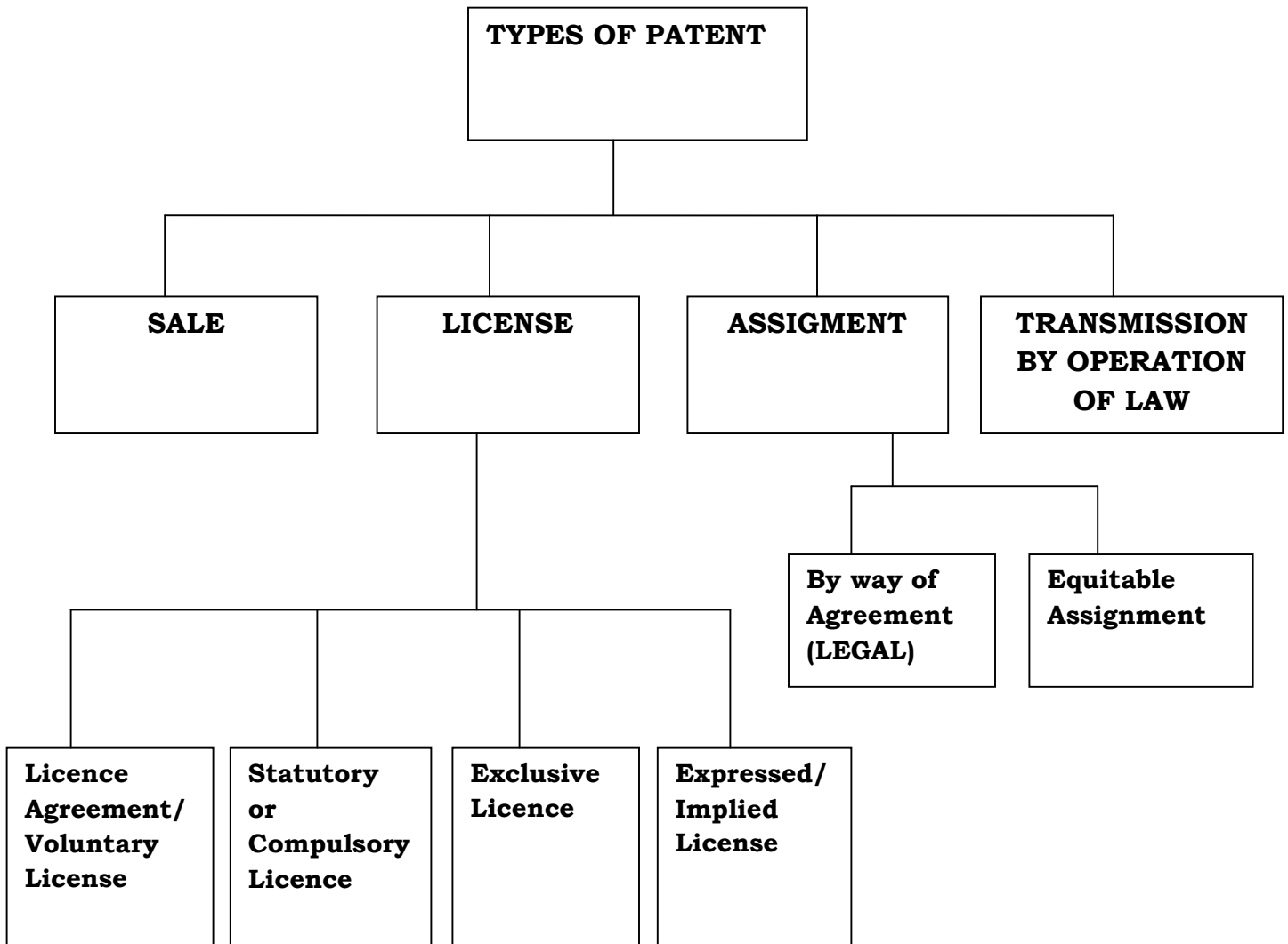
Although a Patentee has the exclusive right of making, using or selling the invention, the validity of the Patent is not guaranteed by the Government, as is made clear in the form of the grant itself, and in section 13(4) of the Act. This is a basic principle of Patent law accepted in all the Patent Acts in India as well as in England. The reason is not far to seek. A Patent is a kind of limited monopoly granted to the true and first inventor as a reward for the creation of something new and useful which might ultimately benefit the public. Questions whether the Patentee is the true and first inventor, whether what he has claimed as an inventor is really new, or merely what is already known dressed up on a new form, whether he has disclosed the invention completely so that a person skilled in the art could use the invention after the expiry of the term without employing further inventive skill, are all questions which can seldom be finally determined at the application stage by the Patent office

SURRENDER OF PATENTS

A Patentee has a right to surrender his Patent. If the Patentee or any other person is not interested in working the Patent, it may be advisable to surrender the Patent to avoid possible revocation proceedings and consequent liability to pay costs.

TYPES OF PATENT

Patents can also be transferred by the owner of the patent i.e is Patentee. The general modes of transfer also apply in case of a patent. Except for compulsory License generally all the transfer in relation to a patent are made by the patentee himself as he has the exclusive right to exploit the same by virtue of Section 48 of the Act. A license under the patent shall not be granted and a share in the patent shall not be assigned by one of such persons except with the consent of the other person or persons



SALE :-

Patentee has an exclusive right to sell the patented product and restrain third parties from making, using offering for sale, selling or importing for those purposes that product in India. Process patent which is intangible property may also be sold by the patentee.

LICENCE :-

Licence means to permit someone to use the patent for a specified period of time. A Licence of patent is provided in four manners

- a) **By Agreement** – An agreement is entered into by the patentee and any third party for providing License of the patented invention upon the terms and conditions thereof is known as Voluntary License
- b) **Statutory License or Compulsory License** – It is a License which is granted under the Act. A Compulsory Licensee is a person to whom a Compulsory License is granted. The terms and conditions of such Licenses are not controlled by the parties and the Controller play a very important role so far as Compulsory Licenses are concerned.
- c) **Exclusive License** – Exclusive License is a License which is exclusive in nature i.e it confers all the rights in the patented invention to exclusive licensee excluding all the other persons. Exclusive Licensee means a license from a patentee which confers on the licensee or on the licensee and persons authorized by him, to the exclusion of all other persons (including the patentee) any right in respect of the patented invention and exclusive licensee shall be construed accordingly. Exclusive License is the exclusive right granted by the patent holder to Licensee to use manufacture and sell patented article.
- d) **Expressed/ Implied Licence** – Express License is license by which patentee expressly provides the license to the third party. For eg By way of any agreement or any other writing implied license is licene provided by conduct or implication

ASSIGNMENT

Assignment means a transfer of chose in action by one person to another. Assignee includes an assignee of the assignee and the legal representative of the deceased assignee and references to the assignee of the legal representative or assignee of that person.

Assignment can be Legal or Equitable which are explained in brief as follows –

- a. **LEGAL** – Legal Assignment is made by way of Agreement. An assignee can have himself registered in the register of patents and exercise all the rights of a patentee.
- b. **EQUITABLE** – For an equitable assignment no formality is required. It is sufficient that the assignor shows a clear intention to transfer the ownership of his right to the assignee.

TRANSMISSION BY OPERATION OF LAW

After the death of the Patentee his interest in the patent transfers to his legal representative. A legal representative is a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued.

PATENT – A CHOSE IN ACTION

A chose in action is an intangible property right or property which is legally not in a person's possession but is only enforceable by legal process that is by court order. Choses in action comprise all personal rights of property which cannot be taken by possession of a physical object (i.e. a chose in possession). They are incorporeal rights. Therefore Intellectual property rights under the patent, trademarks, copyrights are choses in action.

INFRINGEMENT OF PATENTS

Infringement would depend on the facts of each case. Infringement means a violation of any rights conferred on the patentee subject to other conditions and limitations contained in the Act. Patentee has certain rights over the patented invention. If rights are violated or if any third party uses such rights over a patent without the permission of the patentee constitutes infringement. However in cases of infringement the court has to consider what the infringed patents whether it is a product or a process.

PRODUCT PATENT : If a patent is a product the patentee has the exclusive right to prevent third parties from making using, selling, offering for sale, importing those products in India etc.

PROCESS PATENT : If a patent is a process the patentee has an exclusive right to prevent third parties from using the process offering for sale, selling or importing for those purposes the product obtained directly by that process in India etc.

The infringement of the patent can be found in numerous ways. One of such way is to use the patent or a colourable imitation thereof in manufacture of the patented article. It has been observed in catena of cases that infringement may not be of the whole process but it may only be of the part.

TRADEMARK

A trade mark provides protection to the owner of the mark by ensuring the exclusive right to use it, or to authorize another to use the same in return for payment. The period of protection varies, but a trademark can be renewed indefinitely beyond the time limit on payment of additional fees.

With the advent of WTO, the law of trademarks is now modernized under the Trade Marks Act of 1999 along with the Rules thereunder and is in harmony with two major international treaties on the subject, namely, The Paris Convention for Protection of Industrial Property and TRIPS Agreement. A trademark is a mark which distinguishes the goods and products of one person from another. A distinctive symbol that identifies particular products of a trader to the general public. The symbol may consists of device, words, or combination of these . In other words a trademark is a visual symbol or a sign in the form of device, word or label which is used for identification of goods and/or services distinguishable from similar goods and/or services supplied by the others. The trademark or the symbol can also be the combination of drawings, pictures, colours, words, letters, numbers etc. A trademark is a marketable and commercial asset of the owner. It is a type of intellectual property having numerous rights. Unlike Copyright which is limited for a particular term, trademark is available to the owner of perpetuity. Registration of trademark provides the owner with exclusive right to use the trademark in connection to goods for which it is registered.

TYPES – REGISTERED AND UNREGISTERED TRADEMARKS

A trademark as such could be of any form i.e well known trade mark, house mark, brand name, collective mark, associated trade mark, certification trade mark. There are two basic types i.e is

Registered Trade Mark - : A registered trade mark is a trade mark which is or has been registered under the trade mark law. The registered trade mark means a trade mark which is actually on the register and remaining in force. Unauthorized use of registered trade mark would entitle the proprietor to bring an action of infringement against such user.

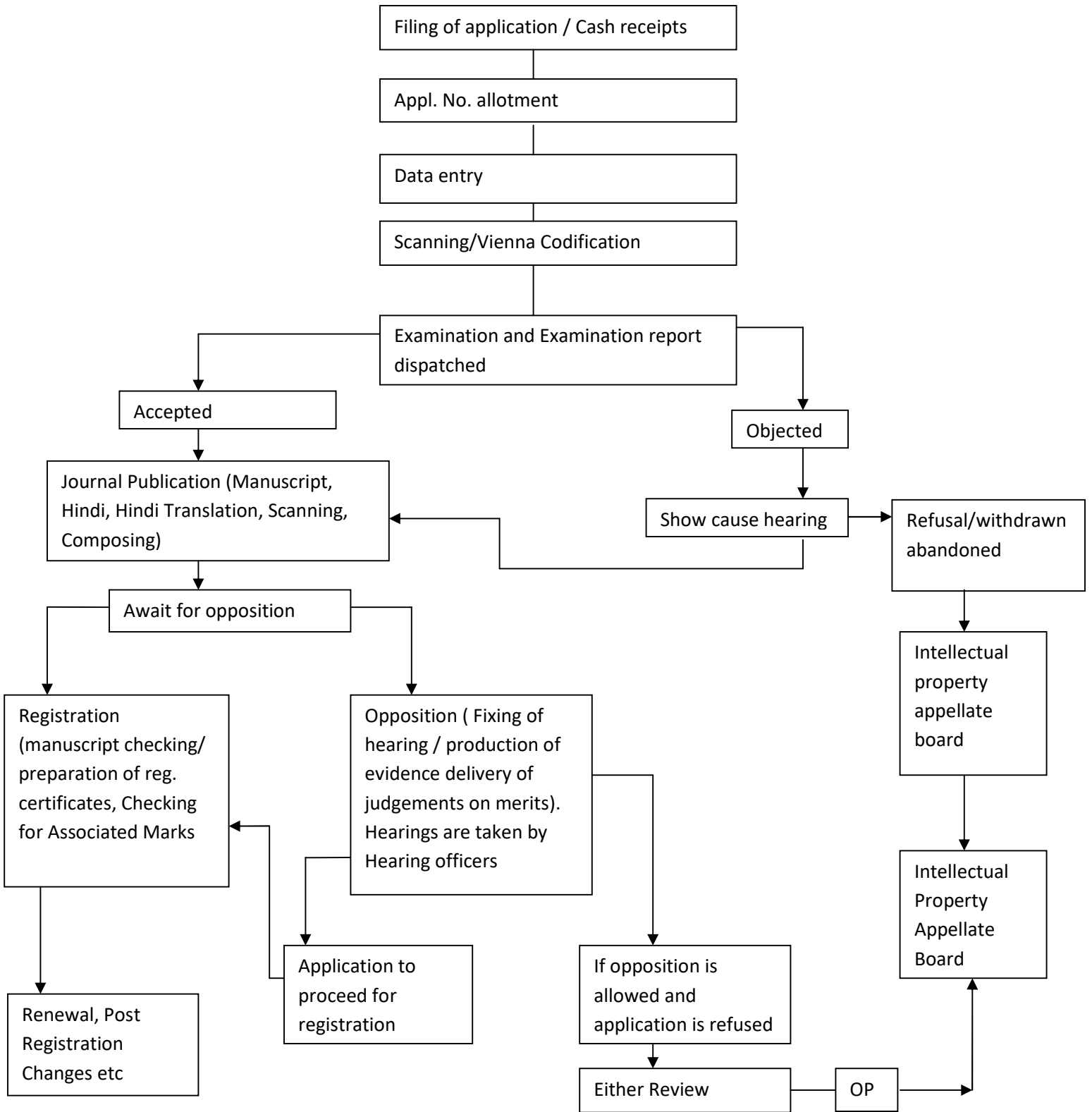
Unregistered Trade Mark -: An unregistered trade mark is a trade mark which is not registered under the trade mark law. An unregistered trade mark is also called common law mark. There are higher number of unregistered trade marks as compared to registered trade marks in India. However in case of unauthorized use of an unregistered trade mark, the proprietor of such mark shall have common law rights and has a legal remedy in terms of passing off his goods and hence can restrain the unauthorized user from using/exploiting his trade mark

TRADEMARK REGISTRATION IS IMPORTANT

Trademark registration is important and necessary for business because

- a) It showcases your unique identity.
- b) It helps your build trust and royalty among your customers.
- c) It offers legal protection for brands entity.
- d) It is an asset itself.
- e) It prevents unauthorized usage of your brands equity.

PROCEDURE FOR REGISTRATION



TRADEMARK CLASSES

There are 45 trade mark classes and all the goods and services are categorized across these classes. You need to be very careful while picking the classes as it will determine the validity of your trade mark for your business product/ services. If your business operates across different goods/services that fall under different classes, you have to ensure that you apply for the trademark under all the applicable classes.

Some of the popular trade marks in India are -:

- 1) CLASS 9 – Which includes COMPUTER SOFTWARE AND ELECTRONICS
- 2) CLASS 25 – Which includes clothing
- 3) CLASS 35 – Which includes business management and advertising
- 4) CLASS 41 – Which includes education and entertainment

REGISTERED AS TRADE MARK

Many aspects of your brand image can be registered as a trade mark. The aspect you need to consider is which aspect of your brand stands out to your customers.

1) NAME –

- a) **Product Name** - You can register a particular product's name as a trademark. Apple's iPod is a product name trademark.
- b) **Business Name** – Registering a company name as a trademark is the most common route businesses take. Ex: Bajaj.
- c) **Persons Name / Surname** - If your name plays an important part in generating revenue, then you can even trademark your name! Ex: Shah Rukh Khan has trademarked his name.
- d) **Abbreviations** - Abbreviations of a company or brand name can also be a trademark. Ex: BMW.

2) LOGO/SYMBOL -

It is highly recommended to trademark a logo because it visually represents your brand. Your customers can recollect a logo faster than a name. A great example of a logo trademark is the 'swoosh' of Nike.

3) TAG LINE -

If you have a tagline for your brand, you can go ahead and trademark that as well. A tagline tells your customers what you stand for as a business. For example, KFC's 'It's finger lickin' good'.

4) OTHER OPTIONS -

a) Colour Mark

You can trademark a colour or a combination of colours. (Ex: Cadbury has trademarked the colour royal blue)

b) Sound Mark

Musical notes or sounds can be trademarked if we can prove that it's distinctive. Nokia has trademarked its tune.

c) Scent Mark

Even scents can be trademarked.

COPYRIGHT

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Unlike the case with patents, copyright protects the expressions and not the ideas. There is no copyright in an idea. The protection provided by copyright to the efforts of writers, artists, designers, dramatists, musicians, architects and producers of sound recordings, cinematograph films and computer software, creates an atmosphere conducive to creativity, which induces them to create more and motivates others to create.

Copyright subsists throughout India in the following classes of works :-

- 1) Original literary, dramatic, musical and artistic works;
- 2) Cinematograph films; and
- 3) Sound recordings

Licences by owners of copyright :-

- a. Compulsory licence in works withheld from public;
- b. Compulsory licences in unpublished Indian works;
- c. Compulsory Licence for the benefit of disabled;
- d. Statutory licence for cover versions;
- e. Statutory licence for broadcasting of literary and musical works and sound recording;
- f. Licences to produce and publish translations;
- g. Licence to reproduce and publish works for certain purposes; and
- h. Termination of licences.

TERM PERIOD -:

The length of a work's copyright varies depending on a number of circumstances, such as whether it has been published and, if so, when. For works created after 1 January 1978, copyright protection typically lasts for the author's entire life plus an additional 70 years. The copyright is valid for anonymous, pseudonymous, or work created for hire for 95 years following the year of the work's initial publication or for 120 years following the year of creation, whichever comes first.

The registration of works produced on or after 1 January 1978, does not need to be renewed. After 28 years, renewal registration for works published or registered prior to 1 January 1978, is optional, but it does offer some legal benefits.

PROTECTED BY COPYRIGHT -:

Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.

Nine categories of works are copyrightable:

- **Books** - Copyright provides legal protection to the author's literary works. Since everything is altered, transferred, and copied so quickly in our era, the copyright registration for literary work is crucial. It is used for book publishing and newsletters.
- **Software** - The IT sector in India is quickly expanding, and it is necessary to protect your unique work or software. Many programmers, coders, and developers get cheated when they come across software that is close to or identical to what they created. The copyright registration for software prevents any individual or third-party company from gaining unofficial access to the software.
- **Scripts** - Script is a written outline for a play, television programme, or film. Copyrighting a creative work—such as a script—prevents individuals from engaging in unauthorised use of your script, such as intentional and accidental

- copying, publishing, transmitting, exhibiting, distributing, modifying, and displaying other people's original creative expressions.
- **Lyrics** - When you register a copyright, you have full copyright protection for your song. Copyright protects your lyrics as soon as you write them, even if it's only on a bit of paper. The copyright registration of lyrics gives the song constructive notice. The melody, lyrics, percussion track on the recording and chord progression in the bridge are all distinct and expressive elements to which the author might claim any of the exclusive rights.
- **Websites** - Text, tables, computer programmes, compilations, including computer databases; photographs, paintings, diagrams, maps, charts, and plans; and works incorporating music, including graphical notation of such work that may be copyrightable are among the digital assets on the website. You only have copyright rights to the elements of a website that you created as an author.
- **Apps** - Copyrights can be used to safeguard intellectual property such as computer programs. Early designs of creativity can take on many forms, including software code, graphics, and models used to create mobile applications and other computer software. Copyright registration of software allows a developer to more easily defend his work if it is attempted to be copied. For software copyrights, the code, as well as copies of artwork and audiovisual content, must be included with the application.
- **Videos** - Copyright registration for video serves as clear evidence in any copyright infringement lawsuit you may file, and it makes collecting damages much easier in such a situation. It's a simple way to establish your video rights. If you actually want to protect your work, copyrighting your videos should be at the top of your priority list.
- **Songs** - It is important to obtain copyright protection for your song, as it is now easier than ever for others to use your work without giving you the credit you deserve. If you're a new musician, it's even more crucial to think about copyright protection because you might not have the resources to fight if your song is misused/pirated.
- **Music** - Whether you're attempting to safeguard a song or a symphony, the first step is to get the music down in some tangible format, such as recording or writing on music staff paper. It can be difficult to assert your rights in a copyright infringement claim if you do not have recognised copyright for your music. And as a musician with registered copyright for your work, you have a lot of exclusive rights.

INDUSTRIAL DESIGNS

Industrial design play an important role in the trading of consumer goods or products. Industrial designs are what makes a product attractive and appealing; hence, they add to the commercial value of a product and increase its marketability. Today, industrial design has become an integral part of consumer culture where rival articles compete for consumer's attention. It has become important therefore, to grant to an original industrial design adequate protection. When an industrial design is protected, this helps to ensure a fair return on investment. An effective system of protection also benefits consumers and the public at large, by promoting fair competition and honest trade practices. That apart, protecting industrial designs helps economic development, by encouraging creativity in the industrial and manufacturing sectors and contributes to the expansion of commercial activities and the export of national products. Students should be well versed with the provisions of the design legislation in India so as to understand what an industrial design is; why to protect industrial designs; how can industrial designs be protected; and how extensive is industrial design protection. Besides, they should be well versed with the application filing procedure as required under the law.

GEOGRAPHICAL INDICATIONS

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities, reputation or characteristics that are essentially attributable to that place of origin. Most commonly, a geographical indication includes the name of the place of origin of the goods. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. Geographical indications are protected in accordance with international treaties and national laws. Under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), there is no obligation for other countries to extend reciprocal protection unless a geographical indication is protected in the country of its origin. India, as a member of the World Trade Organization (WTO), enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999. It is important for the students to know the legal position relating to geographical indications of goods in India; why do geographical indications need protection and how geographical indications are protected; who are entitled for registration; which of the geographical indications cannot be registered; and when is a registered geographical indication said to be infringed etc

LAYOUT DESIGNS OF INTEGRATED CIRCUITS

In modern technology, integrated circuits are essential elements for a wide range of electrical products, including articles of everyday use, such as watches, television sets, washing machines, and cars, as well as sophisticated computers, smart phones, and other digital devices. With the advancement of this information technology, a new branch in the field of intellectual property flourished, called as the Layout-Design or the of the semiconductor integrated circuits. Hence, a step was taken by various organizations to pass regulations regarding this issue. One such was the World Trade Organization, and the result was the TRIPS agreement addressing the intellectual property related issues. India being a signatory of the WTO also passed an Act in conformity with the TRIPS agreement called the Semiconductor Integrated Circuits Layout-Design Act (SICLDA) passed in the year 2000. Considering the significance of semiconductors as a novel branch of intellectual property, this chapters aims at discussing the concept of Layout-Designs of Integrated Circuits along with the major provisions of Semiconductor Integrated Circuits Layout-Design Act, 2000

PROTECTION OF TRADE SECRETS

Knowledge is what happens to information when human ingenuity is applied to it. Information alone does not confer competitive advantage. Knowledge does. It is human ingenuity that turns information into knowledge and gives it value. And it is this knowledge that is the underlying value of the intellectual property or capital of an organization—its relationships, know-how, confidential business information and trade secrets. Today more than ever, intellectual property also includes confidential business information, trade secrets, know-how and key business relationships. The various statutes that have been enacted provide an adequate mechanism of protection to intellectual property rights. However, some ideas cannot be patented and indeed, some innovators do not want to patent their ideas as for instance trade secret or confidential information. If a trade secret is really kept a secret, the monopoly on an idea or product may never end. Once the information is leaked and goes into the public domain, it is lost forever. Too often, beyond applying for patents on new inventions or trademarks on new brands, little real attention is paid to protecting or securing this less formal type of intellectual property and consequently the information goes into the hands of the rival competitors of the business enterprises. The study lesson explains the importance of trade secrets to the business enterprises whether small, medium or large and why this key strategic asset needs to be protected

Key Business Concerns in Commercializing Intellectual Property Rights

Effective management of intellectual property enables companies to use their intellectual property rights to improve their competitiveness and strategic advantage. Acquiring intellectual property protection no doubt is crucial, but its effective management provides much more than just protection to an enterprise's inventions, trademarks, designs, copyright or other allied rights. Exploitation of intellectual property rights can take many forms, ranging from outright sale of an asset, a joint venture or a licensing agreement. Inevitably, exploitation increases the risk assessment. Valuation is, essentially, a bringing together of the economic concept of value and the legal concept of property. The presence of an asset is a function of its ability to generate a return and the discount rate applied to that return. Acceptable methods for the valuation of identifiable intangible assets and intellectual property fall into three broad categories. They are market based, cost based, or based on estimates of past and future economic benefits