

## **Module 5 - Nature of Intellectual Property**

### **Contents**

1. Patents
2. Designs
3. Trademarks
4. Copyrights
5. Process of Patenting and Development
6. Technological research
7. Innovation, patenting and development

### **What is a property?**

Property designates those things that are commonly recognized as being the possessions of an individual or a group.

A right of ownership is associated with property that establishes the property as being "one's own thing" in relation to other individuals or groups, assuring the owner the right to dispense with the property in a manner he or she deems fit, whether to use or not use, exclude others from using, or to transfer ownership.

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, jewellery are few examples of tangible properties which can be seen and felt physically.

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 Rights protected under Intellectual Property

### **What is Intellectual Property**

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

Intellectual property (IP) is a term referring to creation of the intellect for which a monopoly is assigned to designated owners by law. Intellectual Property Rights are themselves a form of property called intangible property.

example; literary and artistic works, symbols, names and images used in commerce.

The term intellectual property is usually thought of as comprising four separate legal fields:

1. Copyrights
2. Patents
3. Trademarks
4. Designs
5. Geographical indications

**Copyright** covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.

**The following works can be Copyrighted:**

1. Writings
2. Paintings
3. Musical works
4. Dramatics works
5. Audiovisual works
6. Sound recordings
7. Photographic works
8. Broadcast
9. Sculpture
10. Drawings
11. Architectural works etc.

**What is a Patent?**

A patent is an exclusive right granted for an invention –a product or process that provides a new way of doing something, or that offers a new technical solution to a problem.

A patent provides patent owners with protection for their inventions.

Protection is granted for a limited period, generally 20 years.

**Why are patents necessary?**

Patents provide incentives to individuals by recognizing their creativity and offering the possibility of material reward for their marketable inventions.

These incentives encourage innovation, which in turn enhances the quality of human life.

**What kind of protection do patents offer?**

Patent protection means an invention cannot be commercially made, used, distributed or sold without the patent owner's consent.

Patent rights are usually enforced in courts that, in most systems, hold the authority to stop patent infringement.

Conversely, a court can also declare a patent invalid upon a successful challenge by a third party.

Patent grants are effective only within the country in which they are filed.

**What rights do patent owners have?**

A patent owner has the right to decide who may – or may not – use the patented invention for the period during which it is protected.

Patent owners may give permission to, or license, other parties to use their inventions on mutually agreed terms.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

Owners may also sell their invention rights to someone else, who then becomes the new owner of the patent.

Once a patent expires, protection ends and the invention enters the public domain.

This is also known as becoming off patent, meaning the owner no longer holds exclusive rights to the invention, and it becomes available for commercial exploitation by others.

### **What role do patents play in everyday life?**

Patented inventions are present in every aspect of human life, from electric lighting (patents held by Edison and Swan) and sewing machines (patents held by Howe and Singer), to magnetic resonance imaging (MRI) (patents held by Damadian) and the iPhone (patents held by Apple).

In return for patent protection, all patent owners are obliged to publicly disclose information on their inventions in order to enrich the total body of technical knowledge in the world.

This ever increasing body of public knowledge promotes further creativity and innovation.

Patents therefore provide not only protection for their owners but also valuable information and inspiration for future generations of researchers and inventors.

### **What are the parts of a Patent Document?**

1. Abstract
2. Background of the Invention
3. Summary of the Invention
4. Figures with brief descriptions
5. Detailed description or “specification”
  - ▶ Fully discloses what the invention is
  - ▶ How it is made?
  - ▶ How it can be used?

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

6. Claim(s): sets the legal boundaries of protection

- ▶ Independent
- ▶ Dependent

### What are Patentable?

1. **Process:** Process, act or method, and primarily includes industrial or technical processes
2. **Machine**
3. **Manufacture:** Articles which are made, including all manufactured articles
4. **Composition of Matter:** chemical compositions and may include mixtures of ingredients as well as new chemical compound
5. **Design Patent:** Any **new** and **nonobvious** ornamental design for an article of manufacture  
Protects only the **appearance** of an article, **not** its structural or functional features  
Design patent has a term of **14 years** from grant  
Proceedings relating to granting of design patents are the same as other patents
6. **Plant Patent:** Any newly **discovered** and **asexually reproduced**, distinct and **new variety** of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber-propagated plant or a plant found in an uncultivated state

### How is a patent granted?

The first step in securing a patent is to file a patent application.

The application generally contains the title of the invention, as well as an indication of its technical field.

It must include the background and a description of the invention, in clear language and enough detail that an individual with an average understanding of the field could use or reproduce the invention.

Such descriptions are usually accompanied by visual materials – drawings, plans or diagrams – that describe the invention in greater detail.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

The application also contains various “claims”, that is, information to help determine the extent of protection to be granted by the patent.

### **What kinds of inventions can be Patented?**

An invention must fulfill the following conditions to be protected by a patent:

1. **Novelty:** It must show an element of “novelty” (meaning some new characteristic that is not part of the body of existing knowledge in its particular technical field).
2. **Non-Obvious:** The invention must show an “inventive step” that is “non-obvious” to a person with average knowledge of the technical field.
3. **Utility:** It must be of practical use.

The body of existing knowledge is called “prior art”.

Its subject matter must be accepted as “patentable” under law.

In many countries, scientific theories, mathematical methods, plant or animal varieties, discoveries of natural substances, commercial methods or methods of medical treatment (as opposed to medical products) are not generally patentable.

### **Who grants patents?**

Patents are granted by national patent offices or by regional offices that carry out examination work for a group of countries – for example, the European Patent Office (EPO) and the African Intellectual Property Organization (ARIPO).

Under such regional systems, an applicant requests protection for an invention in one or more countries, and each country decides whether to offer patent protection within its borders.

The WIPO-administered Patent Cooperation Treaty (PCT) provides for the filing of a single international patent application that has the same effect as national applications filed in the designated countries.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

An applicant seeking protection may file one application and request protection in as many signatory states as needed.

**There are three types of patents:**

**Utility patents** may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;

**Design patents** may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture;

and **Plant patents** may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

**Patent Infringement and Actions against Patent Infringement**

Unauthorized making, using, offering for sale or selling any patented invention is called as Patent infringement.

Patentee may sue for relief in the appropriate Federal court where remedies include:

- ▶ injunction to prevent the continuation of the infringement
- ▶ Money damages because of the infringement

**What are Copyright and Related Rights?**

Copyright laws grant authors, artists and other creators protection for their literary and artistic creations, generally referred to as “works”.

A closely associated field is “related rights” or rights related to copyright that encompass rights similar or identical to those of copyright, although sometimes more limited and of shorter duration.

The beneficiaries of related rights are: performers (such as actors and musicians) in their performances; producers of phonograms (for example, compact discs) in their sound recordings; and broadcasting organizations in their radio and television programs.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

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

### **What rights do copyright and related rights provide?**

The creators of works protected by copyright, and their heirs and successors (generally referred to as “right holders”), have certain basic rights under copyright law.

They hold the exclusive right to use or authorize others to use the work on agreed terms.

The right holder(s) of a work can authorize or prohibit:

1. its reproduction in all forms, including print form and sound recording.
2. its public performance and communication to the public.
3. its broadcasting; its translation into other languages.
4. its adaptation, such as from a novel to a screenplay for a film.

Similar rights of, among others, fixation (recording) and reproduction are granted under related rights.

Many types of works protected under the laws of copyright and related rights require mass distribution, communication and financial investment for their successful dissemination (for example, publications, sound recordings and films).

Hence, creators often transfer these rights to companies better able to develop and market the works, in return for compensation in the form of payments and/or royalties (compensation based on a percentage of revenues generated by the work).

The economic rights relating to copyright are of limited duration – beginning with the creation and fixation of the work, and lasting for not less than 60 years after the creator’s death.



National laws may establish longer terms of protection.

This term of protection enables both creators and their heirs and successors to benefit financially for a reasonable period of time.

Related rights enjoy shorter terms, normally 60 years after the performance, recording or broadcast has taken place.

Copyright and the protection of performers also include moral rights, meaning the right to claim authorship of a work, and the right to oppose changes to the work that could harm the creator's reputation.

Rights provided for under copyright and related rights laws can be enforced by right holders through a variety of methods and including civil action suits, administrative remedies and criminal prosecution.

### **What are the benefits of protecting copyright and related rights?**

Copyright and related rights protection is an essential component in fostering human creativity and innovation.

Giving authors, artists and creators incentives in the form of recognition and fair economic reward increases their activity and output and can also enhance the results.

By ensuring the existence and enforceability of rights, individuals and companies can more easily invest in the creation, development and global dissemination of their works.

This, in turn, helps to increase access to and enhance the enjoyment of culture, knowledge and entertainment the world over, and also stimulates economic and social development.

### **How have copyright and related rights kept up with advances in technology?**

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

The field of copyright and related rights has expanded enormously during the last several decades with the spectacular progress of technological development that has, in turn, yielded new ways of disseminating creations by such forms of communication as satellite broadcasting, compact discs and DVDs.

Widespread dissemination of works via the Internet raises difficult questions concerning copyright and related rights in this global medium.

WIPO is fully involved in the ongoing international debate to shape new standards for copyright protection in cyberspace.

In that regard, the Organization administers the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), known as the “Internet Treaties”.

These treaties clarify international norms aimed at preventing unauthorized access to and use of creative works on the Internet.

### **How are copyright and related rights regulated?**

Copyright and related rights protection is obtained automatically without the need for registration or other formalities.

However, many countries provide for a national system of optional registration and deposit of works.

These systems facilitate, for example, questions involving disputes over ownership or creation, financial transactions, sales, assignments and transfer of rights.

Many authors and performers do not have the ability or means to pursue the legal and administrative enforcement of their copyright and related rights, especially given the increasingly global use of literary, music and performance rights.

As a result, the establishment and enhancement of collective management organizations (CMOs), or “societies”, is a growing and necessary trend in many countries.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

These societies can provide their members with efficient administrative support and legal expertise in, for example, collecting, managing and disbursing royalties gained from the national and international use of a work or performance.

Certain rights of producers of sound recordings and broadcasting organizations are sometimes managed collectively as well.

### **What is a trademark?**

A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company.

Its origin dates back to ancient times when craftsmen reproduced their signatures, or “marks”, on their artistic works or products of a functional or practical nature.

Over the years, these marks have evolved into today’s system of trademark registration and protection.

The system helps consumers to identify and purchase a product or service based on whether its specific characteristics and quality – as indicated by its unique trademark – meet their needs.

### **What do trademarks do?**

Trademark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, or to authorize others to use them in return for payment.

The period of protection varies, but a trademark can be renewed indefinitely upon payment of the corresponding fees.

Trademark protection is legally enforced by courts that, in most systems, have the authority to stop trademark infringement.

In a larger sense, trademarks reward their owners with recognition and financial profit.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

Trademark protection also hinders the efforts of unfair competitors, such as counterfeiters, to use similar distinctive signs to market inferior or different products or services.

The system enables people with skill and enterprise to produce and market goods and services in the fairest possible conditions, thereby facilitating international trade.

### **What kinds of trademarks can be registered?**

Trademarks may be one or a combination of words, letters and numerals.

They may consist of drawings, symbols or three dimensional signs, such as the shape and packaging of goods.

In some countries, non-traditional marks may be registered for distinguishing features such as holograms, motion, color and non-visible signs (sound, smell or taste).

Collective marks are owned by an association whose members use them to indicate products with a certain level of quality and who agree to adhere to specific requirements set by the association.

Such associations might represent, for example, accountants, engineers or architects.

They may be granted to anyone who can certify that their products meet certain established standards.

Some examples of recognized certification are the internationally accepted “ISO 9000” quality standards and Ecolabels for products with reduced environmental impact.

### **How is a trademark registered?**

First, an application for registration of a trademark must be filed with the appropriate national or regional trademark office.

The application must contain a clear reproduction of the sign filed for registration, including any colors, forms or three-dimensional features.

It must also contain a list of the goods or services to which the sign would apply.

The sign must fulfil certain conditions in order to be protected as a trademark or other type of mark.

It must be distinctive, so that consumers can distinguish it from trademarks identifying other products, as well as identify a particular product with it.

It must neither mislead nor deceive customers nor violate public order or morality.

Finally, the rights applied for cannot be the same as, or similar to, rights already granted to another trademark owner.

This may be determined through search and examination by national offices, or by the opposition of third parties who claim to have similar or identical rights.

### **Trademark Registration:**

Trademark rights established by:

- ▶ First to use the "mark"
- ▶ First to file application with PTO(Patent and Trademark office)

Federal registration not required but has advantages. Registered owner can use mark nationwide.

Registration granted for 10 years and is renewable for another 10 years.

PTO is responsible for the federal registration of trademarks

PTO assigns it a serial number and sends the applicant a receipt about two months after filing

Examining attorney at the PTO reviews the application and determines whether the mark may be registered

Examining attorney will approve the mark for publication in the Official Gazette

- ▶ PTO sends Notice of Publication to the applicant

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

- ▶ Opportunity for public opposition
- ▶ Certificate of Registration 12 weeks after publication

Use of TM (trademark) designation with the mark to alert the public to the claim

Prior registration with PTO not required

Registration symbol, ®, may only be used when the mark is registered in the PTO

### **How extensive is trademark protection?**

Almost all countries in the world register and protect trademarks.

Each national or regional office maintains a Register of Trademarks containing full application information on all registrations and renewals, which facilitates examination, search and potential opposition by third parties.

To avoid the need to register separate applications with each national or regional office, WIPO administers an international registration system for trademarks.

### **What is an Industrial Design?**

An industrial design refers to the ornamental or aesthetic aspects of an article.

A design may consist of three-dimensional features, such as the shape or surface of an article, or two-dimensional features, such as patterns, lines or color.

Industrial designs are applied to a wide variety of industrial products and handicrafts: from technical and medical instruments to watches, jewelry and other luxury items; from house wares and electrical appliances to vehicles and architectural structures; from textile designs to leisure goods.

To be protected under most national laws, an industrial design must be new or original and nonfunctional.

This means that an industrial design is primarily of an aesthetic nature, and any technical features of the article to which it is applied are not protected by the design registration.

However, those features could be protected by a patent.

### **Why protect industrial designs?**

Industrial designs are what make an article attractive and appealing; hence, they add to the commercial value of a product and increase its marketability.

When an industrial design is protected, the owner – the person or entity that has registered the design – is assured an exclusive right and protection against unauthorized copying or imitation of the design by third parties.

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, encouraging creativity and promoting more aesthetically pleasing products.

Protecting industrial designs helps to promote economic development by encouraging creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts.

Designs contribute to the expansion of commercial activity and the export of national products.

Industrial designs can be relatively simple and inexpensive to develop and protect.

They are reasonably accessible to small and medium-sized enterprises as well as to individual artists and crafts makers, in both developed and developing countries.

### **How can industrial designs be protected?**

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

In most countries, an industrial design must be registered in order to be protected under industrial design law.

As a rule, to be registrable, the design must be “new” or “original”.

Countries have varying definitions of such terms, as well as variations in the registration process itself.

Generally, “new” means that no identical or very similar design is known to have previously existed.

Once a design is registered, a registration certificate is issued.

Following that, the term of protection granted is generally five years, with the possibility of further renewal, in most cases for a period of up to 15 years.

Hardly any other subject matter within the realm of intellectual property is as difficult to categorize as industrial designs.

And this has significant implications for the means and terms of its protection.

Depending on the particular national law and the kind of design, an industrial design may also be protected as a work of applied art under copyright law, with a much longer term of protection than the standard 10 or 15 years under registered design law.

In some countries, industrial design and copyright protection can exist concurrently.

In other countries, they are mutually exclusive: once owners choose one kind of protection, they can no longer invoke the other.



Under certain circumstances an industrial design may also be protectable under unfair competition law, although the conditions of protection and the rights and remedies available can differ significantly.

**How extensive is industrial design protection?**

Generally, industrial design protection is limited to the country in which protection is granted.

The Hague Agreement Concerning the International Registration of Industrial Designs, a WIPO administered treaty, offers a procedure for international registration of designs.

Applicants can file a single international application either with WIPO or the national or regional office of a country party to the treaty. The design will then be protected in as many member countries of the treaty as the applicant designates.

**What is a Geographical Indication?**

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin.

Most commonly, a geographical indication consists of the name of the place of origin of the goods.

Agricultural products typically have qualities that derive from their place of production and are influenced by specific local geographical factors, such as climate and soil.

Whether a sign functions as a geographical indication is a matter of national law and consumer perception.

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

The use of geographical indications is not limited to agricultural products.

They may also highlight specific qualities of a product that are due to human factors found in the product's place of origin, such as specific manufacturing skills and traditions.

The place of origin may be a village or town, a region or a country.

An example of the latter is "Switzerland" or "Swiss", perceived as a geographical indication in many countries for products made in Switzerland and, in particular, for watches.

### **Why do geographical indications need protection?**

Geographical indications are understood by consumers to denote the origin and quality of products.

Many of them have acquired valuable reputations which, if not adequately protected, may be misrepresented by commercial operators.

False use of geographical indications by unauthorized parties, for example "Darjeeling" for tea that was not grown in the tea gardens of Darjeeling, is detrimental to consumers and legitimate producers.

The former are deceived into believing they are buying a genuine product with specific qualities and characteristics, and the latter are deprived of valuable business and suffer damage to the established reputation of their products.

### **What is the difference between a geographical indication and a trademark?**

A trademark is a sign used by a company to distinguish its goods and services from those produced by others.

It gives its owner the right to prevent others from using the trademark.

A geographical indication guarantees to consumers that a product was produced in a certain place and has certain characteristics that are due to that place of production.

It may be used by all producers who make products that share certain qualities in the place designated by a geographical indication.

### **What is a “generic” geographical indication?**

If the name of a place is used to designate a particular type of product, rather than to indicate its place of origin, the term no longer functions as a geographical indication.

For example, “Dijon mustard”, a kind of mustard that originated many years ago in the French town of Dijon, has, over time, come to denote mustard of that kind made in many places.

Hence, “Dijon mustard” is now a generic indication and refers to a type of product, rather than a place.

### **How are geographical indications protected?**

Geographical indications are protected in accordance with national laws and under a wide range of concepts, such as laws against unfair competition, consumer protection laws, laws for the protection of certification marks or special laws for the protection of geographical indications or appellations of origin.

In essence, unauthorized parties may not use geographical indications if such use is likely to mislead the public as to the true origin of the product.

Applicable sanctions range from court injunctions preventing unauthorized use to the payment of damages and fines or, in serious cases, imprisonment.

### **What is the World Intellectual Property Organization?**

Established in 1970, the World Intellectual Property Organization (WIPO) is an international

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

organization dedicated to helping ensure that the rights of creators and owners of intellectual property are protected worldwide, and that inventors and authors are therefore recognized and rewarded for their ingenuity.

This international protection acts as a spur to human creativity, pushing back the limits of science and technology and enriching the world of literature and the arts.

By providing a stable environment for marketing products protected by intellectual property, it also oils the wheels of international trade.

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

### **What's The Process To Patent an Idea In India?**

Imagine that you get a breakthrough idea about an application. So, you try and build the application. Your idea is now a real invention and it works.

To get ownership of this invention and protect it from being copied, one can file a patent for their ideas. Let us walk you through the process to file a patent.

Process of Patent Registration in India

#### **1. Assemble the concept and ideas**

Brief down the idea and invention with a detailed description. Collect the information about your ideas which should be inclusive of:

- The area/industry of invention
- Description and purpose of the invention along with its working
- Pros and cons of the invention and industrial applicability

#### **2. Make visual illustrations**

In the case of a working model, provide the drawings and designs of the invention in the patent application.

This provides a clear picture for a better understanding of the invention.

#### **3. Check whether the invention falls under the patentable category**

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

Not all inventions can be patented. As per the Indian Patent Act, there are several categories under which the inventions cannot be patented.

#### **4. Patentability criteria**

- Novelty
- Non-obviousness
- Industrial applications

One must also conduct the research and form the patentability report during the process of patent search.

Following this, one can decide whether they should go forward with the process of patent registration. The

appropriate patentability report allows one to save ample effort and time during the patent application.

#### **5. Writing the application of patent**

During the process of the patent application, one can either go for provisional application or complete specification.

When the invention is complete, you can opt for the complete patent and if your invention is a work in progress that can be completed in 12 months, opt for a provisional application.

#### **6. Application publication**

18 months after completing the patent filing, the application is finally published.

In case one wants to publish the application earlier, they can do so by making special requests.

#### **7. Examination request**

Once the controller receives the patent application, it is then approved.

This is among the last and important steps of the process of a patent.

The examiners consider several criteria and review the application carefully.

#### **8. Responding and clearing all objections**

Depending on the patentability report and examinations, the objections will raise and clear.

This allows the inventor to clarify the invention and successfully complete the process of the patent.

## **9. Patent grant**

The last and most essential step is granting of the patent.

Once all the requirements of the patent are met, the application is approved and the patent is granted.

Following this, the patent grant is published in the patent journal.

## **10: MAINTENANCE FEES AND PATENT TERMS**

The normal term of a patent is 20 years after filing of the earliest-filed nonprovisional patent application.

In a broad sense, you will be in the patent process because you still need to maintain the patent and communicate with the Patent Office.

After your patent is granted, you must pay fees after the grant date of your patent.

Otherwise, your patent will expire before its full term is up for failure to pay these required fees.

**End of UNIT 4**

**ADDITIONAL READING MATERIAL – OUT OF SYLLABUS (JUST READ TWICE)**

## **ORIGIN AND DEVELOPMENT OF INTELLECTUAL PROPERTY**

### **Paris Convention**

Paris Convention is an International Convention, which provides the common platform for protection of industrial property in various countries of the world. Prior to the existence of any international convention in the field of industrial property, seeking protection for industrial property in various countries was difficult due to diversity of their laws.

Paris convention for the protection of Industrial property was convened in Paris in 1883 and was initially signed by 11 states (WIPO, 2017) Convention was revised at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967 and was amended in 1979 (WIPO, 2017).

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

The Paris Convention addresses patents, industrial design rights, trademarks, well known marks, names and unfair competition (Colston, 1999). The Republic of India is a member of Paris Convention since December 7, 1998. At present total 177 member countries are part of the Paris Convention.

### **Berne Convention**

Berne Convention was formulated in the year 1886, for the protection of Literary and Artistic works. “To protect, in as effective and uniform a manner as possible, the rights of the authors in their literary and artistic works” is the aim of the Convention (WIPO, 2017). Berne Convention protects literary works, artistic works, dramatic works, musical works and cinematographic works and it also protects derivative works based on other pre-existing works, such as translation, adaptations, arrangements of music and other alterations of a literary or artistic work. Berne Convention states the duration of the copyright protection as 50 years after the author’s death. The Berne Convention was revised several times to cope up with the technological challenges that is, first revision took place in Berlin in 1908, followed by the revision in Rome in 1928, in Brussels in 1948, in Stockholm in 1967, and in Paris in 1971 (Ahuja, 2015).

Basic principles of Berne Convention are, “national treatment”, according to which works originating in one of the member States are to be given the same protection in each of the member States as these grant to works of their own nationals, “automatic protection”, according to which such national treatment is not dependent on any formality that is, protection is granted automatically and is not subject to the formality of registration, deposit or the like, and “independent of protection”, according to which enjoyment and exercise of the rights granted is independent of the existence of protection in the country of origin of the work. It is administered by WIPO.

### **Madrid Agreement**

Madrid Agreement was framed on April 14, 1891 which deals with International registration of Marks and Protocol related to Madrid Agreement, concluded in 1989. Contracting countries to this Madrid Agreement, secure protection for their marks applicable to goods or services, registered in the country of origin, by filling the said marks at the International

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad

Bureau of Intellectual Property. Duration of the protection is valid for 10 years and which can be renewed by paying prescribed fees (Arora, 2016). Currently, total 100 members are under Madrid Agreement covering 116 contracting countries. It is administered by WIPO.

### **Patent Co-Operation Treaty**

The Patent Co-Operation treaty is an International treaty, which assists applicants in seeking patent protection internationally for their inventions. It also helps patent offices with their patent granting decisions, and facilitates public access to a wealth of technical information relating to those inventions. PCT was framed at Washington on June 19, 1970 and the latest amendment to the PCT regulations was done on 1 July, 2017. There are currently 152 contracting countries (Patent Cooperation Treaty, 2017).

### **TRIPS Agreement**

TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement is a multilateral agreement on intellectual property, which came into force on 1 January, 1995. TRIPS Agreement is administered by WTO (World Trade Organization). It is an attempt to narrow the gaps in the way these rights are protected around the world, and to bring them under common international rules (WTO, 2017). The agreement operates on a foundation of two of the existing conventions by embodying the substantive provisions of the Paris and Berne Conventions, as well as adding new provisions (Colston, 1999). The types of intellectual property covered by the TRIPS Agreement are copyright and related rights, trademarks, including service marks, geographical indications, industrial designs, patents, layout-designs of integrated circuits and undisclosed information, including trade secrets. It establishes minimum levels of protection that each government has to give to the intellectual property of fellow WTO members (WTO, 2017).

### **Term of Trademark**

The registration is valid for ten years and is renewable for a subsequent period of ten years. The registration is required to be renewed within 12 months before the date of expiry of the registration. Nonrenewal leads to a lapse of registration. The failure in renewing the trademark within the stipulated period of time and a grace period of maximum one year granted for restoration of the trademark, automatically leads to removal of the trademark from the Register of Trademarks.

Prepared By  
Dr.Swapna Raghunath,  
Department of ECE,  
GNITS, Hyderabad



### Term of Copyright

The term of copyright is, in most cases, the lifetime of the author plus 60 years thereafter.

### Term of a Patent

Every patent granted under the Act shall be dated as of the date on which the complete specification was filed. The Second Amendment prescribed a uniform term of 20 years from the date of filing the patent application in India<sup>63</sup> for all categories of patents in compliance with Article 33 of TRIPS. There is no provision for an extension of the patent term. Term of patent in case of applications filed under the PCT designating India is twenty years from the international filing date.

### Term of Design

The first term of registration is ten years after which it can be renewed for an additional five-year period.

### Term of Geographical Indication

Registrations for geographical indications are not subject to a specific period of validity.

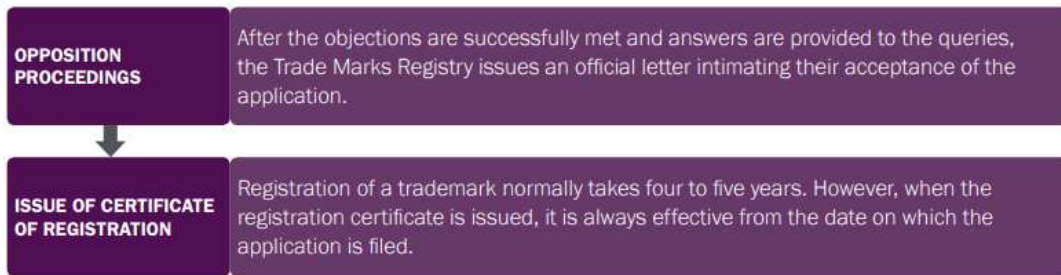
This means that the protection for a registered geographical indication will remain valid unless the registration is cancelled.

### Summary of the Terms of IPR

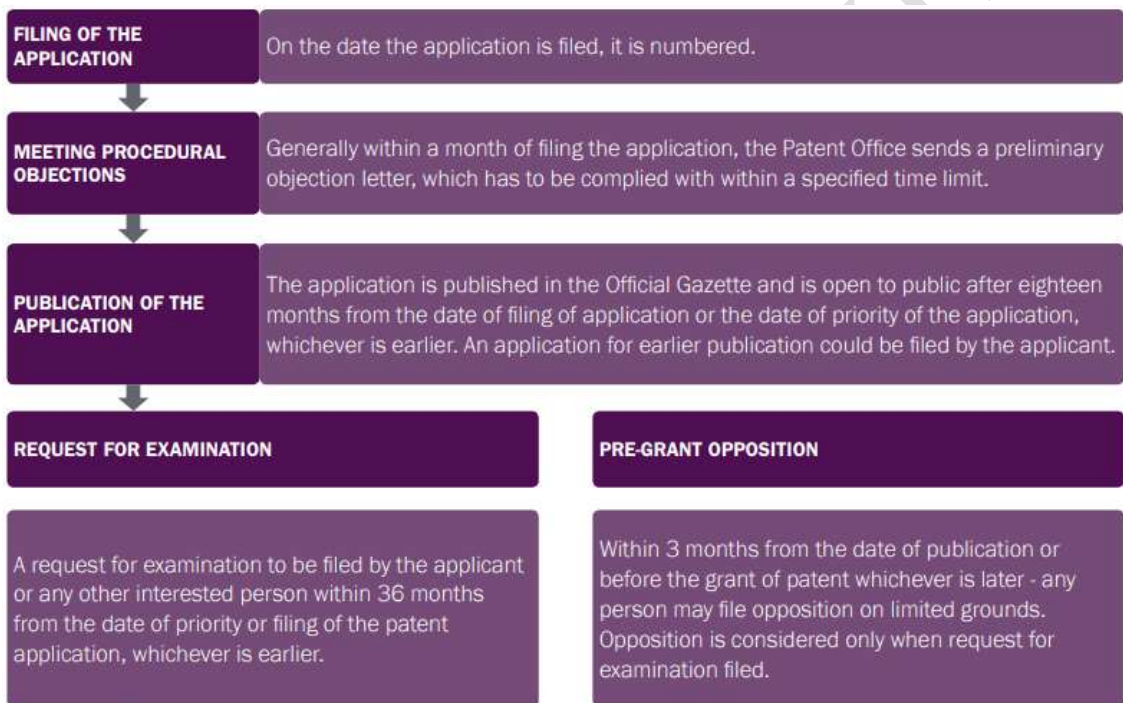
S.No.	Right	Term	Extension after Renewal
1.	Copyright	Lifetime of the author plus 60 years thereafter	No Extension
2.	Patent	20 years from the date of filing	No Extension
3.	Trademark	10 years	10 years (Can be renewed repeatedly)
4.	Design	10 years	5 years (Can be renewed repeatedly upto a maximum of 25 years)
5.	Geographical Indication	Indefinite, unless registration is cancelled	NA

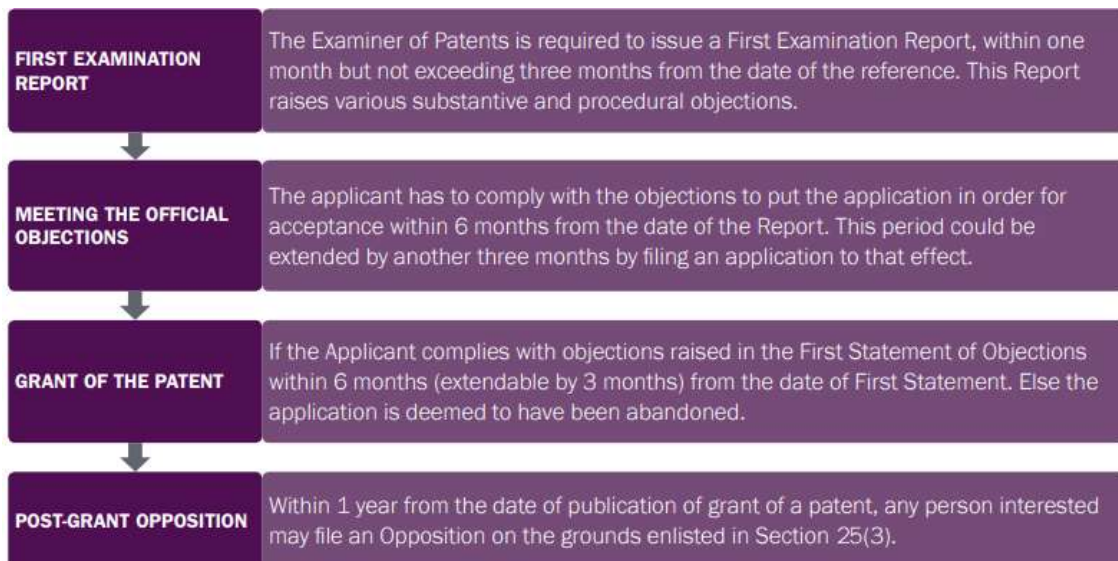
## Trademark Procedure





## Patent Procedure





### Geographical Indication Procedure

