

Topic:	Brief Introduction of Patent and Design
Concepts to be covered:	History of IP in India, Overview of Patents and Designs, Overview of different sections
Objective of the session:	To introduce Patents and Designs

1. HISTORY OF IP

In ancient India, intellectual achievements, particularly in fields such as arts, literature, and medicine, were valued and honored. However, the modern concept of intellectual property, as we understand it today, did not exist. Knowledge systems like ayurveda and architecture thrived through oral traditions and communal sharing. The focus was more on the spread of knowledge than on claiming exclusive ownership.

The history of intellectual property (IP) lacks formal documentation, but evidence suggests that its primitive form existed as early as 500 BCE in Sybaris, an ancient Greek city. Sybaris citizens reportedly received a year's exclusivity for any innovative luxury item they developed, signifying early recognition of intellectual contributions. Then in about 200 BCE a judge in Alexandria, Vitruvius, exposed several poets who stole the text of others in their contemporary era. In the period of 1-100 BCE, there were many discussions among Roman jurists regarding intellectual property rights. Later in Italy in 1474 a statute was passed which was the first statute protecting intellectual property. It not only recognized the rights of inventors but also gifted compensation for infringement of such rights.

A more organized approach to IP governance emerged in medieval Europe. In 1623, Britain enacted a law empowering guilds (association of artisans or merchants) to innovate and trade their creations. However, public discontent led to the law's replacement by the Statute of Monopolies, which granted inventors exclusive rights to their creations for a 14-year term, establishing a foundation for modern patent systems.

In 1710, the British Parliament introduced the Statute of Anne, a landmark law related to copyright. It awarded authors exclusive rights to reproduce and distribute their works, with an option to renew protection for another 14 years. This law played a pivotal role in encouraging creative expression and securing intellectual property rights.

Between 1880 and 1889, patent laws of most European countries started to develop. By the end of the 18th century and the beginning of the 19th century, almost every country started laying down IP legislation to protect their novel inventions and creations.

2. HISTORY OF IP IN INDIA

The formal introduction of intellectual property legislation started in India under the British era. The following timeline highlights India's journey in developing a comprehensive framework for intellectual property law, balancing innovation, public interest, and compliance with international standards:

2.1 Developments during Pre-Independence Era

Year	Law/Amendment	Key Features/Developments
1856	Act VI of 1856	<ul style="list-style-type: none"> ● First formal IP law of India modelled on British Patent Law of 1852; ● Provided exclusive rights for 14 years. ● Covered inventions that were new and useful ● Aimed to attract British and European inventors to introduce their inventions into the Indian market ● Repealed after one year as it was enacted without the prior approval of the British Crown, which was a procedural error.
1857	Act IX of 1857	<ul style="list-style-type: none"> ● Addressed procedural deficiency of previous Act. ● Introduced a structured system for intellectual property rights in India
<p>The Act VI of 1856 is significant as the starting point for the evolution of intellectual property rights in India, marking the formal introduction of patents and the idea of incentivizing innovation through legal protection</p>		

1872	Patterns and Designs Protection Act XIII of 1872	<ul style="list-style-type: none"> ● First comprehensive IP law ● To align India's intellectual property regime more closely with British laws and practices ● Granted protection to inventions and industrial designs. ● Patents were granted for a limited period, typically 14 years ● Act's significant contribution was the inclusion of provisions for protecting industrial designs. ● By combining provisions for patents and designs, the Act sought to address both functional and aesthetic innovations under a single framework. ● Applicants were required to submit detailed specifications or representations of their inventions or designs to the authorities for registration.
<p>The Patterns and Designs Protection Act of 1872 laid the foundation for intellectual property legislation in India.</p>		
1883	The Protection of Inventions Act, XVI of 1883	<ul style="list-style-type: none"> ● A supplementary act that provided additional protections and addressed some of the shortcomings of the 1872 Act ● Improved enforcement mechanisms ● It granted exclusive rights to inventors for a specified duration, allowing to introduce a provision to protect novelty of the invention, which prior to making application for their protection were disclosed in the Exhibition of India ● A grace period of 6 months was provided ● Requirement of detailed descriptions and specifications of their inventions for registration

		<ul style="list-style-type: none"> ● To qualify for protection, inventions had to meet certain criteria, including novelty (being new) and utility (having practical application). ● provided a framework for addressing disputes related to patent infringement, allowing inventors to take legal action ● The Act addressed ambiguities in earlier laws, making it easier for inventors to understand and claim their rights.
<p>The Protection of Inventions Act, 1883, played a key role in advancing the legal framework for patents in colonial India.</p>		
1888	The Inventions and Designs Act, 1888	<ul style="list-style-type: none"> ● This act replaced the earlier laws, further refining the provisions for patents and designs. ● Combined provisions for inventions and designs; streamlined administrative processes. ● In the year 1883, certain modifications in the patent law were made in the United Kingdom and it was considered that those modifications should also be incorporated in the Indian law. ● In 1888 an Act was introduced to consolidate and amend the law relating to invention and designs in conformity with the amendments made in the British law.
<p>The Inventions and Designs Act, 1888 provided a more comprehensive and streamlined framework for protecting inventions and designs. The Act covered both patents for inventions and protection of industrial designs, integrating their regulation under a single piece of legislation. This Act laid the groundwork for the Indian Patents and Design Act of 1911.</p>		

1911	The Indian Patents and Designs Act, 1911	<ul style="list-style-type: none"> ● A more comprehensive and unified law that consolidated previous laws and remained in force until independence ● It was the first consolidated and comprehensive legislation to address both patents and industrial designs under a unified framework, ● Designed to streamline the registration, enforcement, and protection processes for intellectual property. ● To be eligible for a patent, an invention had to be new, useful, and non-obvious. ● The Act allowed for the protection of both processes and products. ● Provided protection for industrial designs, safeguarding the aesthetic and ornamental aspects of products. ● The applicants were required to submit detailed specifications and representations of their inventions or designs. ● Included provisions for legal recourse in cases of infringement, allowing rights holders to seek damages and injunctions. ● Laid down penalties for unauthorized use of registered patents or designs. ● Provisions were included for voluntary and compulsory licensing
<p>This Act was further amended in 1920 to enter into reciprocal arrangements with the UK and other countries for securing priority. In 1930, further amendments were made to incorporate, inter-alia, provisions relating to grant of secret patents, patent of addition, use of invention by</p>		

Government, powers of the Controller to rectify register of patent and increase of term of the patent from 14 years to 16 years. In 1945, an amendment was made to provide for filing of provisional specification and submission of complete specification within nine months.

2.2 Developments during Post-Independence Era

Year	Law/Amendment	Key Features/Developments
1947		After independence in 1947, India began to review and reform its IPR laws to align them with national priorities such as public health, industrial development, and self-reliance. India sought to reform its intellectual property system to better suit its developmental goals, including self-reliance in critical industries like pharmaceuticals and chemicals. It was found desirable to enact comprehensive patent law owing to substantial changes in political and economic conditions in the country.
1949		The Government of India constituted a committee under the Chairmanship of Justice (Dr.) Bakshi Tek Chand , a retired Judge of Lahore High Court, in 1949 to review the patent law in India in order to ensure that the patent system is conducive to the national interest. The committee submitted recommendations for prevention of misuse or abuse of patent right in India and suggested amendments to sections 22, 23 & 23A of the Patents & Designs Act, 1911 on the lines of the United Kingdom Acts 1919 and 1949. The committee also observed that the Patents Act should contain clear indication to ensure that food and medicine and surgical and curative devices are made available to the public at the cheapest price commensurate with giving reasonable compensation to the patentee.
1950	Act XXXII of 1950	<ul style="list-style-type: none"> ● Provision related to working of inventions and compulsory licence/revocation ● Endorsement of the patent with the words 'licence of right' on an application by the

		Government so that the Controller could grant licences.
1952	Act LXX of 1952	<ul style="list-style-type: none"> ● Amendment was made to provide compulsory licence in relation to patents in respect of food and medicines, insecticide, germicide or fungicide and a process for producing substance or any invention relating to surgical or curative devices. ● A bill was introduced in the Parliament in 1953 (Bill No.59 of 1953). ● However, the Government did not press for the consideration of the bill and it was allowed to lapse.
1957-69	<p>The Government of India appointed Justice N. Rajagopala Ayyangar Committee to examine the question of revision of the Patent Law and advise the government accordingly. The committee's 1959 report highlighted the need to limit monopolistic practices and prioritize public interest in sectors like health and food security. The committee recommended retention of the Patent System, despite its shortcomings. Key Recommendations of the Ayyangar Committee included:</p> <ul style="list-style-type: none"> ● Abolish product patents in critical areas like pharmaceuticals, food, and agrochemicals to prevent monopolies. ● Focus on process patents to encourage innovation without restricting market competition. ● Establish a more affordable and efficient patent system accessible to domestic inventors. <p>This report recommended major changes in the law which formed the basis of the introduction of the Patents Bill, 1965. This bill was introduced in the Lok Sabha on 21st September, 1965, which however lapsed. In 1967, again an amended bill</p>	

	<p>was introduced which was referred to a Joint Parliamentary Committee and on the final recommendation of the Committee, the Patents Act, 1970 was passed.</p>	
1970	The Patents Act, 1970	<ul style="list-style-type: none"> ● The Patents Act of 1970 was a landmark reform. ● It abolished product patents in critical sectors like pharmaceuticals and food to promote affordable access and domestic innovation. ● Only process patents were allowed, enabling Indian companies to develop cheaper versions of patented drugs. ● This Act remained in force for about 24 years without any change till December 1994.
1990s	<p>Globalization and TRIPS Agreement</p> <p>India became a signatory to the World Trade Organization (WTO) in 1995, which required compliance with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. This marked a significant shift in India's IPR regime and India needed to compliance the requirements of TRIPS like</p> <ul style="list-style-type: none"> - Grant patents for inventions in all fields of technology, including pharmaceuticals and agricultural products. - Provide a minimum patent term of 20 years. - Prohibit discrimination in granting patents based on the field of technology. - Ensure effective enforcement of intellectual property rights. - Allow for compulsory licensing under specific conditions. <p>This marked a significant shift in India's IPR regime. India, as a developing country, was granted a 10-year transition period (1995–2005) to fully comply with TRIPS for product patents. During this period, India implemented a mailbox system to accept patent applications for pharmaceuticals and agrochemical products, with a provision for granting "exclusive marketing rights" (EMRs) for eligible applications.</p>	

	<p>In December 1994, an ordinance effecting certain changes in the Act was issued, which ceased to operate after six months. Subsequently, another ordinance was issued in 1999. This ordinance was subsequently replaced by the Patents (Amendment) Act, 1999 that was brought into force retrospectively from 1st January, 1995.</p>	
1999	<p>First TRIPS-Compliant Amendments of 1999</p>	<ul style="list-style-type: none"> ● Aligned with WTO-TRIPS; introduced mail-box applications and Exclusive Marketing Rights (EMRs) ● Applied retrospectively from 1st January 1995. ● Provided for filing of applications for product patents in the areas of drugs, pharmaceuticals and agro chemicals
2002	<p>Patents (Amendment) Act, 2002</p>	<ul style="list-style-type: none"> ● Strengthened patent laws ● extended patent term to 20 years for all inventions ● Introduced opposition. ● Introduction of new Patent Rules 2003 by replacing earlier Patents Rules 1972
2005	<p>Patents (Amendment) Act, 2005</p>	<ul style="list-style-type: none"> ● Reintroduced product patents in pharmaceuticals, chemicals, and food ● Full compliance with the TRIPS-requirements.
2000	<p>The Design Act 2000</p>	<p>The Design legislation was combined with patents till Indian patents and Designs Act 1911. In 1970, a separate Act was enacted for the patent, i.e. the Patent Act, 1970. The Indian Patents and Designs Act, 1911, remained in force for designs only. Finally, in the year 2000, a dedicated Act for the Design</p>

		was passed, which came into force in 2001. The corresponding
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2.3 Contemporary Era IP Legislations in India

India now has a comprehensive IPR regime covering:

1. Patents: Governed by the Patents Act, 1970 (as amended in 2005).
2. Trademarks: Regulated by the Trademarks Act, 1999.
3. Copyrights: Administered under the Copyright Act, 1957, with major amendments in 2012.
4. Geographical Indications: Protected under the Geographical Indications Act, 1999.
5. Designs: Managed by the Designs Act, 2000.
6. The Semiconductor Integrated Circuits Layout-Design Act, 2000
7. Plant Varieties: The Protection of Plant Varieties and Farmers' Rights Act, 2001 safeguards the rights of plant breeders and farmers.

India's IPR framework continues to evolve, reflecting its growing role in the global economy while addressing socio-economic realities and developmental goals.

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3. https://ipindia.gov.in/writereaddata/Portal/News/145_1_103-ip-expression-booklet-09sep2014.pdf
4. Intellectual Property Rights and its Development in India , S. Lakshmana Prabu, T.N.K. Suriyaprakash, C. Dinesh Kumar , Pharma Times - Vol. 44 - No. 07 - July 2012
5. <https://articles.manupatra.com/article-details/PATENT-LAWS-AND-THEIR-SERVICE-FOR-IP-RIGHTS>

3. Overview of Patents & Designs

Intellectual Property (IP) refers to the creations of the mind that are granted legal protection, allowing individuals or organizations to claim ownership and exclusive rights over their inventions or creative outputs. It is a tradable intangible property for which enforceable legal rights are provided by the state through enacted laws of the land. IP laws aim to encourage innovation and creativity by ensuring that creators can benefit from their intellectual contributions. In return, a complete disclosure of the invention is made to the public to ensure knowledge percolation into the society, further research and development, and subsequent economic growth.

IP can be broadly divided into two primary categories: Copyrights and Related Rights, and Industrial Property Rights.

- **Copyrights and Related Rights:** These protect creative works in fields such as literature, art, and entertainment. Examples include books, publications, architectural designs, musical compositions, carvings, paintings, sculptures, films, and software or databases.
- **Industrial Property Rights:** These safeguard innovations and unique business identifiers, such as patents, trademarks, service marks, industrial designs, and geographical indications.

This framework ensures creators and businesses can protect their intellectual efforts while enabling societal progress through shared knowledge.

An Examiner of Patents and Designs, as the designation suggests, mainly deals with two forms of intellectual property rights, i.e. Patents and Designs. In this section, a brief overview of the two IP rights is discussed. The content is of most introductory nature with an objective to infuse the initial understanding of the two forms of IP that they may need to deal with. Both the topics shall be covered in greater details subsequently.

3.1 Overview of Patents and Designs

Topic	Patents	Designs
Definition	<p>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.</p>	<p>A design refers to the aesthetic or ornamental aspects of an article. It includes features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article by any industrial process or means. The article can be a two-dimensional or three-dimensional article, and should be capable of being made and sold separately. The design in the finished article should appeal to and be judged solely by the eye.</p>
What can be protected	<p>A product or a process, e.g.</p> <ul style="list-style-type: none"> - Machines (e.g., 3D printers). - Processes (e.g., a new method for water purification). - Compositions of matter (e.g., pharmaceutical drugs). - Improvements to existing inventions. 	<p>Visual appearance of a product rather than its functionality, e.g.</p> <ul style="list-style-type: none"> - Shape and configuration (e.g., the contour of a bottle or smart phone). - Surface patterns (e.g., textile designs). - Ornamental features applied to industrial articles, jewellery
Importance	<ul style="list-style-type: none"> - Encourage innovation by providing inventors with a financial incentive and recognition. - Protect the inventor's intellectual property from unauthorized use or replication. 	<ul style="list-style-type: none"> - Enhance the marketability of products through unique and attractive appearances. - Improve product aesthetics and hence business - Design is the simplest way to distinguish products

	<ul style="list-style-type: none"> - Drive technological advancements by publishing detailed information about the invention. - Increase economic activity and economic development 	<ul style="list-style-type: none"> - Provide a competitive edge by preventing imitation of a product's design.
Term of Protection	20 Years	10 years with possibility of an extension of 5 years
Criteria for Protection	<ul style="list-style-type: none"> - New or novel - Inventive (advancement in technology, and/or economic consideration) - Non-obvious (not so easy to create by PSITA) - Industrially applicable - Not covered under non-patentable inventions as defined under section 3 and 4 of the Patents Act - Invention clearly and sufficiently disclosed - One invention in one application 	<ul style="list-style-type: none"> - New and Original - Significantly distinguishable from designs or combination of designs already available publicly - Should not include any scandalous or obscene matter. - Should be applied to an article by an industrial process. - Should not include any feature that is purely functional. - Should not include any trademark or property mark.
Legislative Framework	The Patents Act 1970 (as amended)	The Designs Act 2000

	The Patents Rules 2003 (as amended)	The Designs Rules 2001 (as amended)
Who gets the right	First to file rule	First to file rule

4. Overview of Sections in Patents Act

The legislative framework related to various provisions of patents is systematically organized in the various sections of the Patents Act. The Indian Patents Act, 1970 is organized into 23 chapters and 163 sections (although some sections stand omitted/repealed). The following table lists the overview of important sections of The Patents Act, 1970 (as amended)

Relevant Section	Provisions
Section 1-2	Definitions of key terms, applicability and territorial scope
Section 3-4	Non-patentable inventions
Section 6-11	Applications for patents, procedure, provisional and complete specification, priority of claims
Section 11A-13	Publication, request for examination, Search and examination
Section 25	Opposition to patents, pre-grant and post-grant
Section 35	Secrecy direction for defence purpose
Section 39	Permission to file patents in foreign jurisdiction
Section 43-53	Grant of Patents and rights conferred thereby
Section 57-59	Amendment provisions
Section 60-62	restoration of lapsed patents
Section 63-66	Surrender and revocation
Section 82-83	Working of Patents
Section 84-94	Compulsory Licence
Section 99-103	Government use and acquisition of patents
Section 104-114	Patent Infringement
Section 118-124	Penalty provisions
Section 125-132	Patent Agents
Section 133-139	International arrangements
Section 140-160	Miscellaneous provisions

Overview of Sections in Designs Act

The legislative framework related to various provisions of Design protection is systematically organized in the various sections of the Designs Act 2000. The Indian Designs Act, 2000 is organized into 11 chapters and 48 sections. The following table lists the overview of different sections of the The Designs Act, 2000 (as amended)

Relevant Section	Provisions
Section 1-2	Definitions of key terms, Applicability and territorial scope
Section 3-10	Registration of designs
Section 11-20	Copyright in the registered designs
Section 21	Provision for grace period due to exhibition
Section 22-24	Legal proceedings and fees
Section 25-31	Design register and other documents in the patent office
Section 32-36	Powers and duties of the Controller
Section 37-42	Evidence in design matters
Section 44-47	Reciprocal arrangements, power of the central govt. in related matters
Section 48	Repeal and Savings with respect to the Design Act 1911

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