

# INTRODUCTION TO IPRs



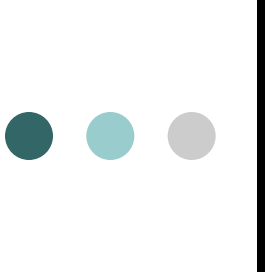
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*“For more than a century, the World’s Wealthiest human being has been associated with oil. Now he is a knowledge worker ”*

- Lester C. Thurow

***(After 13 years on top, Bill Gates is no longer the richest man in the world. That honor now belongs to his friend and sometimes bridge partner Warren Buffet.- [www.forbes.com/2008/03/05](http://www.forbes.com/2008/03/05))***



# Civilization-Sunrise of Knowledge

- **17<sup>th</sup> century-Scientific Revolution**
- **18<sup>th</sup> Century-Political Revolution**
- **19<sup>th</sup> Century-Industrial Revolution**
- **20<sup>th</sup> Century-Information Revolution**
- **21<sup>st</sup> Century-Knowledge Revolution**



# Meaning of Intellectual Property

- A kind of intangible property
- Creation of human mind/mental labour
- Includes all rights resulting from intellectual activity in *scientific, industrial, literary, or artistic fields*
- *E.g.*, Patents, Copyright, Trademarks, Designs, Traditional Knowledge etc.
- **Covers**-chemical, information, nano and biotechnology
- Transnational in character
- Confers limited monopoly rights on creators/owners

# Monopoly and IPR Protection

<b>Form of IPR</b>	<b>Registration</b>	<b>Term of Protection</b>
<b>Patent</b>	<b>Compulsory</b>	<b>20 years</b>
<b>Trademark</b>	Optional	<b>10 years &amp; renewable</b>
<b>Designs</b>	Compulsory	10 years + Renewable by 5 years
<b>Geographical Indications</b>	<b>Compulsory</b>	10 years + Renewable forever
<b>Copyright</b>	Optional	Lifetime of Author + 60 years
<b>Plant Protection</b>	Compulsory	15/18 years
<b>Integrated Circuits</b>	Compulsory	10 years

# WIPO Definition of IP

## IP Includes rights relating to

- literary, artistic and scientific works
  - performances of performing artists, phonograms, and broadcasts
  - inventions in all fields of human endeavor
  - scientific discoveries
  - industrial designs
  - TMs, SMs and Commercial Names & designations
  - and
  - Protection against unfair competition
- resulting from intellectual activity in industrial, scientific, literary or artistic fields**

# ● Classification of IPRs

Industrial Property	Literary Property	New/Emerging/Non-conventional Forms
Patents Trademarks Industrial Designs GIs	Copyright Neighboring / Related Rights	Plant Varieties Protection Life-Forms Protection GRTK Lay-out Designs Business Methods Computer Programmes etc



# Industrial Property

- protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.
- Industrial property shall be understood in the broadest sense and shall apply not only to industry and commerce proper, but likewise to agricultural and extractive industries and to all manufactured or natural products, **for example**, wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour. [Source: Article 1 of Paris Convention for the Protection of Industrial Property, 1883 ]





# Patents

- Protect inventions
- Inventions-**Novel, Useful & Non-obvious**
- Term of Protection-20 Years
- Product & Process patents-Indian Position
- Availability-National & International Protection
- Rights-Not absolute
- Tools of business



# The Principles of Exhaustion & Parallel Imports

- **principle of exhaustion** - once patent holders or other authorized parties have sold a patented product, they cannot prohibit the subsequent resale of that product since their rights in respect of that market are exhausted by the act of selling it. The patent holder's rights over a patented product are therefore "exhausted".
- Thus, from the moment the product is marketed, the patent holder can no longer control its subsequent circulation. The patent holder holds the exclusive right to manufacture the product and then to put it on the market, but from that moment on, has no further right over the product once it is placed on the market. On the basis of the exhaustion principle, it would be possible for another party (apart from the patent holder or its authorized agents) to import the patented product from the market where the product has been sold.
- **Parallel importing** can be an important tool enabling access to affordable medicines because there are substantial price differences for pharmaceutical products in different markets. The price differences may be due to local market conditions, based on factors such as differences in intellectual property rules, or prevailing income levels, as well as the degree of competition among producers.



# Patenting Inventions in Biotechnology

- **TRIPS Agreement** - obliges all member to provide in the patentability of products and processes in all fields of technology (Art. 27.1).
- **Art. 27.3(b) states** - “Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof “
- The patenting of life forms such as micro-organisms dates back to 1980 when the US Supreme Court decided that **the patenting of life forms is legal if they have been modified from their natural state, can be technically mass-produced and if they are used in technical applications.**
- In 1985 followed a patent on a genetically modified plant and in 1988 one on the so-called cancer mouse



# Patenting Inventions in Biotechnology

- Louis Pasteur-awarded US Patent no.141072 in 1873 for a Yeast
- In 1980 – US Supreme Court approved grant of Patent to *Pseudomonas areuginosa* bacterium capable of breaking down the four major components of crude oil.
- **1988** – award of US patent for “Harvard Oncomouse” to Philip Leder & Timothy A. Steward of Harvard University.



# Patenting Inventions in Biotechnology

- **1977** – patent application filed in USA for claiming **human-animal chimeras** -rejected claims encompassing human beings or quasi-persons by USPTO
- Patents – granted to DNA sequences in plant species like Maize, Cereals and ,Pulses Fruits and Vegetables since 1980.
- **Budapest Treaty on the International Recognition of the Deposit of Microorganism for the Purposes of Patent protection,1977** – enables patenting of Microorganisms.
- **Bioprospecting or Biopiracy**



# Bioprospecting and Biopiracy

- **Biopiracy-** use of genetic resource without authorization
- **Bioprospecting** – Mere use genetic resource as permitted by CBD thr. Rightful material transfer agreements.
- Both involve usage of TK for research and commercial purposes



# Protection of TK in India

- India- a bio-diversity rich country
- Accounts for about 8% of recorded species in the World
- Over 47000 plant species & 81000 animal Species recorded by Botanical Survey of India & Zoological Survey of India
- India – a party to CBD,1993



# Protection of TK in India

- The Patents Act, 1970 as amended by 2002 & 2005 – recognize protection of TK
- The Biodiversity Act, 2002 – provide for conservation of biodiversity, sustainable use of its components and their fair and equitable sharing of the benefits arising out of the use of biological resources





# Protection of New Plant Varieties

- Protection – available to new & improved varieties of plant
- International Convention for Protection of New Varieties of Plants, 1991-enables protection of plant breeders rights
- **Indian Law-** the Protection of Plant varieties and Farmers' Rights Act, 2001
- Enables registration and protection of new varieties subject to –Novelty, Distinctiveness, Uniformity and Stability



# Sources of Patent Information System in India

- **National Informatics Center, Patent & Info..Division,A Block, GO Complex,Lodhi Road, New Delhi-110003**
- **Patent Mgmt. Dvsn,CSIR,14,Sansad Vihar Marg, Spl. Institutional Area, New Delhi-110067**
- **National Chemical Laboratory,NICHEM/NCL,Pune-411 008**
- **National Research&Dev.Council(NRDC),20-22,Zamroodhpur,Kailash Colony, New Delhi-110048**
- **Patent Information System (PIS),CGO Complex, C Block, Seminary Hills,Nagpur-440006**



# Trademarks

- Include-T.Names,Service Marks
- Purpose- Distinguishing Goods & Services, Standard, Advt. & Goodwill, Consumer Protection
- Registration-Not compulsory
- **Coca-Cola**-Costliest Brand in World
- Include-Domain Names
- Protection-Initially 10 years

# Best Global Brands 2013



The New Top 100

The Leadership Issue

Sector Overviews

Articles & Interviews

Charts

Methodology

Contact Info & Downloads

1



+28%  
\$208,316 \$m



2



+34%  
\$93,291 \$m



3



+2%  
\$79,213 \$m

4



+4%  
\$78,808 \$m

5



+3%  
\$59,546 \$m

6



+7%  
\$46,947 \$m

7



+5%  
\$41,992 \$m

8



+20%  
\$39,610 \$m

9



-5%  
\$37,257 \$m

10



+17%  
\$35,346 \$m

11



+6%  
\$31,904 \$m

12



+10%  
\$31,830 \$m

13



+7%  
\$29,053 \$m

14



+3%  
\$28,147 \$m

15



-1%  
\$25,843 \$m

16



+1%  
\$25,105 \$m

17



+6%  
\$24,893 \$m

18



+9%  
\$24,088 \$m



# Industrial Designs

- Ornamental or aesthetic aspects of an article
- Make an article attractive and visually appealing
- Registered and protected for 10+ 05 years
- Owner of a registered industrial design - has exclusive right against unauthorized copying or imitation of the design
- A cell phone's size, shape, color and overall look owes its look to industrial design.



# one good chair

design competition



# Geographical Indications

- Apply to particular products having particular characteristics closely identified with, and due to their geographic place
- Refer to Indications of Source and Appellations of origin
- **Best examples** -Swiss Chocolates, Champagne (Sparkling wine), Florida oranges, Roquefort cheese, Tuscany olive oil, China silk, Mysore Silk, Pochampally sari , Bidriware, Mysore sandalwood soap , Kullu shawl etc
- Apply to Goods-Agricultural, Natural and Manufactured
- Joint IP of stakeholders

# Champagne







# The Challenge to IPR protection in Modern Times

- **Fundamental shift in technology** and the economic landscape - making current system of IPRs unworkable and ineffective
- **Multi-media licensing** -Digital revolution - Need to balance copyright and public interest
- **Patenting of Life forms- computer software -protection of business methods etc**



# Relevant I.P.Law in India

- **The Copyright Act,1957 (as amended in 2012)**
- **The Patents Act,1970 ( as amended in 1999,2003 & 2005)**
- **The Trade marks Act,1999**
- **The Plant Varieties & Farmers Rights Protection Act,2001**
- **The Designs Act, 2000**
- **The Geographical Indications of Goods(Registration & Protection)Act,1999 etc**



# Epilogue

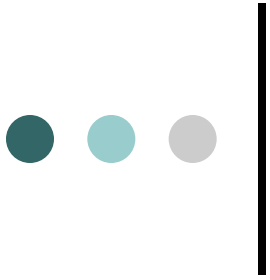
- **Intellectual Property – no more exclusive domain of law / lawyers.**
- **Related to every discipline**
- **Future wars will be fought with knowledge and intelligence, and not with arms**
- **IP also contributes to social development**



# Need of the Hour

## Demystify the IPRs

- Understand them
- Create them
- Identify them
- Document them
- Register them
- Exploit them; and
- Protect them



THANK YOU