

Venue:

Birla Institute of Technology, Mesra

# Basics of Intellectual Property Right

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# Agenda For Today

Basics of Intellectual Property Rights

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Need for IPRs

2

IP and IPR

2

Role of IP in Protecting  
Creations and Innovations

4

Types of IPR



## Need for IPRs

Now, if you own a land, a house, a car, a tractor or a motorcycle, how do you prevent the theft or illegal use of your property? You will lock it, make a boundary or a fence; use various means to keep the trespassers and thieves away.

# 1

## Need for IPRs



# 1

## Need for IPRs

### IPR, why all the buzz???

What do you do if the property that you own is intangible / not real

- a poem you wrote some time ago
- a software you prepared after putting in lot of effort
- an invention for which you prepared a working plan and a model
- a design for your new motorcycle
- a logo that you prepared for use as your business Mark
- a play that you wrote
- a film that you made using the skills of several authors, actors, musicians, singers and other performers

# 1

## Need for IPRs

### IP as a Property

- Can be sold
- Can be bought
- Can be lease or rent
- Can pass under a will
- Can be assigned



## Need for IPRs

IPR deals with the protection of "**Intellectual**" Property. These need to be protected! Like other property, IPR can also be stolen or made illegal use of. We have to protect our right to exclusive use of our property, prevent counterfeits and reap the benefits of the hard work gone into our creations.

## 2 IP and IPR

**Intellectual Property (IP)** is any creations of human mind. Like tangible property, their creation has a value and, as with all property, it needs to be protected.

**Intellectual Property Rights (IPR)** gives them this protection, as well as helping them exploit and control their IP.

“The exclusive right granted by State, to prevent others from using, manufacturing, distributing - inventions, processes, applications, new and original designs, trademarks, new plant varieties, data bases and artistic and literary works”. Such a person is known as ‘rights owner’ or ‘rights holder’.



# 3

## Role of IP in Protecting Creations and Innovations

Intellectual Property (IP) plays a pivotal role in safeguarding the rights of creators and innovators.

### **Protection of Rights:**

- IP provides a legal framework for granting exclusive rights to individuals or entities over their intellectual creations. This exclusive right allows the creator to control the use of their creation for a specified period.

### **Encouraging Investment:**

- The existence of intellectual property rights encourages creators and innovators to invest time, effort, and resources into developing new ideas, products, or works. Knowing that they can protect and benefit from their creations fosters a conducive environment for innovation.

# 3

## Role of IP in Protecting Creations and Innovations

Intellectual Property (IP) plays a pivotal role in safeguarding the rights of creators and innovators.

### **Incentivizing Creativity:**

- By offering legal protection, IP serves as an incentive for individuals and organizations to engage in creative and innovative activities. This encouragement is crucial for the advancement of various fields, including science, technology, arts, and culture.

### **Monetary Value:**

- IP rights can contribute to the economic value of a creation. Creators can capitalize on their creations by licensing or selling their IP rights, leading to the generation of revenue and supporting further innovation.

# 3

## Role of IP in Protecting Creations and Innovations

Intellectual Property (IP) plays a pivotal role in safeguarding the rights of creators and innovators.

### **Balancing Interests:**

- Intellectual property strikes a balance between the interests of the creators and the public. While it grants exclusive rights to the creator, it also ensures that, eventually, the creation enters the public domain, allowing broader access and use.

### **Deterrence Against Infringement:**

- IP rights act as a deterrent against unauthorized use or reproduction of intellectual creations. The legal consequences associated with infringement help maintain the integrity of the creative and innovative process.

## **I got my IPR registered. How do they help me now?**

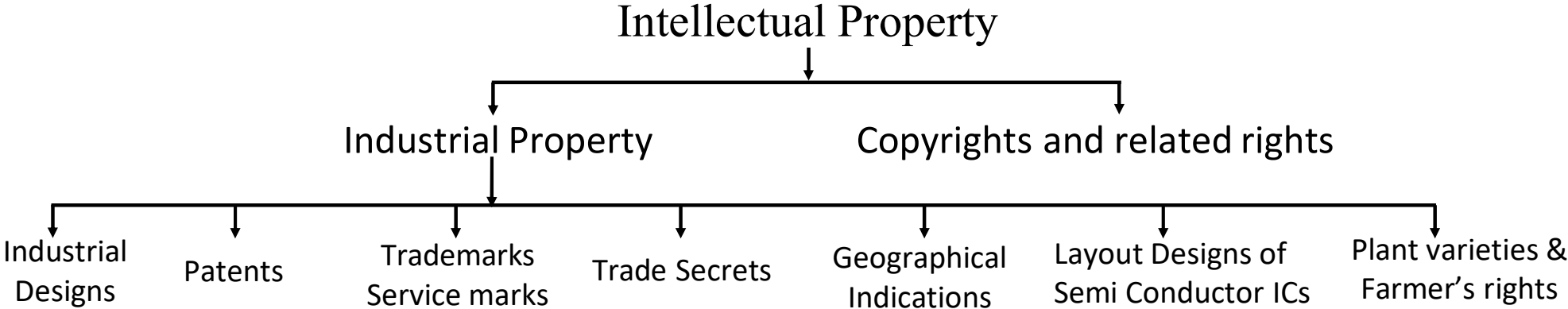
Registration of IPR enables you or a person authorized by you to use your IP exclusively and prevent others from illegal acts like copying, counterfeiting, making and selling imitations, etc.

## **I got my IPR registered. How do they help me now?**

- You have legal options to stop another person from using your IPR without authorization.
- Selling and buying original leads to due payments to the inventors, artists, businesses, farmers, authors and performers; this promotes a culture of innovation and appreciation of talent.
- You may sell, license or lease for a fee to legally authorize others to use your IPR. Copyright owners can reap the benefits of their work for many many years since the work is made public.
- A good IP portfolio attracts investment into your business.

# 4

## Types of IPR



*Coca-Cola*



i'm lovin' it®



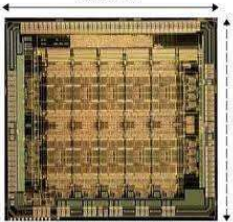
orange™



TM



Typically 1cm



Containing up to 1 million components.



# 4

## Types of IPR

What comes to your mind when you see the following?

Trade mark protection began to protect genuine businesses from imposters. When you submit your trade mark application to protect your "Mark", your Mark becomes a Trade Mark.

Lufthansa Group

amazon



WAL\*MART

Saving people money so they can live better

Cadbury

SONY



bajaj



# 4

## Types of IPR (Trade Mark)

### Types of Trade Marks



Name

Logotype

Symbol

Slogan

Shape

Color





# 4

## Types of IPR (Trade Mark)

### **Duration of Trade Marks**

**Duration:** 10 years, extendible by 10 years.

**Trade mark protection can possibly last forever.**

Once a Trade Mark is registered, it is protected for 10 years. You can renew it for another 10 years as many times as you want (as long as your business is running).

# 4

## Types of IPR (Trade Mark)

### Criteria to protect Trade Marks

- ™ Distinctive;
- ™ Not similar to earlier trade marks for same goods or services
- ™ Not similar to well known trade mark for **ANY** goods or services;
- ™ Does not bear the name, emblem or official seal of the UNO, WHO, Government of India or of any State or the National flag of India;
- ™ Not be the name of a chemical element or compound or name of active ingredient of a medicine; and
- ™ Other criteria depending on the case. Please consult your TM attorney!

# 4

## Types of IPR (Trade Mark)

### Classification of Goods and Services

You can submit your TM application for one or **more of the 45 classes** of goods and services. For ease of filing and categorisation, Trade marks are awarded in 45 classes of the Nice Classification. **Class 1 to 34 are for goods** and **35 to 45 are for services**. You may check which goods belong to which class.

Once Registered with your Trademark, use your trade marks on your website, letterheads, office communication, invoices, bills, receipts, advertisements, just to name a few. You can take legal action against people imitating your trade mark. Make sure to renew your Mark every 10 years!

# 4

## Types of IPR (Geographical Indications)

GI's also represent specific goods

- ✓ Geographical Indications originate in a particular place. Certain quality or reputation of goods can be attributed to their origin. This may be due to **quality of soil, climatic conditions, specific processing or preparation techniques** followed in the production of the specified goods.
- ✓ GIs apply to **agricultural or natural or manufactured goods**. In case of manufactured goods, either the production or processing or preparation takes place in that region.
- ✓ The registration of a Geographical Indication enables an entire community of farmers or artisans or craftsmen to benefit from the GI status.

# 4

## Types of Geographical Indications

**Agricultural goods:** Toor dal(Kalaburagi, Karnataka), Darjeeling Tea (West Bengal), Coorg Orange (Karnataka), Allahabad Surkha Guava (Uttar Pradesh)

**Natural goods:** Makrana Marble (Rajasthan), Chunar Balua Patthar (Uttar Pradesh)

**Manufactured goods:** Mysore Agarbathi (Karnataka), Coimbatore Wet Grinder (Tamil Nadu), East India Leather (Tamil Nadu)

**Handicrafts:** Thanjavur Paintings (Tamil Nadu), Muga silk of Assam (Assam), Kashmir Pashmina (Jammu & Kashmir), Pochampally Ikat (Telangana), Solapur Chaddar (Maharashtra)

**Food Stuff:** Dharwad Pedha (Karnataka), Tirupathi Laddu (Andhra Pradesh)

# Types of Geographical Indications

GI's also represent specific goods

Kutch Embroidery



Banaras Brocades and Sarees



Mysore Agarbathi



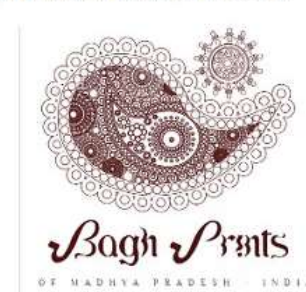
Orissa Pattachitra



Kullu Shawls



Bagh Prints of Madhya Pradesh



# 4

## Types of IPR (Geographical Indications)

### Classification of GI's

GIs are granted in 34 classes of goods as specified by the Geographical Indications Registry

A GI tag helps **the local products to be recognised nationally and globally**. They may fetch a better price for the producers.

## **How Does GI's Help me?**

GI's also represent specific goods

If you are an authorized producer of a good with a GI tag, you can use the GI tag and sell your products as authentic GI. With globalization, there is an increased awareness and demand for many GI products.

- Your products will be sold as genuine GI products and you may get a good price too.
- You can protect your goods as the original GI against people selling fake goods as GI goods.
- GI tag also helps consumers to buy original and authentic goods.





# 4

## Types of IPR (Patents)

### How Does Patenting help you/Business?

A patent grant recognises your **exclusive right** to use your invention (for typically 20 years). Others cannot use your invention without your permission or a license agreement. This gives your business an edge over competitors dealing with similar products.

Patent data is public and after some time can be accessed by anyone. This promotes further research and improvements on existing technologies.

## Criteria for Patent Grant

There are three key criteria on which patents are evaluated:

**Novelty:** invention should be new. Not used or (even published) anywhere in the world before your patent application

**Utility:** invention should be useful, have industrial applicability.

**Inventiveness:** invention should be a significant improvement over existing products/ technologies and specially made by the inventor using his skills. An inventive step must be present.

## What is not patentable?

The Indian Patent laws also clearly lay down what is **not** patentable. A partial list of what is not patentable in India is given here:

- Frivolous or contrary to well established natural laws
- Contrary to public order or morality
- A method of agriculture or horticulture
- Literary, dramatic, musical or artistic work
- Plants and animals in whole or any part thereof
- Mathematical or business method or a computer programme per se or algorithms

## **How to Patent an Invention?**

It takes a lot of effort to reach this stage. Now you must start the filing procedure with your patent attorney as soon as possible. A delay of even a few days could mean that somebody else may publish or apply for a patent for similar work. Time matters.

# 4

## Conduct Patent Search

Your patent attorney or agent will ask you the details of your invention and conduct a patentability search. Invention **has to satisfy the criteria for grant of patent** and also should **not fall into “not patentable inventions”** as per Indian laws. Your attorney will conduct a thorough search on different databases and will advise you on the future course of action.

You will be asked to sign a few forms and pay the fee. Your attorney will submit your patent application on your behalf.

## Parts of the patent application

The **title of your invention** indicates the specific subject matter of your invention.

A **complete patent specification** consists of complete disclosure of your invention, how it works and the best method to perform the invention. Only **one patent application is permitted for one inventive concept**. The specification must disclose the invention sufficiently so that another person skilled in the same domain can understand and create the invention. Besides the Description of the invention, Drawings and sequences may be a part of your application.

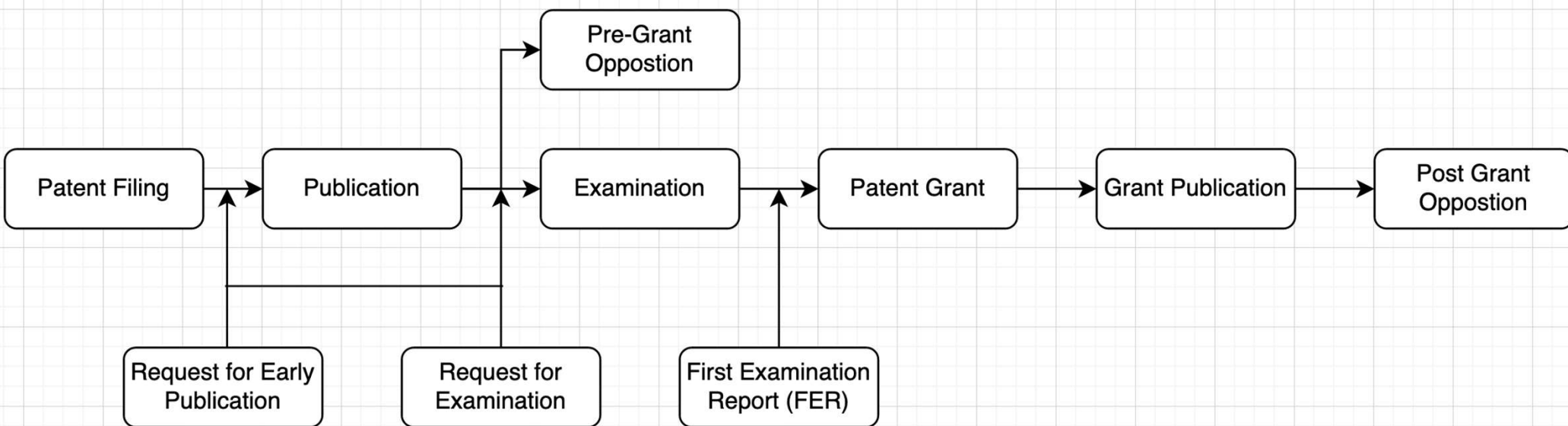
## Parts of the patent application

The **abstract** provides a brief statement of the technical features of your invention. It indicates the technical field to which your invention belongs, the problem being solved and uses of the invention. It also helps in online indexing. In an online search for relevant patents, the readers are most likely to read your abstract.

**Claims** are the most important part of your application. These express the limit and the scope of your invention. **Claims define exactly what is "protected" by your patent.** A patent examiner will evaluate whether your "claims" are novel or not.



## Steps from Patent Filing to grant



## Steps from Patent Filing to grant

Once an application for a patent is submitted, it is published in the Indian Patent Office database after 18 months. There is a provision for early publication, if required.

A **Request for Examination** is required to be submitted. Examination is conducted for all the patentability criteria only after the Patent office receives such a request. After examination, the patent office issues an Exam report as per their findings. Your patent will be **granted** after you have clarified the objections raised in the exam report. Through written reply and Hearing, it may be possible to clarify the objections raised in the Exam report. Meanwhile, a person can **oppose** a patent both before or after its grant.

## Steps from Patent Filing to grant

Once an application for a patent is submitted, it is published in the Indian Patent Office database after 18 months. There is a provision for early publication, if required.

If there is no **opposition** to your patent application and the Patent Office is satisfied with the defence of the patent application, the application is put in order for grant. Once the patent is granted, you have to pay a yearly **maintenance fee** from the second year so that your patent remains valid and "in-force".

## **Patent Infringement**

Once your patent is granted you may need to take action against potential infringers. Patent infringement means having/using essential characteristics of some other person's patents without their permission. This may be with regard to manufacture, sale or import of a product without authorisation.

Since Patents are **territorial rights, action against infringement can be taken only in countries** where patents have been filed.

How do we protect the external appearance of an article/good? This article could be an invention or any article for commercial use. It may be manufactured or partly natural.

we protect these through **Design Registration**

Unlike patents, Designs do not protect the functionality of a product. **Design protects the "external appearance" or the "aesthetic appeal"** when applied to an article.

# 4

## Type of IPR (Design)

Designs can protect:

- Shape
- Configuration
- Pattern
- Ornament
- Composition of lines
- Composition of colours

This features can be applied to an article in 2-D or 3-D or both forms. The article to which a design is applied is judged on ***external appearance only***.

# 4

## Type of IPR (Design)



Vehicles



Pre-fabricated gate



Rear console bottle holder

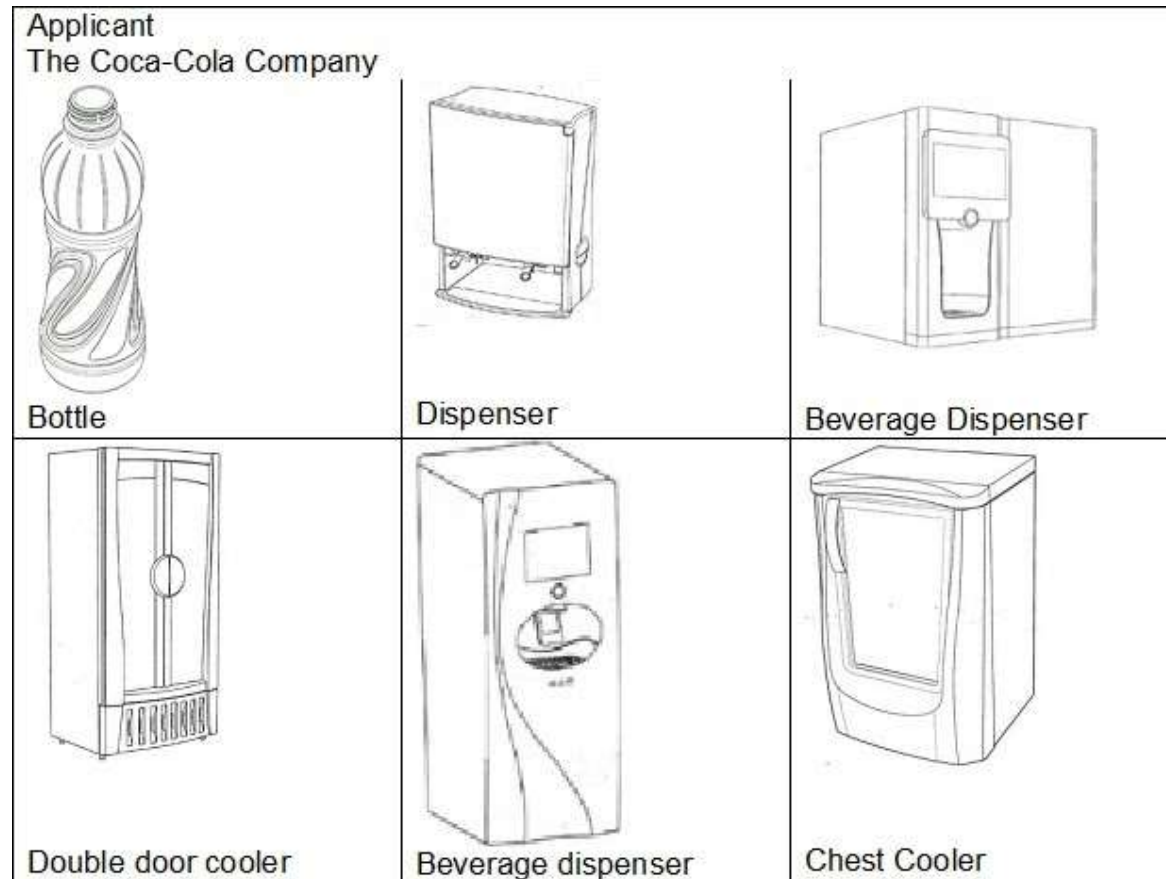


Jewelry

## 4

## Type of IPR (Design)

When you see the bottles of Coca-Cola or their other beverages, their drink dispensers, double door cooler, bottle display units, you will find that these are slightly different from other similar products. These differences in their merchandise have been protected through Designs! Some of the articles protected by Coca-Cola





## **Design Protection Term**

Designs can be protected for 10 years and are extendible by 5 years. Hence you can protect your Designs till 15 years, without annual maintenance fee or tough criteria for grant. This makes Designs one of the most under-rated and underutilized forms of IPR!

# 4

## Type of IPR (Copyright)

creative expressions are protected under a very distinct form of IPR called **Copyright**. Unlike other IPRs, copyright exists as soon as an original work is created by an author. That means it is not mandatory to register a copyright. But registration is highly recommended for better legal protection.

In India, Copyright exists for the following classes of work:

- . original literary, dramatic, musical and artistic work. In India, literary work also includes computer programmes and computer databases. Artistic work includes paintings, sculpture, drawings, engravings, photographs, work of architecture and any work of craftsmanship.
- . cinema films
- . sound recordings

# 4

## Term of Protection for Copyrights

**Published literary, dramatic, artistic and musical work:** Life of the author + 60 years

**Cinematographic films, sound recordings, posthumous publications works of public undertaking and International organizations:** 60 years after year of publication

**Performer's Rights:** 50 years after year of publication

**Broadcast Reproduction Right:** 25 years after year of publication

# 4

## Copyrights

### Literary or dramatic work

Author/ Creator



Picture 1: Image by [Ofjd125gk87](#) from [Pixabay](#)

### Musical Work

The Composer



Picture 4: Image by [Richard Revel](#) from [Pixabay](#)

### Sound recording

The Producer



Picture 2: Image by [Javier Rodriguez](#) from [Pixabay](#)

### Photograph

The Photographer



Picture 5: Image by [Kamil](#) from [Pixabay](#)

### Artistic Work

The Artist



Picture 3: Image by [Pexels](#) from [Pixabay](#)

### Cinematograph film

The Producer



Picture 6: Image by [Jan Alexander](#) from [Pixabay](#)

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<b>IPR Type</b>	<b>What is Protected?</b>	<b>Duration</b>
<b>Patents</b>	Invention, Technology, Processes (to make something new)	20 years from the date of filing
<b>Industrial Designs</b>	Appearance of an Article. The article may be 2-D or 3-D	10+5 years from the date of filing
<b>Trade Marks</b>	Words, Logos, Slogans, Sound Marks used for a product or service	10 years from the date of filing; can be renewed after 10 years

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IPR Type	What is Protected?	Duration
<b>Copyright</b>	Original Novels, written articles, poems, paintings, artistic work, photographs, cinematographic films, plays, dramatic works, musical work, sound recording, other performances, computer programme (in India).	Published literary, dramatic, musical or artistic work: entire life of author and 60 years after death of author (in India) Others: 60 years (India)

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<b>IPR Type</b>	<b>What is Protected?</b>	<b>Duration</b>
<b>Geographical Indications (GI)</b>	Agricultural, natural or manmade goods originating or prepared in a particular Geographical region and having special attributes. Eg: Kashmir Saffron, Mysore Sandalwood oil.	10 years from the date of filing; can be renewed after 10 years
<b>Plant Variety Protection</b>	Plant varieties developed by farmers, researchers, institutions or any person	Upto 18 years for trees and vines Upto 15 years for others

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IPR Type	What is Protected?	Duration
<b>Semiconductor and Integrated Circuits Layout-Design **</b>	Designs of Semiconductor and Integrated Circuits layout including transistors, lead connecting wires and other circuitry elements.	10 years

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All the above IPRs except Copyrights are **territorial**, which in simple words means ***that if you have applied for a Patent in India and China***, then, when granted, your patented ***invention is protected in India and China only***.