



Intellectual Property Right

History

- The application of imagination, or innovation and creativity, to an existing base of knowledge in order to solve problems or express thoughts.
- First U.S. Patent Issued Today in 1790.
- On July 31, 1790 Samuel Hopkins was issued the first patent for a process of making potash, an ingredient used in fertilizer. The patent was signed by President George Washington.
- From early writing in Mesopotamia, the Chinese abacus, the Syrian astrolabe, the ancient observatories of India, the Gutenberg printing press, the internal combustion engine, penicillin, plant medicines and cures in Southern Africa, the transistor, semiconductor nanotechnology, recombinant DNA drugs, and countless other discoveries and innovations, it has been the imagination of the world's creators that has enabled humanity to advance to today's levels of technological progress.
- On March 3, 1856, a civil engineer, George Alfred DePenning of 7, Grant's Lane, Calcutta petitioned the Government of India for grant of exclusive privileges for his invention "An Efficient Punkah Pulling Machine"



TYPES OF INTELLECTUAL PROPERTY

1. Copy Right
2. Patent
3. Trademark
4. Trade Secret

WHAT IS COPYRIGHT

- Copyright aims at providing protection to authors (writers, artists, music composers, etc.) on their creations. Such creations are usually designated as “Works”.
- A legal right created by the law of a country, that grants the creator of an original work exclusive rights to its use and distribution, usually for a limited time, with an intention of enabling the creator to receive compensation for their intellectual effort.

AREAS OF COPYRIGHT

- Literary works
- Reference work
- Artistic work
- Computer Programs

Copyright law protects the expression of an idea.
Not the idea itself.

For example - The idea of taking a picture of a sunset is not protected by copyright. Therefore, anyone may take such a picture. But a particular picture of a sunset taken by a photographer may be protected by copyright. In such a case, if someone else makes copies of the photograph, and starts selling them without the consent of the photographer, that person would be violating the photographer's rights.





Formalities to protect copy right

- Copy right is obtained automatically without any need for registration of other formalities. A work enjoys protection by copy right as soon as it is created.

Types of copy Right

- **Economic Rights:** Allows the owner to derive financial reward from the use and exploitation of the work.
- **Moral Rights:** Highlights the personal link existing between the author and the work.

How Long Does a © Last

Copyright has a time limit: it usually lasts for the *life of the author and 50 years after his death*. This rule, which is shared by the majority of countries, has been established by the Berne Convention for the Protection of Literary and Artistic Works. Once the term has expired, the work is in the “public domain”. Thereafter, everybody will be free to use the work, without obtaining a specific authorization from the copyright owner. However, the Berne Convention allows to provide for a longer period. In order to know what period of protection applies to a work in a particular country, it is advisable to read the national copyright legislation of that country.



Parties



Non parties



Why Protect copy right

- To ensure that creative works and products are prevented by any violation like plagiarism.
- The copyright law gives the owner the authority to control the manner in which a product is used.
- Right assures that the work can be disseminated without fear of unauthorized copyright or piracy.
- Helps increase access to the works and enhances the enjoyment of culture, knowledge, and entertainment all over the world.

WHAT IS PATENT

- Patent is a monopoly right granted by the Government to exclude others from exploiting or using a particular invention.
- The patent is a monopoly right which offers exclusivity to the patentee to exploit the invention for 20 years after which it falls to the public domain.

AREAS OF PATENT

- UTILITY PATENTS
- DESIGN PATENT
- PLANT PATENT



ELIGIBILITY FOR PATENT

- INVENTION “NEW”
- “INVENTIVE STEP”
- “INDUSTRIAL APPLICATION”



BENEFITS OF PATENT PROTECTION

- PREVENTS THEFT OF THE INVENTION
- HIGHER PROFIT MARGINS
- REDUCE COMPETITION
- EXPAND MARKET SHARE

OVERVIEW OF PATENT PROCESS

- **Conception:** The patent process starts when a person conceives a solution to a problem.
- **Filing Patent Application:** Once the invention is conceived, a patent application should be filed with the IPO.
- **Patent Search:** Prior to filing an application for patent, the patentee may conduct a patent search. A patent application should be filed with the IPO.
- **Examination by Indian Patent Office**

What is a Trade Mark TM

Trademark is a **sign** that is used to **identify certain goods and services** as those produced or provided by a specific person or enterprise. Hence, it helps to distinguish those goods and services from similar ones provided by another.



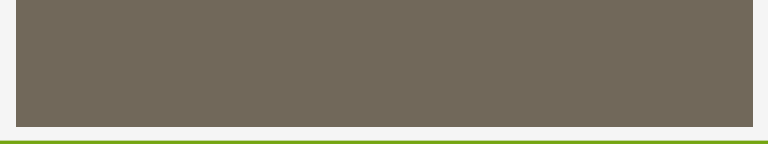
EXAMPLE: DELL[®] is a trademark that identifies goods (computers and computer related objects). CITY BANK[®] is a trademark that relates to services (banking and financial services).

Features of Trade Mark

- Trade mark should be distinctive.
- It must be capable of distinguishing the goods or services with which it is used.
- A name which is purely descriptive of the nature of the goods and services that are offered may not constitute a valid trademark.

Functions of trademark

- Help consumers identify and distinguish products or services.
- Enables companies to differentiate between their products.
- It is a marketing tool and the basics for building a brand image and reputation

- 
- TM may be licensed and provide a direct source of revenue through royalties.
 - TM are a crucial component of business assets.
 - TM proposes a guarantee its quality.
 - TM may be useful for obtaining finance.

Trade Mark Protection

- The most efficient way of protecting a trademark is to get it.
- TM are Territorial Rights.
- It must be registered in each country in which protection is desired.
- Unless a given trademark is protected in a specific country. It can be freely used by third parties.
- This means that the same trademark can be used by different companies as long as it is used for dissimilar goods or services.
- Almost all countries in the world maintain a register of trademark, at the appropriate trademark office.
-

Types Of Protection Provided

A trademark owner is given the exclusive rights

To use the trademark to identify his goods or services

To prevent others from using and marketing the same or a similar trademark for the same or similar goods or services;

To authorize others to use the trademark, (e.g. by franchising or licensing agreements) and in return for payment.



How Long trademarks Exits

- The period of protection varies (it is usually 10 years).
- Trade marks can be renewed indefinitely

How extensive is TM protection?

Almost all countries in the world register and protect trademarks.

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

The effects of such a registration are, however, limited to the country (or, in the case of a regional registration, countries) concerned.





What is a domain name and how it is related to TM

- Domain names are internet address commonly used to find websites.

Cyber squatting

- It may happen that the person which has registered the domain name has done it in bad faith as he is not the owner of the trademark under which the domain name has been registered. This activity is referred to as Cyber squatting

TM Dilution

What is a TM Dilution ?

Trademark dilution is the weakening of a famous mark's ability to identify and distinguish goods or services, regardless of competition in the marketplace or the likelihood of confusion. Dilution typically occurs as the result of blurring or tarnishment of the famous mark. It is similar to the concept of passing off, which involves misrepresenting one's goods as those of another. Misrepresentation, however, is not an essential component of dilution.



EXAMPLE

Click on **EXAMPLE**

The law protects famous marks from subsequent marks that may be confusingly similar. When claiming confusion, one must show that the marks being compared are similar in appearance, sound or meaning, combined with evidence that they are associated with identical, competing similar or related goods or services. Under this analysis, similar and possibly even identical marks used with distinguishable goods/services or goods/services traveling in different channels of trade) may coexist in the same market.

What are the forms of dilution?

Blurring

Weakening of the distinctiveness of a famous mark. This is the traditional notion of dilution—using an identical or virtually identical mark on or in connection with goods and/or services that may be completely different from and unrelated to the plaintiff's goods and/or services.



Louis Vuitton



Chewy Vuitton

What are the forms of dilution? contd.

Tarnishment

Weakening of the distinctiveness of a famous mark, usually through inappropriate or unflattering associations. Examples include using a similar mark, or a term that plays on one's mark, in association with sexual or offensive content, with subject matter critical of the mark owner and its beliefs or philosophies.





TRADE SECRET



- A trade secret is a formula, practice, process, design, legal instrument, pattern or compilation of information which is not generally known, by which a business can obtain an economic advantage over competitors or customers.
- Trade secrets are aspects of your company that, if discovered by a competitor, could significantly impact your bottom line or your ability to compete in marketplace.
- In some jurisdictions, such secrets are referred to as "confidential information" or "classified information".



PROTECT YOUR TRADE SECRET

- PROTECT YOUR TRADE SECRET
- MARKING DOCUMENTS AS CONFIDENTIAL
- INFORMATION IS PASSWORD PROTECTED
- MAKE TRADE SECRET A PRIORITY