

“TYPES OF INTELLECTUAL PROPERTY RIGHTS”

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ABSTRACT:

In this modern Information Explosion age, the term Patent was known from long back. Copyright, trademarks and patents were also used in one or another form. These are all related to the Intellectual product of human mind. Hence, concept of Intellectual Property Rights covers all types of material or products that produced from the human mind. Here author intends to discuss Intellectual Property Rights (IPR), copyrights, trademark and patent.

KEYWORDS: Intellectual Property, Intellectual Property Rights, Copyright, Trademarks, Patents, What is patent, Criteria for filing a patent, Steps for patent application, Advantages of patents.

INTRODUCTION:

In this information explosion age the rapid development of knowledge, like science, biotechnology, Agricultural, Environment, pharmaceuticals, library and information science, in each & every field. In this digital age the IPR is acquiring an inseparable status & there is an urgent need to study the laws relating to these. In this digital age all have to understand the concepts of right to information & their legalities in the right perspectives.

Intellectual property is the name given to legal rights which protect creative works, inventions & commercial good will's basically IPRs are designed to provide remedies against those who steal the fruits of another person's ideas of work. Recently it is done firstly in this Information age, that's why the importance of IPR increases day by day. Intellectual property is a category of the human intellect & primarily encompasses, it also includes other types of right's such as trade secrets, publicity rights, moral rights and rights against unfair competition. Artistic works like music & literature, as well as some discoveries, inventions, words, phrases, symbols,

& designs, can all be protected as intellectual property. It was beginning to be used in between 19th & 20th century that it become common place in the majority of the world.

The main purpose of intellectual property law is to encourage the creation of a large variety of intellectual goods.

▪ **DEFINITIONS:**

1) Intellectual Property:

“Intellectual Property is refers to the protection of creations to the mind, which have both a moral & a commercial value.”

“Intellectual Property is a property that arises from the human intellect. It is a product of human creation.

“Knowledge is the key driver for trans forming a nation rich and innovative, a kind of new knowledge (creations) derived from human mind is often called intellectual property & it has been defending as original creative work.

2) Intellectual property rights:-

In India IPRs are safely protected and controlled by well-established statutory & judicial framework.

“IPRs refers to the general term for the assignment to property rights through patents, copyrights & trademarks, these property rights allow the holder to exercise a monopoly on the user of the time for a specified period.”

By – Glossary of Statistical terms

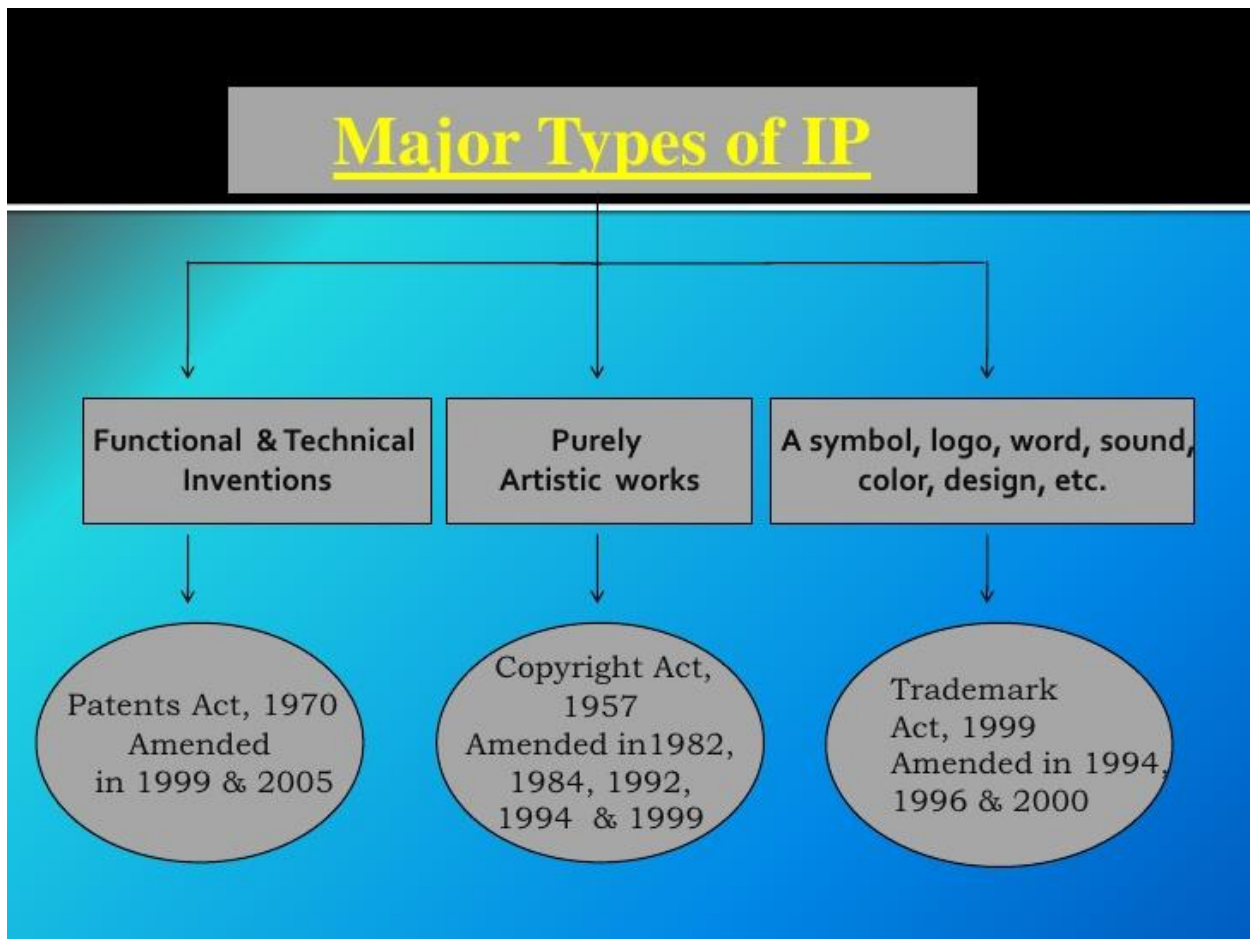
▪ **TYPES OF INTELLECTUAL PROPERTY RIGHT:**

IPRs mainly comprises two distinct forms. These are.

- Literary & Artistic works
- Industrial Property.

In literary & Artistic works includes book, paintings, musical compositions, plays, movies, radio / TV programs, performances, & other artistic works, all type of these work protected by copyright.” & In industrial Property it describes physical matter that is the product of an ideas or concept for commercial purpose. And all these work protected by patent. And Trademarks includes Industrial Designs, Trade secrets layout – Designs, & Geographical Indications.

Fig. 1 Major Types of Intellectual Property Rights:



1. Patents:

“A patent describes an invention for which the inventor claims the exclusive right.”It is covered under the act that is patents Act, 1970. It extends to the whole of India. It shall come into force on such date as the central Government may published by notification in the official gazette. Term of the patent is 20 yrs. From the date of filling for all types of inventions.

2. Trademarks:

It is covered under trademarks Act, 1999. This Act came into effect on Sept. 15 – 2003. It extends to the whole of India. It is valid for 10 years from the date of application which may be renewed for further period of 10 yrs. On payment of prescribed fees.

3. Copyright:

Commonly it is defined as the right to prevent publication and also include the right to prevent others from multiplying copies. “Copyright is a form of protection provided by the laws of the United States to the authors of original works of authorship” including literary dramatic musical artistic & certain other intellectual works, Copyright law protects the expression of an idea, Not the idea itself, The Indian Copyright Act, 1957 governs the system of copyrights in India.

Registration of copyright is by completing a simple application form, along with the appropriate fee duration of copyright is author’s lifetime + 50 years from the end of the calendar year in which the author dies, 50 years for films & sound recordings 25 years for typographical arrangements of a published edition, Copy protection always expires on December 31 of the last calendar year of protection.

Copyright is defined as ‘the sole right in the case of unpublished works to produce or reproduce any literary, dramatic or musical work or any substantial part of a work in any material from whatsoever, provided the author is qualified to hold copyright.

What is Patent?

The Patenting system in India is governed by the Patents Act, 1970 and The Patents Rules 1972.

-The Patent is a grant by the India Patent Office that allows the patent owner to maintain a monopoly for a limited period of time on the use & development of an invention.

- This right excludes others from making, Processing, producing, using, selling and importing the product or process in India without patent owns consent.

Criteria For Filing a Patent:

Novelty:

Novelty is a some part of it has a new development and has not been published in India or elsewhere before the data of filing of the patent application in India.

Inventive Step /Non Obvious:

If someone who is skilled in that particular field consider the invention to be an unexpected or surprising development on the invention data.

Industrial Applicability:

Invention should be useful, such that it can be used in an industry.

Why Patent Registration:

- To get royalty by licensing your patent.
- Protection for a period of 20 years in India.
- You can then utilize your invention yourself.
- Stop other from using your invention without your permission.

Steps For Patent Application:

Patent Registration is basically a process to file an application to register your invention under Patent Act. It provides you with the monopoly to use your invention for public . As it is a quite serious matter so the person should file this application seriously

to avoid any future dispute regarding the infringement. Before filing for the patent, there are some key points which should be followed accordingly.

Step 1. Patent Search :

How to check patents? It is the most common question among people when they want to patent for an idea. So, legal roaster performs patent search for all the existing inventions on the idea that you are trying to patent. If there is a patent already on the idea you are considering, than patent is not granted. Patent searh saves you from the effort of going through the year long registration process. You can stop if the patent is already registered.

Step: 2—Patent Domicile:

Patent which are registered in India is only valid for India. It protects your invention in India only and does not apply to other countries. There is a possibility to protect your invention in other countries as well. For same, you need to apply for a separate application in each country

Step: 3—File Patent Application:

An application should be filled with the department before disclosing all the details about your invention.

Step: 4__ Patent review :

The patent office of the Indian government reviews your patent application. There check for any existing patents granted on similar idea. If they find the invention unique & patent able, that they grant patent for the application.

Step:5__Patent Grant:

Once the patent is granted, the application status is uploaded, the application status is updated online at the patent site it can take from 6 months to even 15 years for a patent certificate to be granted.

Advantages of Patent:

- 1- Patent protects invention : It is an intellectual property which protects your invention and prevents other to use it without your prior permission.
- 2- Sell or transfer patent right :
Registration of patent allows you sell, transfer or franchise your patent. This will help you to raise more revenue.
- 3- Patent Valid for 20 years :
Your invention gets protection for a particular period which help you to protect your invention.

Conclusion :

In conclusion it may be stated that Intellectual Property Right as a concern was not until the 19th century that the term “Intellectual property” began to be used & not until the late 20th century that it became common place in the majority of the world. In India IPRs are safely protected & controlled by well-established statutory & judicial framework.

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