



Department of Industrial Policy and Promotion  
Ministry of Commerce & Industry  
Government of India



# Intellectual Property

The Future!

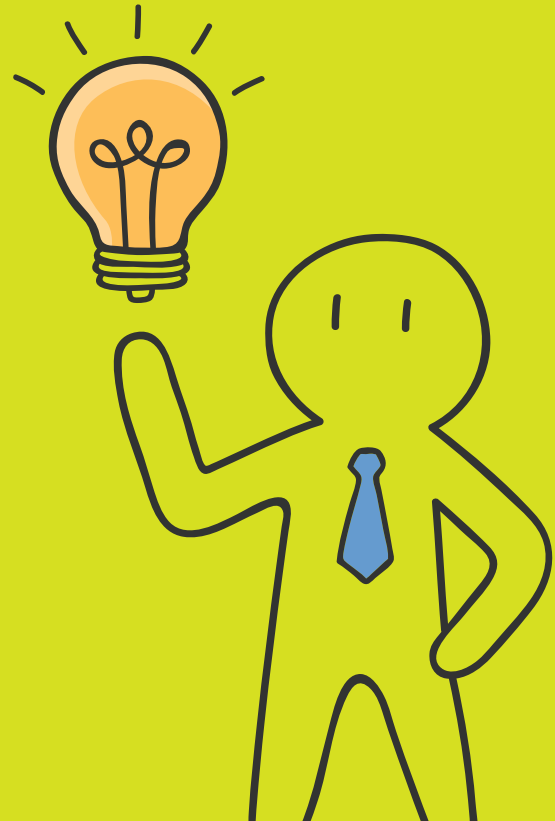


Cell for IPR Promotion and Management (CIPAM)

# Intellectual Property

## The Future!

- The word 'intellect' refers to the creations of the mind.
- Intellectual Property is a type of intangible property and includes inventions, literary and artistic works, symbols, names and paintings.
- Intellectual Property Rights (IPRs) are the Rights granted to the creators of Intellectual Property (IP) by the Government.
- Most IPRs are territorial in nature. For protection of IP in any country, one has to seek protection separately under the relevant laws. There are special mechanisms in place in various territories for providing protection to different types of IPRs.



# Types of Intellectual Property Rights

- Patents, Designs, Trademarks, Copyrights, Geographical Indications, Semiconductor Integrated Circuit Layout Designs, Plant Varieties, Trade Secrets.



## Benefits of IP Registration

- **Economic benefits:** IP rights enable creators to protect and monetize their creations. Third parties cannot use their creation without authorization from the creator.
- **Benefits consumers and society:** Provides consumers with innovative products and services.
- **Innovation:** Promotes innovation, research and development.
- **Establishes Ownership:** Assures a better licensing position.
- **Legal Benefits:** Owners of IP can avail appropriate civil/ criminal remedies, if their rights are infringed.

## Effects of Non-Registration

- Difficult to obtain relief in case of infringement – Non-registered IPs have weak evidentiary value.
- Only remedies under civil law can be availed – Owners cannot obtain remedies under criminal law (except copyright which are not compulsory to register to seek remedies under criminal law).

## Who Can Obtain Protection?

Any person(s) who is a creator of an original and creative or innovative work, having principal place of business in India or if he/she does not carry out business in India, has place of service in India can obtain such protection.

# How are IPRs Registered or Granted in India?

All applications for IPRs need to be filed at the appropriate IPR office in the prescribed format. The application is examined as per the statutes and the IPR is granted/ registered or refused.

## IP Offices in India

**SICLDR#** Delhi

**Patent Office** Kolkata (Head Office) Delhi Chennai Mumbai

**Designs Wing** Kolkata

**Trade Marks Registry** Mumbai (Head Office) Delhi Kolkata Chennai Ahmedabad

**Geographical Indications Registry** Chennai

**Copyrights Office** Delhi

**Plant Varieties** Delhi

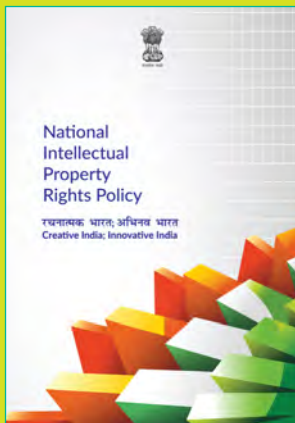
#Semiconductor  
Integrated Circuits  
Layout Design Registry



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# Government Initiatives

## 1. National Intellectual Property Rights Policy 2016 (NIPR Policy)



A comprehensive National IPR Policy has been approved that will not only stimulate innovation and creativity across sectors, but will also provide a clear vision regarding IPR issues. The Policy document is available at [dipp.nic.in](http://dipp.nic.in) and [cipam.gov.in](http://cipam.gov.in).

## 2. Cell for IPR Promotion and Management (CIPAM)



A professional body under the aegis of DIPP which ensures focused action on issues related to IPRs and addresses the objectives of the NIPR policy. CIPAM assists in simplifying and streamlining of IP processes, apart from undertaking steps for accelerating IPR awareness, commercialization and enforcement.

### 3. Awareness Initiatives

CIPAM in partnership with industry associations has conducted IPR awareness programmes in various states. These programs received a very positive feedback from business owners, students, academicians, etc. The IPR Awareness Campaign is being conducted in schools, universities and industries across India.



IPR Awareness Campaign in Schools conducted in collaboration with International Trademark Association (INTA) Posters: Concept and Design by INTA

#### 4. Strengthening Enforcement Agencies

CIPAM in association with the Federation of Indian Chambers of Commerce & Industry (FICCI) launched an “IPR Enforcement Toolkit” for the Police. This Toolkit aids Police officials in dealing with IP crimes, in particular counterfeiting and piracy, which are a huge menace to the IP owners not only in India, but globally. Programs for training of police officials on IP Enforcement have been undertaken by CIPAM in association with IP experts from law firms and the industry across India.

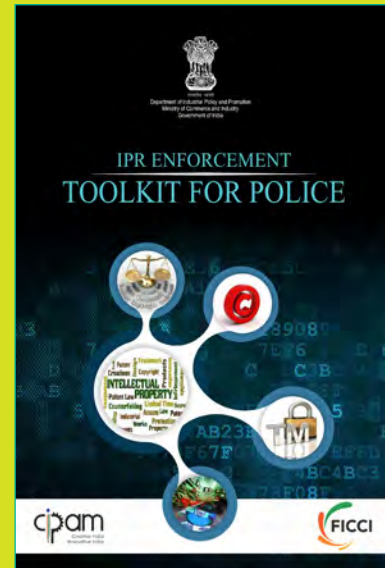
#### 5. Sensitization of Judiciary

Judiciary plays a crucial role in strengthening the IP ecosystem and resolving the prevalent conflicts. In line with the objectives of the NIPR Policy, DIPP sensitizes the participating judges on government policies vis-à-vis IPRs at training programs planned in collaboration with National Judicial Academy and various State Judicial Academies.

#### 6. Modernization of IP Offices

The following measures have been undertaken to increase transparency and efficiency of the IP offices:

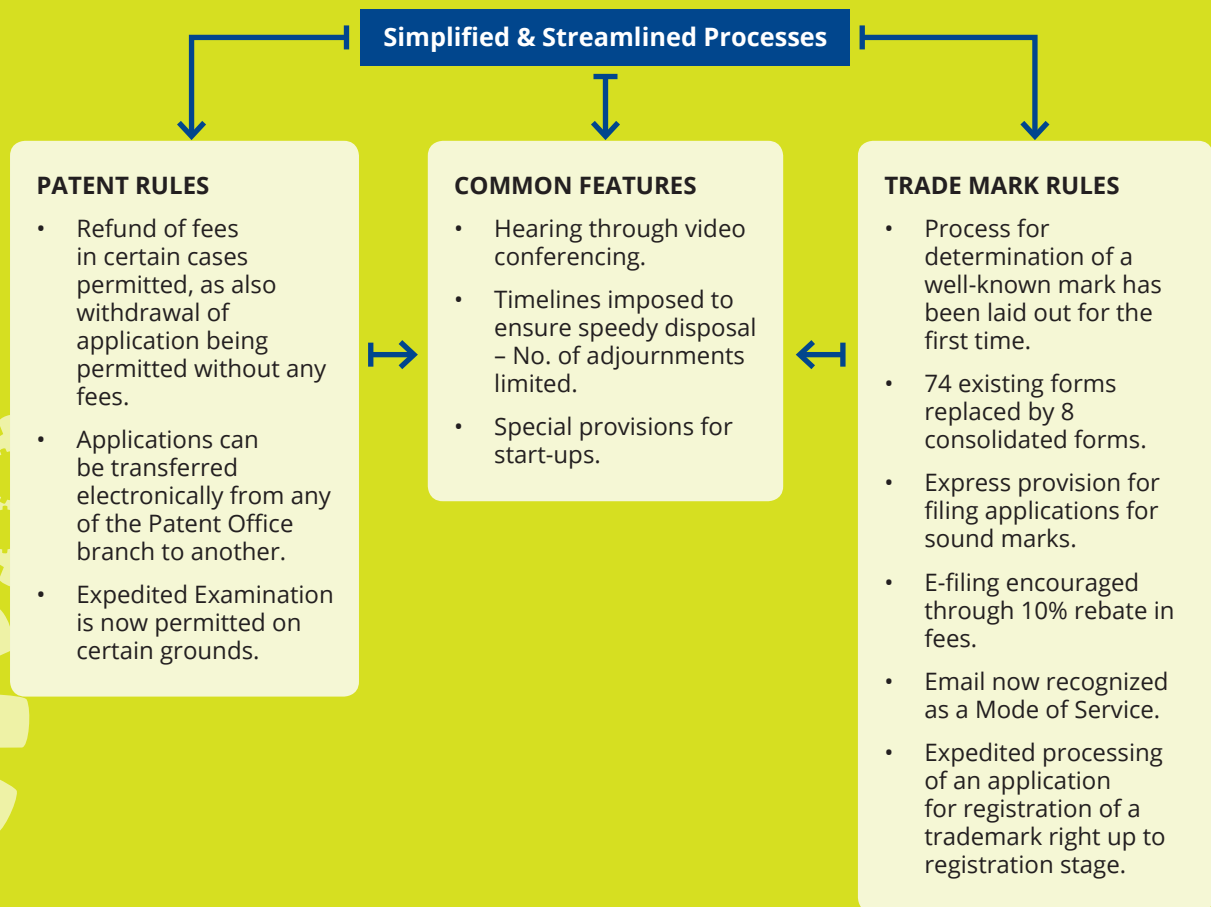
- Dynamic utilities assist in obtaining real time position of all patent and trademark applications.
- Public search - INPASS for patents and trademark search is available on the website.
- Comprehensive e-filing facilities made available for patents and trademarks.
- Auto-allotment of patent applications to ensure uniformity and utilization of the specialized expertise of all examiners and controllers.
- Auto generation of trademark certificates.
- Electronic certificates for Patents after grant.



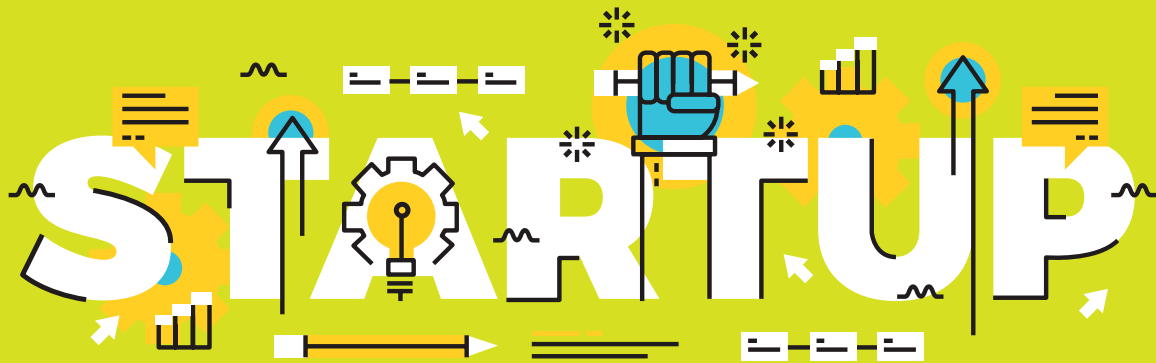
## 7. Augmentation of Human Resources

- 458 new technically competent Patent Examiners in various fields of technology have been recruited on regular basis in addition to the existing 130.
- Manpower has been augmented manifold on the trademark front with 57 regular appointments of Trademark Examiners being made along with 100 Trademark Examiners added on contractual basis.

## 8. Re-engineering of IP Processes - Patent & Trade Mark Rules Amended







## 9. IPRs for Startups

- A scheme for facilitating Startups Intellectual Property Protection (SIPP) has been launched for encouraging innovation and creativity of startups. The scheme has been formulated with a vision to protect and promote Intellectual Property Rights of startups and thus encourage innovation and creativity amongst them.
- Under the scheme, the Government bears the entire cost of the facilitator/agent who assists the startup to file for any number of patents, trademarks or designs. Presently, around 423 facilitators in patent and designs and 596 facilitators in trademarks have been empanelled under this scheme.
- 80% rebate is provided to Start-Ups on patent filling fees. They can also avail the special facility of expedited examination of their patent applications.
- Under the new trademark rules, start-ups have been given a 50% rebate in filing fees for trademark application vis-à-vis the other large entities.

## 10. Concession for MSMEs

- 50% fee concession is provided for MSMEs vis-à-vis large entities on patent as also on trademark fees.

# India on Global Platform

India has a Trade Related Aspects of Intellectual Property Rights (TRIPS) compliant, robust, equitable and dynamic IPR regime.

The Indian IPR system maintains a fine balance between private rights through IPRs and rights of the society as public interest.

India was the first country to ratify the Marrakesh Treaty which facilitates access to published works by visually impaired persons and persons with print disabilities.

India's patent regime prevents 'ever greening' of pharmaceutical patents and makes affordable generics possible - Millions of people around the world rely on affordable medicines made in India, making India 'the pharmacy of the world'.

Memorandum of Understanding (MoUs) in the field of IP signed with organisations, regions and nations such as WIPO, Japan, Europe, Singapore and UK; facilitates bilateral exchanges of best practices and cooperation to foster innovation and creativity.

# Global Innovation Index

***India's ranking on Global Innovation Index (GII)  
shot up from 81 in 2015 to 60 in 2017***

Recognizing India's potential to reach great heights in innovation and creativity, a Task Force on Innovation was set up on the directions of Smt. Nirmala Sitharaman, the Commerce & Industry Minister, Government of India. The Task Force on Innovation had the mandate of assessing India's position as an innovative country and suggest measures to enhance the innovation ecosystem in India and thus improve India's ranking in the GI. The Team, comprising of Government officials and experts from private organisations & academia, have compiled this Report to assist India in this journey.



## COPYRIGHTS

- Copyright is an exclusive legal right granted to the creators of intellectual work.
- Copyright owner has rights to reproduce, translate, adapt, perform, distribute and publicly display the work, etc.
- Registration is not mandatory since copyright comes into existence as soon as the intellectual work is created but it is recommended to register a copyright for better enforceability, since registered copyrights have more evidentiary value in court.

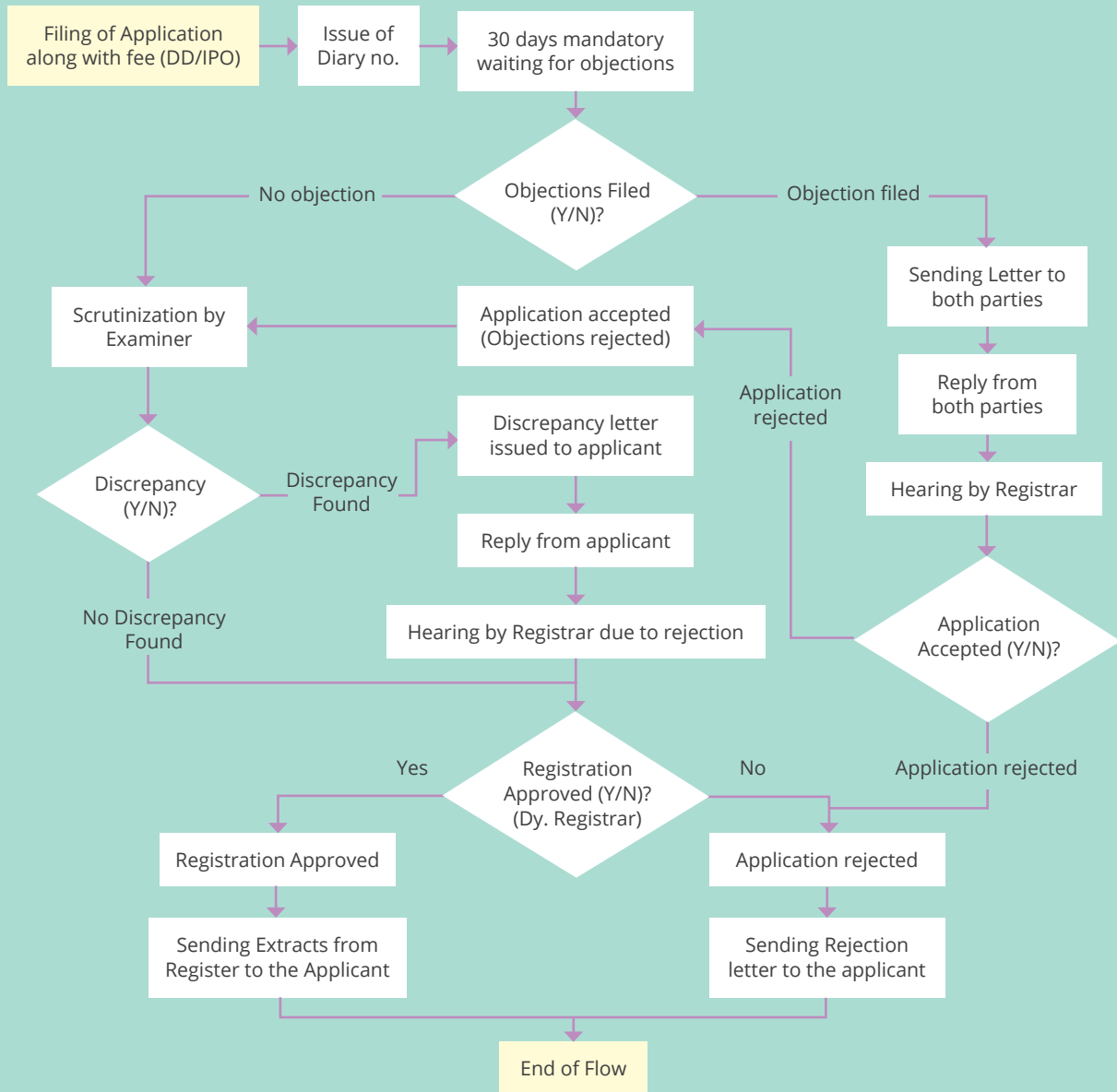
### Works covered under Copyrights

- **Literary including Software** – Books, Essay, Compilations, Computer Programs.
- **Artistic** – Drawing, Painting, Logo, Map, Chart, Plan, Photographs, Work of Architecture.
- **Dramatic** – Screenplay, Drama.
- **Musical** – Musical Notations.
- **Sound Recording** – Compact Disc.
- **Cinematograph Films** – Visual Recording which includes sound recording.

### Duration of Copyright

- **Literary, Dramatic, Musical or Artistic Works** - Lifetime of the author + 60 years from the death of the author.
- **Anonymous & Pseudonymous Works** - 60 years from the year the work was first published.
- **Works of Public Undertakings & Government Works** - 60 years from the year the work was first published.
- **Works of International Organizations** - 60 years from the year the work was first published.
- **Sound Recording** - 60 years from the year in which the recording was published.
- **Cinematograph Films** - 60 years from the year in which the film was published.

## Copyright Registration Process



## **PATENTS**

- Patents are granted for inventions for a product, its process or a process which is novel, has inventive step and industrial applicability.
- One invention – one patent.
- A patent is valid for 20 years, starting from the date of filing of the patent application and this term cannot be extended.

### **Tips to innovators**

- It is recommended that you do not publish/ present/ display your invention before filing a patent application for protection of your invention.
- Always maintain records of your invention.
- Conduct search before filing an application to judge the feasibility of grant of IP (may contact your nearest Patent Facilitation Cell under TIFAC, Department of Science and Technology or a patent lawyer).

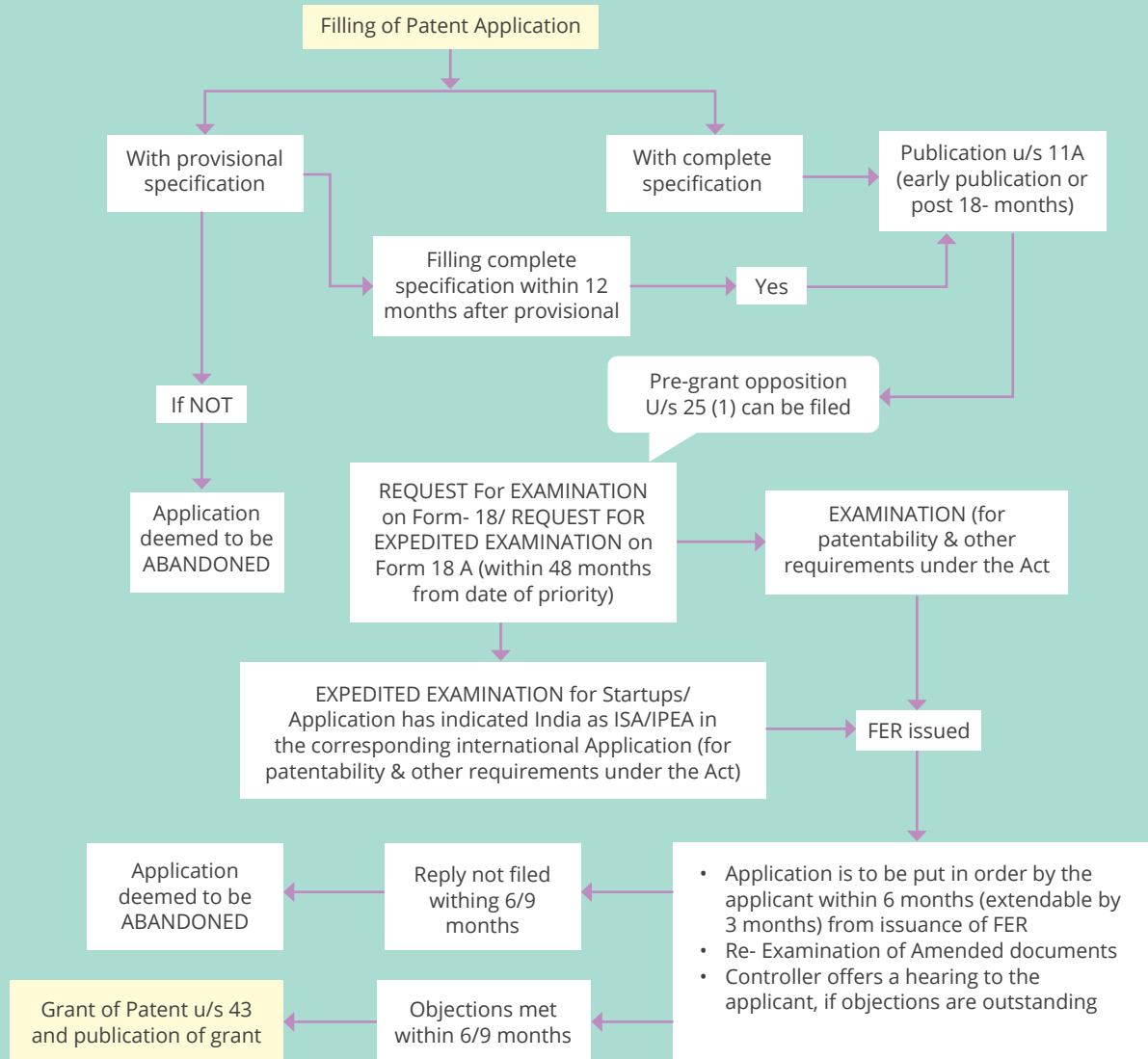
### **What cannot be Patented**

- Scientific principles, contrary to well established natural laws, formulation of abstract theory, frivolous inventions, prejudicial to morality or injurious to public health, method of agriculture or horticulture, method of treatment, admixtures, traditional knowledge, incremental inventions without increase in efficacy and inventions related to atomic energy are some of the inventions not patentable under sections 3 and 4 of the Patents Act, 1970.

### **Expedited examination of a Patent**

- A patent application can be expedited if the applicant is either a startup or has selected Indian Patent office as an International Search Authority (ISA) / International Preliminary Examining Authority (IPEA) in international application under PCT.

# Patent Registration Process



## TRADEMARKS

- A trademark is a business identity and helps us to identify and distinguish the goods made or services offered by a company or an individual.
- Names, Words, Logos, Colours, Packaging, Sounds (audible), Signs (visual) or any combination thereof can be filed as trademarks.

### Must be

- Unique (E.g. Doordarshan); Distinctive (E.g. BHIM, BHEL).

### Avoid

- Adjectives (E.g. Efficient); Names of person or places (E.g. India); Obscenity; Religious or government words or symbols (E.g. OM, Ashok Chakra); Common Shapes (Sphere).

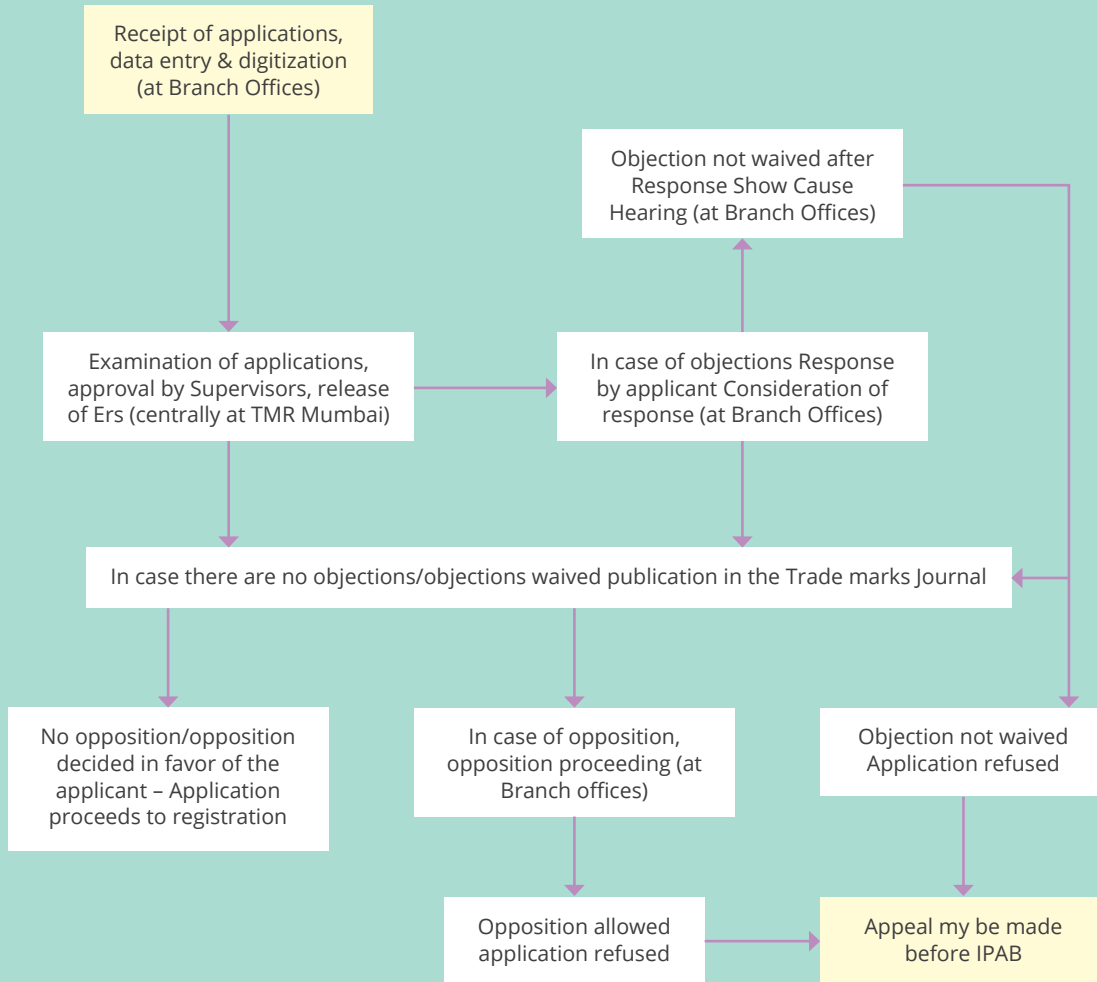
### Symbols

- ™ for pending/applied marks
- ® for registered marks
- ℠ for service marks





## Trademarks Registration Process



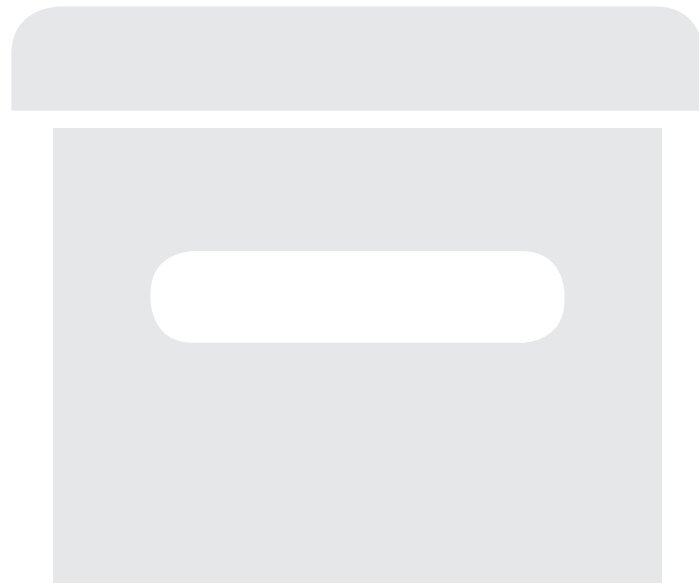
## DESIGNS

- Protects the aesthetic/ ornamental features of an object; no protection over functional aspects.
- Can be a 2D or 3D pattern of a handicraft, a product, or even an industrial commodity.
- Unique Selling Point (USP), protects look and feel of the product, prevents duplication of the product.

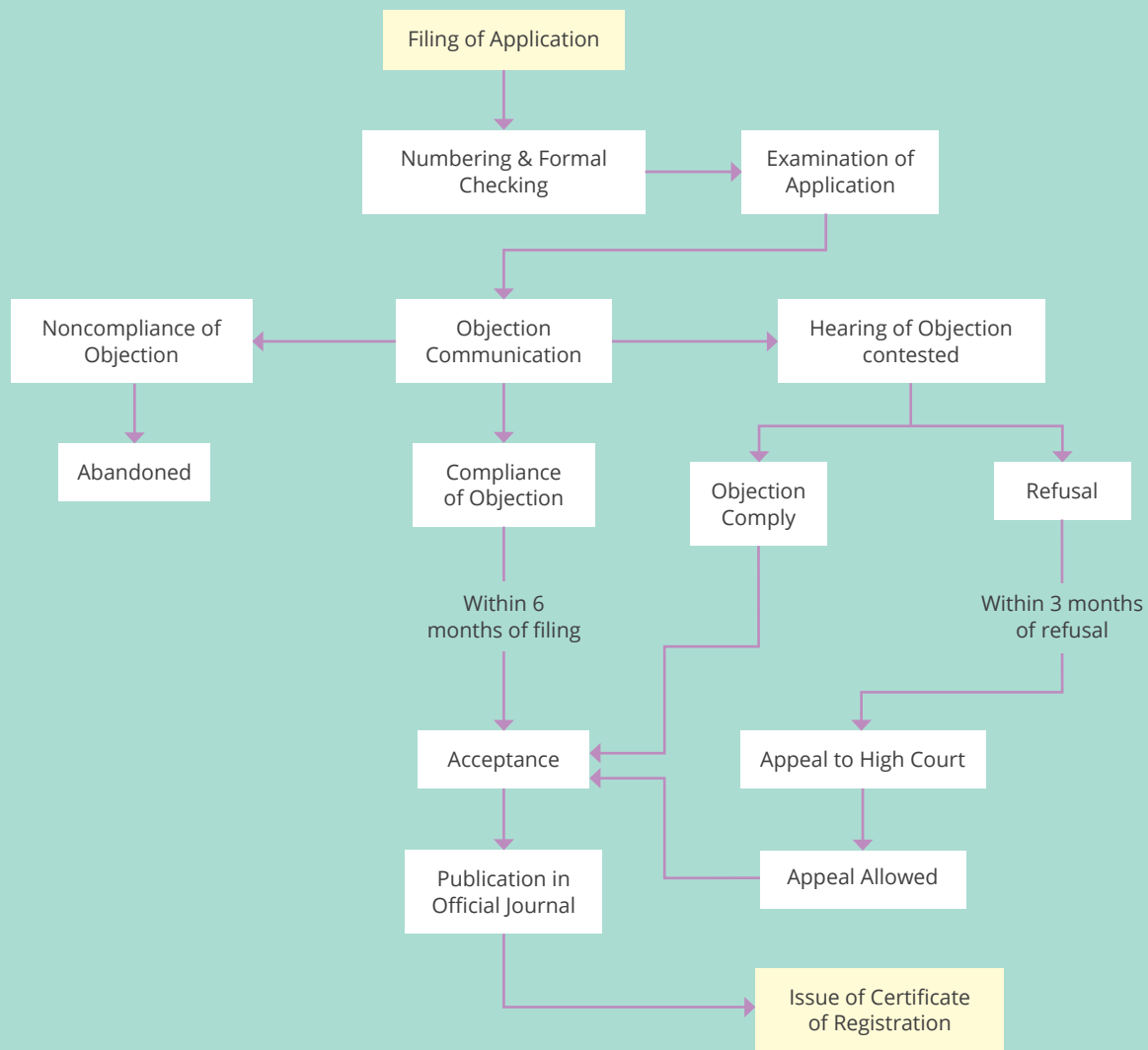


### Criteria for a Design

- As per section 4 of Designs Act, 2000, a design which (a) is not new or original; or (b) has been disclosed to the public anywhere in India or in any other country by publication in tangible form or by use or in any other way prior to the filing date, or where applicable, the priority date of the application for registration; or (c) is not significantly distinguishable from known designs or combination of known designs; or (d) comprises or contains scandalous or obscene matter, shall not be registered.
- Further a design should not attract the provisions of section 5 of Designs Act, 2000 i.e not be contrary to public order or morality.



## Design Registration Process



## GEOGRAPHICAL INDICATIONS (GI)

- GI is primarily an agricultural or food product , natural or a manufactured product (handicrafts, handloom textiles or industrial goods) originating from a definite geographical territory.
- A product is considered to be manufactured in a territory if any one of the activities of either the production or of processing or preparation of the goods takes place there.
- Typically, such a name conveys an assurance of quality and distinctiveness which is essentially attributable to the fact of its origin in that defined geographical locality.
- GI promotes economic prosperity of producers of goods produced in a geographical territory.

### **Examples**

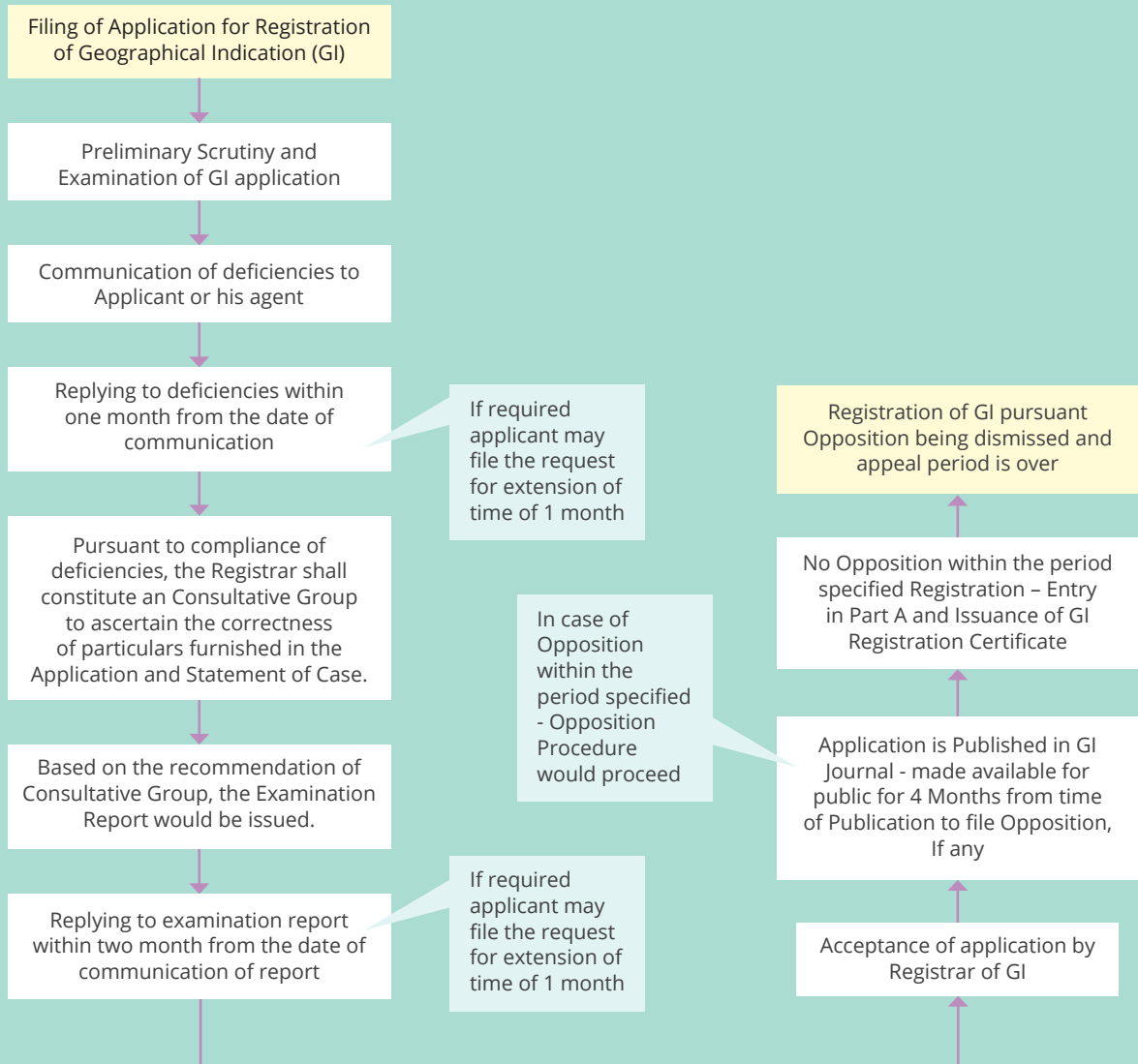
Darjeeling Tea ,Mahabaleshwar Strawberry, Kullu Shawl, Blue Pottery of Jaipur, Banaras Brocades and Sarees, Thanjavur Art Plate, Makrana Marble, Hyderabad Haleem, Nashik Valley Wine, etc.

### **Who can apply**

- Any association of persons, producers, organisation or authority upon representing the interests of the producers in a particular region.



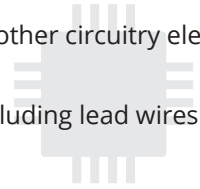
## Geographical Indication (GI) Registration Process



## SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT DESIGN

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- **Semiconductor Integrated Circuit** - A product having transistors and other circuitry elements designed to perform an electronic circuitry function.
- **Layout Design** - A layout of transistors and other circuitry elements including lead wires connected in a semiconductor integrated circuits.



### Criteria for registration of a Semiconductor Integrated Circuits Layout Design (SICLD)

- Original.
- Not commercially exploited anywhere in India or convention country.
- Inherently Distinctive.

## PLANT VARIETIES (UNDER MINISTRY OF AGRICULTURE)

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- Recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of the new plant varieties.
- Protect plants breeders' rights to stimulate investment for research and development for the development of new plant varieties.
- Such protection is a unique aspect of Indian IP Regime which recognises the farmers as cultivator, conserver and breeder.



### Type of varieties

- “The new, extant, farmer’s, essentially derived variety” can be classified depending on the criteria of whether the variety has novelty, distinctiveness, uniformity and stability, traditionally cultivated or genetically engineered.

### Criteria

- **Novel** - variety is new.

- **Distinct** - if the variety has at least one essential characteristic different from other existing varieties.
- **Uniform** - variety having sufficiently uniform essential characteristics.
- **Stable** - essential characteristic remain unchanged after repeated propagation.

## TRADE SECRETS

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- Relates to business related information not known to the public.
  - Associated with a formula, pattern, compilation, program, device, method, technique, or process that derive independent economic value and is reasonable under the circumstances to maintain secrecy.
  - The information is not generally known among or readily accessible to person that normally deal with the kind of information in question.
  - The information has actual or potential commercial value because it is secret, and
  - The person lawfully in control over the information has taken reasonable steps under the circumstances to keep it secret.
- Trade Secrets may include R&D Information, Software Algorithms, Inventions, Designs, Formulas, Financial Records, Ingredients, Lists of Customers, Devices, Methods, Contact Details of Customers and Strategies or Policies of a Company.

### Trade Secrets in India

- Protected through common law approach, inclusive of invoking provisions of contract law or the equitable doctrine of breach of confidentiality.

## TRADITIONAL KNOWLEDGE

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- Traditional knowledge means the knowledge, systems, innovations and practices of local communities across the globe.
- Such wisdom has been developed and accumulated over the years and has been used and passed down through several generations.

### Traditional Knowledge Digital Library

- In order to maintain traditional knowledge, the Traditional Knowledge Digital Library (TKDL) was set up in 2001 by Council of Scientific and Industrial Research (CSIR) in collaboration with the Ministry of Ayush.
- The objective of TKDL is to maintain the ancient and traditional knowledge derived from different Vedas as well as traditionally passed verbal knowledge, especially about medicinal plants and traditionally used formulations in Indian systems of medicine.
- The TKDL also serves as a non-patent database search platform to encourage modern research based on traditional knowledge.
- TKDL prevents patenting traditional knowledge.
- TKDL documents Indian Systems of Medicine mentioned in Vedas (Ayurveda, Unani, Siddha and Yoga).

## GENETIC RESOURCES

The Biological Diversity Act, 2002 was enacted for preservation of biological diversity in India, and provides a mechanism for equitable sharing of benefits arising out of the use of traditional biological resources and knowledge.



# Infringement and Penalties

- IP infringement is breach or violation of intellectual property rights.
- IPRs are said to be infringed when a work protected by IP laws is used, copied, distributed or otherwise exploited without having the permission from the owners.
- If an IPR is infringed, the owner has the following remedies available for protecting his right:

## Civil remedies:

- Interlocutory/Permanent Injunction:
  - An Award of Costs & Damages
  - Delivery Up & Destruction
- Additional remedies in case of Copyright:
  - Mareva Injunction
  - Anton Pillar Order
  - John Doe Order

- **Acts under which Civil remedies are available:**
  - Copyrights Act, 1957
  - Geographical Indication of Goods (Registration and Protection), Act, 1999
  - Trade Marks Act, 1999
  - Patents Act, 1970
  - Designs Act, 2000

## Criminal remedies:

- Imprisonment
- Fine

- **Acts under which Criminal remedies available:**
  - Copyrights Act, 1957
  - Biological Diversity Act, 2002
  - Semiconductor Integrated Circuits Layout Design Act, 2000
  - Trade Marks Act, 1999
  - Protection of Plants & Varieties and Farmers Rights Act, 2001

**Counterfeiting** is illegally making and selling fake products called 'counterfeits' which are identical or similar copies of genuine products with the same or similar trademark, logos and color combinations that mislead people to mistake it for real products.

**Piracy** refers to illegal selling, distribution and use of duplicates of copyrighted content. It may be done in various forms – soft lifting, hard disk loading, client server over use, online piracy, etc.

# IPR at a Glance

IP Type	Type of Work	Main Requirements for Protection	Duration
PATENTS	Inventions/ innovations.	Novel/ New, with inventive step and industrially applicability.	20 years from filing date, subject to payment of annual renewal fees. No extension beyond 20 years.
DESIGNS	Aesthetics/ ornamental and non- functional features of an article or product.	Novel/New, with individual character.	10 years from filing date, renewable for further 5 years(maximum protection period is 15 years).
TRADEMARKS	Distinctive signs or marks which serves to identify and distinguish goods or services of one business from another.	Distinctiveness of marks.	For registered marks, 10 years from filing and renewable every 10 years for successive periods
COPYRIGHTS	Artistic, literary and musical works, sound recordings, films and broadcast, derivative works.	Upon creation or publication, expressed in material form, regardless of the quality or purpose.	Literary, Dramatic, Musical or Artistic Works - Lifetime of the author until 60 years from the death of the author. Anonymous & Pseudonymous, Works of Public Undertakings & Government Works, Works of International Organizations - 60 years from the year the work was first published. Sound Recording and Cinematograph Films - 60 years from the year in which the recording was published.
GEOGRAPHICAL INDICATIONS (GI)	A product originating from a specific location which gives that product a unique and differentiating quality or reputation or other characteristics.	The qualities, characteristics, features or reputation of the product should be essentially due to and linked to its original place of production.	A registered GI is valid for 10 years and can be renewed on payment of renewal fee.
PLANT VARIETIES	Recognize and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the development of the new plant varieties.	Novel- Variety is new. Distinct- Variety is distinct if the variety has at least one essential characteristic different from other existing varieties. Uniform- Variety having sufficiently uniform essential characteristics. Stable- Essential characteristics remain unchanged after repeated propagation.	For trees and vines- 18 years from the date of registration of the variety. For extant varieties and others - 15 years from the date of the notification of that variety by the Central Government/date of registration respectively.
SICLD	A layout of transistors and other circuitry elements designed to perform an electronic circuitry function.	Original, not commercially exploited anywhere in India or in a convention country for more than 2 years from the date of application for the registration, and inherently distinctive.	10 years from the date of filing an application for registration or from the date of first commercial exploitation anywhere in any country, whichever is earlier.

# How Can You Contribute?

1. Recognise and respect other's IP.
2. Refrain from unauthorized use of other's intellectual creations – Don't buy fake products!
3. Give due credits to the creators always.

## Some useful links

- **DIPP:** Nodal point for all IPR policy issues: <http://dipp.nic.in/>
- **CGPTDM office:** For filing of IP applications/ to obtain real time status of all IP applications/ checking grants/ registration of IPRs: [www.ipindia.nic.in](http://www.ipindia.nic.in)
- **Copyright office:** For information related to filling and status of copyright applications: <http://copyright.gov.in>
- **Startup India:** For information regarding startups: <http://startupindia.gov.in>
- **Protection of Plant Varieties and Farmers' Rights Authority:** For filing/ registration of plant variety applications: <http://plantauthority.gov.in>
- **TIFAC:** For information on filing of Indian/ foreign patents, patent search facilities: [www.tifac.org.in](http://www.tifac.org.in)
- **Ministry of Electronics and Information Technology:** Providing IP Facilitation Support to DeitY Societies and Grantee Institutions, Financial Support to Startups and SMEs for International Patent Filing through SIP-EIT Scheme, Creation of IPR Awareness through Financial Support to Industry Bodies and Academia, Providing IPR Related Services including Prior Art Search: <http://meity.gov.in/content/ipr-promotion>
- **Semiconductor Integrated Circuits Layout Design Registry (SICLDR):** For information related to filling and status of Semiconductor Integrated Circuit Layout Designs applications: <http://sicldr.gov.in>

This initiative has been taken by Cell for IPR Promotion and Management (CIPAM), Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry, Government of India under the National IPR Policy to create public awareness about economic, social and cultural benefits of IPRs among all sections of the society. The information contained in this booklet is not legal advice and is for informational and/or educational purposes only.

CIPAM makes every effort to ensure and provide most accurate information, however, it is not possible to be accurate at all the times so, CIPAM does not guarantee, and makes no warranties as to, the accuracy, accessibility, integrity and timeliness of any information.

CIPAM is thankful to Legasis Services Pvt. Ltd. for their suggestions.



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