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**Handbook on IPR
in India**

Preface

The advent of globalization and the rapid acceleration of innovation have made intellectual property (IP) a cornerstone of economic success for businesses worldwide. For global players seeking to expand into emerging markets like India, understanding the nuances of the country's intellectual property regime is critical for safeguarding innovation, fostering collaborations, and achieving sustainable growth.

India, as one of the fastest-growing economies, has undergone significant transformations in its IP landscape to align with global standards. As a signatory to international agreements such as the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement and a member of the World Intellectual Property Organization (WIPO), India has made substantial strides in creating an IP ecosystem that balances innovation incentives with public interest.

This toolkit is designed to provide global businesses, innovators, and investors with a comprehensive guide to navigating India's IP regime. Whether you are seeking to protect patents, trademarks, copyrights, or trade secrets, this resource will help you to:

1. **Understand the Indian IP Framework:** Gain insights into the legal and regulatory structure governing IP rights in India, including key statutes, enforcement mechanisms, and recent policy reforms.
2. **Identify Opportunities and Risks:** Recognize the opportunities India's IP regime presents, while addressing potential challenges such as procedural complexities, enforcement delays, and cultural nuances.
3. **Adopt Best Practices:** Learn strategies to effectively register, protect, and enforce your intellectual property in India, ensuring alignment with both local regulations and global business objectives.
4. **Leverage India's Innovation Ecosystem:** Explore avenues for collaboration with Indian innovators, research institutions, and startups, leveraging India's growing focus on fostering innovation and entrepreneurship.

With this toolkit, we aim to demystify the complexities of India's intellectual property regime and empower global players to make informed decisions in this dynamic market. By understanding and leveraging the unique aspects of India's IP framework, businesses can not only protect their assets but also unlock new growth opportunities in one of the world's most promising economies.

Welcome to the journey of navigating India's intellectual property landscape—a vital step towards building a robust and sustainable global presence.

This toolkit is broadly divided into four sections:

1. Patents
2. Trademarks
3. Industrial design
4. Copyrights

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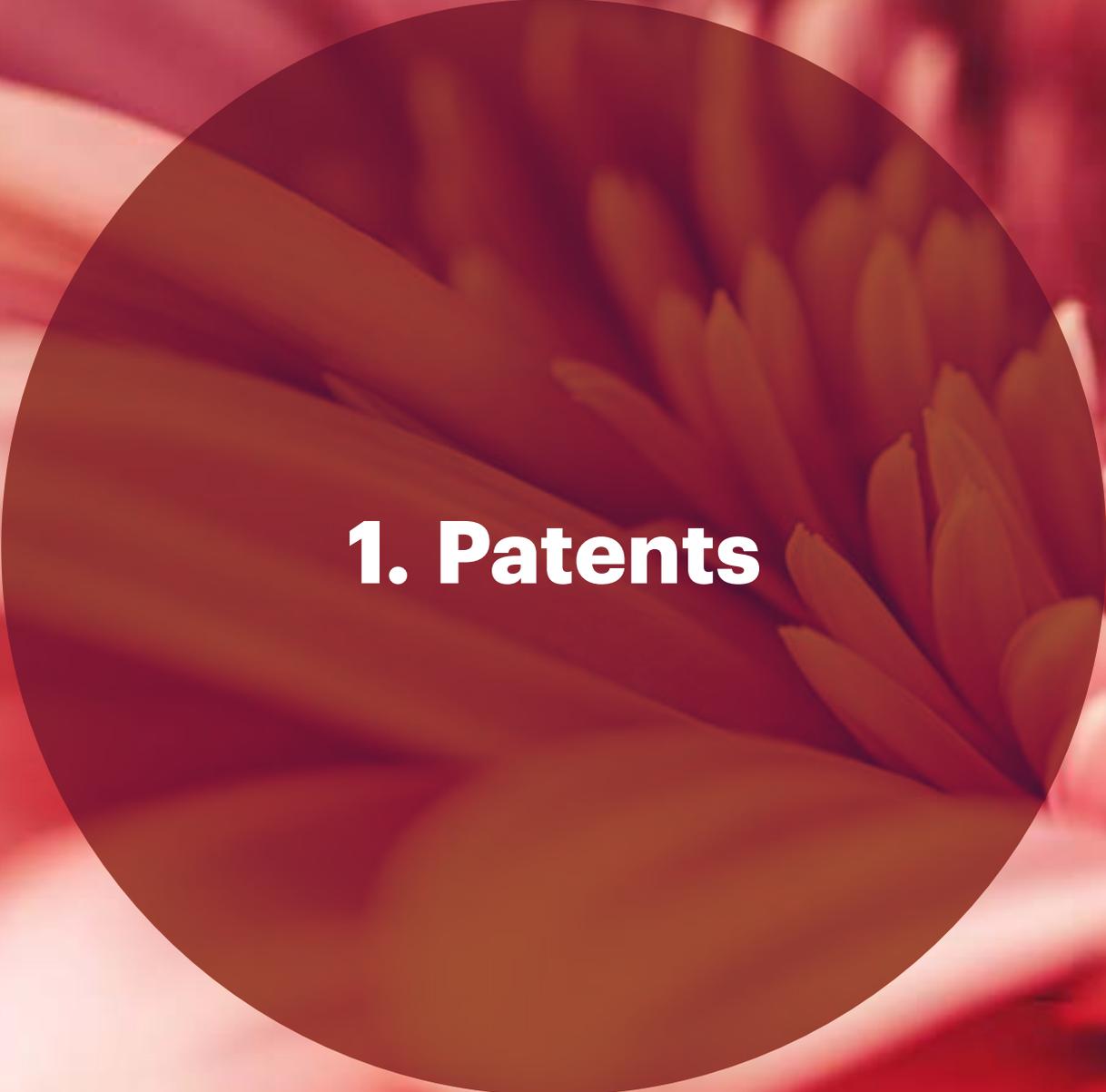
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1. Patents

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1. Overview of Patent Laws in India

Indian patent law is governed primarily by the Patents Act, 1970, as amended by the Patents (Amendment) Act, 2005. The key governing body is the Office of the Controller General of Patents, Designs & Trademarks (CGPDTM), which oversees the administration of patent laws in India.

Key Provisions

- 1. Patentable Inventions:** An invention must meet the criteria of novelty, inventive step, and industrial applicability.
 - Non-patentable inventions include:
 - Frivolous inventions.
 - Methods of agriculture and horticulture.
 - Inventions contrary to public morality or law.
 - Mathematical or business methods, algorithms, etc.
- 2. Term of a Patent:** A patent is granted for 20 years from the filing date.
- 3. Compulsory Licensing:** Provisions exist for compulsory licensing under certain circumstances, such as non-working of the patent in India or public health emergencies.
- 4. Pre-grant and Post-grant Opposition:** Allows third parties to oppose the grant of a patent before or after it is granted.

International Treaties and Agreements

India is a signatory to various international treaties and agreements relating to patents:

- 1. TRIPS Agreement (1995):**
 - India, as a member of the World Trade Organization (WTO), complies with the provisions of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which sets minimum standards for the protection and enforcement of intellectual property rights, including patents.

- 2. Paris Convention for the Protection of Industrial Property (1883):**
 - India is a signatory, enabling Indian applicants to claim priority in member countries.
- 3. Patent Cooperation Treaty (PCT) (1998):**
 - India joined the PCT, allowing applicants to file international patent applications designating multiple countries.
- 4. Budapest Treaty (2001):**
 - India is a party to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for patent procedure.
- 5. WIPO Membership:**
 - India is a member of the World Intellectual Property Organization (WIPO).

Landmark Judgments

- 1. Novartis AG v. Union of India (2013):**
 - This case clarified the scope of Section 3(d) of the Patents Act, 1970, rejecting a patent for the cancer drug Glivec on the grounds that it was an incremental innovation without enhanced therapeutic efficacy.
- 2. Bayer Corporation v. Union of India (2014):**
 - India's first compulsory license was granted to Natco Pharma for the cancer drug Nexavar, emphasizing accessibility and affordability over monopoly rights.
- 3. Roche v. Cipla (2009):**
 - This case highlighted issues related to patent infringement and public interest. The Delhi High Court ruled in favor of Cipla, emphasizing affordable access to life-saving drugs.
- 4. Monsanto Technology LLC v. Nuziveedu Seeds Ltd. (2019):**
 - The Supreme Court ruled on the patentability of genetically modified organisms and upheld the revocation of Monsanto's patent related to Bt cotton seeds.

5. **Ferid Allani v. Union of India (2020):**

- This judgment emphasized the patentability of computer-related inventions (CRIs) that demonstrate technical advancement and technical effect.

2. Patentable Subject Matter in India

Key Points:

1. Criteria for Patentability

For an invention to be patented in India, it must satisfy three essential criteria:

- **Novelty:** The invention must be new, meaning it has not been disclosed in any form, anywhere in the world, before the date of filing the patent application.
- **Inventive Step:** The invention must involve a feature that demonstrates a technical advance or economic significance and is not obvious to a person skilled in the relevant field.
- **Industrial Applicability:** The invention must be capable of being manufactured or used in an industrial process.

2. Exclusions: Non-Patentable Subject Matter under Section 3 of the Indian Patents Act

Section 3 of the Indian Patents Act explicitly lists subject matter that is not eligible for patent protection. These exclusions aim to balance innovation with ethical, societal, and environmental considerations.

Section 3(a): Frivolous Inventions

- Any invention that is frivolous or contrary to natural laws (e.g., perpetual motion machines).

Section 3(b): Public Morality

- Inventions contrary to public order, morality, or those causing harm to human, animal, or plant life or health, or the environment. Example: Inventions related to biological warfare.

Section 3(c): Discovery of Scientific Principles

- The mere discovery of a scientific principle or the formulation of an abstract theory (e.g., the discovery of gravity).

Section 3(d): New Use of Known Substances

- The mere discovery of a new form of a known substance that does not result in enhanced efficacy. Example: Polymorphs of a known drug.

Section 3(e): Aggregation of Features

- A mere arrangement or rearrangement of known devices, functioning independently without producing a synergistic effect.

Section 3(f): Methods of Agriculture or Horticulture

- Examples include methods of cultivating crops or hybridizing plants.

Section 3(g): Medical, Surgical, or Diagnostic Methods

- Any method for treatment of humans or animals to render them free of disease or to increase their economic value.

Section 3(h): Plants and Animals

- Plants, animals, and essentially biological processes for their production are not patentable. Exceptions include microorganisms and microbiological processes.

Section 3(i): Literary, Artistic, or Aesthetic Creations

- Inventions related to literary, dramatic, musical, or artistic works, cinematographic works, or any other aesthetic creations.

Section 3(j): Traditional Knowledge

- Inventions based on traditional knowledge or those duplicating known properties of traditionally known substances are excluded. Example: Patent applications related to turmeric for wound healing and neem for its pesticide properties were rejected.

Section 3(k): Mathematical or Business Methods, and Software per se

- Computer programs or algorithms that do not provide a technical effect are not patentable. Similarly, business methods are excluded unless they involve a technical solution.

Section 3(l): Presentation of Information

- Mere presentation of information, such as visual representations or charts, is not patentable.

Section 3(m): Topography of Integrated Circuits

- Any scheme or rule relating to the topography of integrated circuits is excluded.

Section 3(p): Traditional Knowledge and Aggregations

- Traditional knowledge or simple aggregations of known components that fail to produce a novel or synergistic result.

Section 4: Atomic Energy Inventions

- Inventions relating to atomic energy, as specified under the Atomic Energy Act, 1962, cannot be patented for national security reasons.

Case Studies

Case Study 1: Software with Technical Effect

In *Ferid Allani v. Union of India (2019)*, the Delhi High Court clarified that software-related inventions could be patentable if they demonstrate a “technical effect.” For example, software improving hardware performance or resource management could qualify.

Case Study 2: Business Method Rejection

In *Yahoo Inc. v. Controller of Patents (2009)*, an application related to online advertising methods was rejected as it was categorized as a business method under Section 3(k).

Case Study 3: Traditional Knowledge Protection

The rejection of a patent application for turmeric (*Curcuma longa*) for wound-healing properties reinforced India’s commitment to protecting traditional knowledge. Since the healing properties were already part of publicly available traditional knowledge, the patent application was invalidated.

3. Patent Filing Process in India

Filing a patent in India is a significant step for inventors, organizations, and innovators to safeguard their intellectual property rights. Understanding the process and requirements ensures a smooth

filing experience. This guide outlines the essential steps, key differences, and common pitfalls to help applicants successfully navigate the patent filing process in India.

Key Points in the Patent Filing Process

1. Differences Between Provisional and Complete Specifications

Provisional Specification:

- Used when the invention is at a conceptual stage but not yet fully developed.
- Acts as a placeholder to secure the filing date, providing a 12-month window to finalize the invention.
- Does not require detailed claims but must describe the invention sufficiently to establish its novelty.

Complete Specification:

- Submitted when the invention is fully developed and ready for evaluation.
- Includes detailed descriptions, claims, and drawings, defining the scope of the invention.
- A complete specification must be filed within 12 months of the provisional filing; otherwise, the application lapses.

Key Takeaway: Filing a provisional specification provides flexibility, while a complete specification ensures comprehensive protection.

2. Filing Methods: Online vs. Offline

Online Filing:

- Accessible via the Indian Patent Office (IPO) e-filing system.
- Offers convenience, faster submission, and reduced costs.
- Requires user registration on the IPO portal and a digital signature certificate.

Offline Filing:

- Involves submitting physical documents at the IPO offices in Delhi, Mumbai, Chennai, or Kolkata.
- Typically, slower and may involve additional logistical costs.

Key Takeaway: Online filing is recommended for ease of access, cost-effectiveness, and faster processing.

3. Required Documents, Fees, and Timelines

Required Documents:

- Patent application form (Form 1).
- Provisional or complete specification (Form 2).
- Statement and undertaking regarding foreign applications (Form 3).
- Declaration of inventorship (Form 5).
- Priority documents (if applicable).
- Power of attorney (if filed through an agent).

Fees:

- Application fees depend on the type of applicant: individual, startup, small entity, or large entity.
- Additional fees apply for excess claims, pages, or expedited examination requests.
- Fee reductions are available for startups and small entities.

Timelines:

- Provisional specification: 12 months to file a complete specification.
- Examination request: Must be filed within 31 months of the application's priority date.
- Patent grant: Can take 2-5 years, depending on examination and objections.

Patent Filing Flow

Here is a simplified flow chart outlining the patent filing process in India:

1. **Idea/Invention Development**
 - Conduct a prior art search to ensure novelty.
2. **Drafting Provisional Specification (Optional)**
 - File Form 1 and Form 2 (Provisional Specification) to secure a priority date.
3. **Drafting Complete Specification**
 - File Form 2 (Complete Specification) within 12 months of the provisional filing.

4. Application Submission

- Choose between online or offline submission.
- Submit required documents and pay applicable fees.

5. Publication of Application

- The application is published in the Patent Journal 18 months after the filing date (or earlier upon request).

6. Request for Examination (RFE)

- File Form 18 within 31 months of the priority date.

7. Examination Process

- Examiner reviews the application and issues a First Examination Report (FER).
- Address objections raised in the FER.

8. Grant of Patent

- Once objections are resolved, the patent is granted and published in the Patent Journal.

9. Maintenance of Patent

- Pay renewal fees annually to keep the patent active.

4. International Patent Protection and India

This topic delves into how Indian patents integrate into global patent strategies, with a focus on India's role in the international intellectual property landscape. It explores mechanisms like the Patent Cooperation Treaty (PCT), the options available for foreign entities filing patents in India, and strategies for aligning Indian patent protections with global priorities.

Key Points in Detail

1. **Overview of the Patent Cooperation Treaty (PCT) and India's Role as a Contracting State**
 - **What is the PCT?**
 - The Patent Cooperation Treaty is an international treaty that simplifies the process of seeking patent protection in multiple jurisdictions. It allows an inventor to file a single international patent application, covering multiple countries, rather than filing separate applications in each country.

- **India as a PCT Contracting State**

- India joined the PCT in 1998 and plays an active role as a contracting state. The Indian Patent Office acts as:
 - A Receiving Office: It accepts PCT applications filed by Indian nationals or residents.
 - An International Search Authority (ISA): It provides search reports that highlight existing patents or prior art related to a particular invention.
 - An International Preliminary Examining Authority (IPEA): It evaluates the patentability of inventions before final national filings.

- **Benefits of PCT for Indian Patents**

- By leveraging the PCT, inventors can delay individual national filings for up to 30–31 months, giving them time to assess the commercial viability of their invention.
- Applicants using the PCT can secure priority filing in India while extending their international protections.

2. **Filing Options for Foreign Entities in India**

- Foreign entities or individuals wishing to protect their patents in India have the following options:

1. **Direct National Filing:**

- A patent application can be filed directly with the Indian Patent Office (IPO) under the Paris Convention, which provides a 12-month priority period from the first application in a member state.

2. **Filing through the PCT National Phase:**

- Foreign applicants can enter the Indian national phase within 31 months of the international filing date under the PCT.

3. **Via a Local Agent:**

- Foreign entities must appoint an Indian patent agent (licensed in India) to file and manage their application with the IPO.

- **Documentation and Compliance:**

- Foreign applicants need to comply with Indian patent laws, including providing the appropriate fees, forms, and translated documents (if the original application is in a language other than English).

3. **Strategies for Protecting Patents Globally with India as a Priority Jurisdiction**

- **Why Prioritize India?**

- India is a global R&D hub, with significant contributions to industries like pharmaceuticals, biotechnology, software, and electronics.
- The Indian market presents vast commercial opportunities for patented technologies, making it critical for global IP strategies.

- **Global Strategies with India in Mind:**

1. **Identify Core Markets:**

- Companies should identify where their invention will have the most commercial impact and consider India as a key market in their filing strategy.

2. **PCT Approach for Global Protection:**

- File a PCT application with India as a national phase destination, ensuring global flexibility while retaining the option to secure Indian patent protection.

3. **Leverage Indian Expertise:**

- Collaborate with Indian R&D teams and ensure innovations created in India are patented in both domestic and global jurisdictions.

4. **Monitoring and Enforcement:**

- As India strengthens its IP enforcement mechanisms, applicants should ensure proper monitoring of their patent rights to prevent infringements.

5. **Cost-Effective Filing:**

- India's patent filing costs are relatively affordable compared to other jurisdictions, making it an attractive option for innovators and SMEs.

5. Examination, Oppositions, and Grant of Patents

This topic provides a detailed overview of the procedural journey from filing a patent application to the eventual grant of a patent, focusing on the examination process, opposition mechanisms, and common challenges faced during the process.

1. Examination Process

The examination phase is critical in determining whether a patent application meets the statutory requirements for patentability.

- **Request for Examination (RFE)**

- After filing a patent application, the examination does not commence automatically. The applicant must submit an RFE to the respective patent office.
- **Timeline:**
 - For ordinary or convention applications, the RFE must be filed within 31 months from the priority date or filing date.
 - For PCT national phase applications, the RFE must be filed within the same 31-month window.
 - If the RFE is not filed within the specified timeline, the application is deemed withdrawn.
- **Who can file?**
 - The applicant or an authorized Patent agent.

- **Substantive Examination**

- Once the RFE is filed, the application is queued for substantive examination by a patent examiner.
- The examiner evaluates the application on the following grounds:

1. **Patentable Subject Matter:** Whether the invention falls under categories eligible for patent protection (e.g., not a law of nature or abstract idea).
2. **Novelty:** The invention must be new and not disclosed in prior art.

3. **Inventive Step (Non-Obviousness):** It must not be an obvious improvement over existing technology.

4. **Industrial Applicability:** The invention must have practical utility.

5. **Specification Compliance:** The specification must sufficiently describe the invention to enable a skilled person to reproduce it.

- **First Examination Report (FER):**

- The examiner issues an FER listing objections or deficiencies in the application. The applicant must respond to these objections within 6 months, extendable by an additional 3 months.
- Failure to respond results in the application being abandoned.

2. Mechanisms for Opposition

Opposition is a mechanism that allows third parties to challenge the grant of a patent, ensuring only valid patents are granted.

- **Pre-Grant Opposition**

- **Who can file?**
 - Any person (not limited to interested parties) can file a pre-grant opposition.

- **When to file?**

- At any time after the publication of the patent application but before the grant of the patent.

- **Grounds for Opposition:**

- Lack of novelty, inventive step, or industrial applicability.
- Non-disclosure or wrongful disclosure of biological material.
- Incomplete or insufficient description of the invention.
- The invention is not patentable under the Indian Patent Act (e.g., it relates to traditional knowledge).

- **Procedure:**

- The opposing party submits a written representation, and the applicant is given an opportunity to respond.

- The patent controller reviews both submissions, gives opportunity to hearing if he considers the case is prime facie valid and makes a decision based on hearing.
- **Post-Grant Opposition**
 - **Who can file?**
 - Only an interested party (e.g., a competitor or someone affected by the patent).
 - **When to file?**
 - Within 1 year from the date of grant of the patent.
 - **Grounds for Opposition:**
 - Similar to pre-grant opposition but may also include fraudulent or misleading information provided by the applicant.
 - **Procedure:**
 - A post-grant opposition board is constituted to hear the case and provide recommendations. The patent controller reviews the recommendations before making a final decision.
3. **Key Challenges During the Grant Process and How to Navigate Them**
1. **Objections in the FER:**
 - **Challenge:**
 - Objections related to novelty, inventive step, or clarity of claims are common.
 - **Solution:**
 - Respond comprehensively to each objection by providing detailed explanations, amending claims if necessary, and submitting prior art searches to demonstrate the invention's uniqueness.
 2. **Delays in Examination:**
 - **Challenge:**
 - Patent offices often face backlogs, leading to significant delays in examination and grant processes.
 - **Solution:**
 - Use the expedited examination process (available for startups, SMEs, and applicants with certain international arrangements).
 3. **Opposition Proceedings:**
 - **Challenge:**
 - Opposition, particularly pre-grant, can delay the grant of a patent or result in its rejection.
 - **Solution:**
 - Prepare for opposition by ensuring the application is robust from the outset, with clear claims, comprehensive prior art disclosures, and proper compliance with procedural requirements.
 4. **Compliance with Indian Patent Laws:**
 - **Challenge:**
 - Foreign applicants may face difficulties navigating Indian-specific patent rules, such as requirements for local filing agents or restrictions on certain patentable subjects (e.g., software patents).
 - **Solution:**
 - Engage experienced Indian patent agents or legal advisors to ensure smooth compliance.
 5. **Amendments to Claims:**
 - **Challenge:**
 - Amendments to claims during examination may lead to narrowing the scope of the patent.
 - **Solution:**
 - Draft claims broadly but ensure they are defensible during examination or opposition proceedings.

6. Patent enforcement in India

Patent enforcement in India is a crucial aspect of protecting intellectual property rights (IPR), ensuring that patent holders can defend their innovations and prevent unauthorized use. Here's a detailed breakdown of the key elements involved in patent enforcement in India:

Key Points:

1. Types of Patent Infringement and Remedies Available

Patent infringement refers to unauthorized use, manufacture, sale, or distribution of a patented invention without the consent of the patent holder. The types of patent infringement can include:

- **Direct Infringement:** This occurs when an entity makes, uses, sells, or offers for sale a patented invention without permission.
- **Indirect Infringement (or Contributory Infringement):** This involves activities such as selling components or providing services that facilitate infringement.

Remedies for patent infringement: If a patent holder believes their rights have been infringed, they can take several legal actions:

- **Injunctions:** The court may issue an injunction to stop the infringing party from continuing the infringement, which is the most common remedy.
- **Damages or Account of Profits:** The patent holder can claim damages for the losses suffered due to the infringement or demand that the infringer account for the profits made from using the patented technology.
- **Seizure of Infringing Goods:** Courts can order the seizure and destruction of goods that are infringing the patent.
- **Criminal Prosecution:** In certain cases, especially in the case of counterfeiting, criminal prosecution can be initiated under the Indian Patents Act.

2. Role of the Judiciary, Including Specialized IP Courts

The judiciary plays a pivotal role in patent enforcement in India. Courts are responsible for interpreting patent laws and determining whether an infringement has occurred. India does not have a separate patent-specific court; however, intellectual property (IP) cases are typically heard in specialized divisions within High Courts, like the Intellectual Property Appellate Board (IPAB), which was created to hear appeals related to patents, trademarks, and other IPR issues.

- **Civil Courts:** These courts are the first line of action for patent infringement cases. They handle lawsuits seeking remedies such as injunctions and damages.
- **High Courts:** High Courts in India also play a significant role in patent enforcement. Patent infringement cases can be directly filed in High Courts under Sections 104-105 of the Patents Act, which also has provisions for expedited hearings.
- **The IPAB:** Before its dissolution in 2021, the IPAB had jurisdiction over appeals related to patents, and it was a specialized body that dealt with patent enforcement. Since the dissolution, patent-related appeals are now handled by the High Courts.

In India, the courts also play a proactive role in enforcing patent rights by granting interim injunctions when the infringement is clear, even before the full trial is concluded. This ensures that the patent holder is protected from ongoing harm due to the infringement.

3. Landmark Cases That Shaped India's Patent Enforcement Landscape

Several landmark cases have significantly influenced patent enforcement in India. These cases have helped clarify key issues, such as patentability standards, the scope of patent protection, and the interpretation of patent laws.

- **Novartis AG v. Union of India (2013):** In this case, the Supreme Court of India ruled that Novartis' cancer drug, Glivec, was not eligible for a patent because it was a "new form" of an existing compound without significant therapeutic efficacy. This case underscored the importance of innovation

and non-obviousness in patent applications. It also highlighted the importance of balancing patent protection with public health needs.

- **Bayer Corporation v. Union of India (2014):** This case involved Bayer's patented drug, Nexavar, for the treatment of kidney and liver cancer. The case revolved around the issue of whether the patent on the drug should be upheld. The Indian Patent Office granted a compulsory license to a local company, Natco, to produce a generic version of the drug, thus ensuring affordable access to medicine for patients. This decision set a precedent for the use of compulsory licenses in India in the interest of public health.
- **Roche Products (India) Pvt. Ltd. v. Cipla Ltd. (2008):** This case addressed the issue of patent infringement related to the anti-cancer drug Erlotinib. Cipla, an Indian company, launched a generic version of the drug before Roche's patent was granted. The case ultimately concluded that Roche's patent was valid, but the matter of infringement remained unresolved, leading to a more nuanced understanding of patent enforcement in the pharmaceutical sector.
- **Merck v. Glenmark (2016):** This case concerned the validity and infringement of Merck's patent on the active ingredient in a drug used to treat Type 2 diabetes. The Delhi High Court ruled in favor of Glenmark, noting that Merck's patent did not meet the requirements for novelty and inventiveness. This case highlighted the challenge of defending pharmaceutical patents in India, especially when the product is a chemical compound.

These landmark cases have shaped India's approach to patent enforcement, balancing the interests of patent holders, the public, and access to essential medicines.

7. Patent Revocation and Renewal

"Patent Revocation and Renewal" refers to the processes and regulations that govern the continuation, modification, and potential cancellation of patents after they are granted. These processes ensure that patents are maintained fairly and effectively, and that they remain valid for the duration of their protection period, as long as they meet certain criteria.

Key Points:

a. Grounds and Procedures for Patent Revocation:

Patent revocation refers to the legal cancellation of a granted patent. This can occur for several reasons:

- **Invalidity:** If a patent does not meet the legal requirements for novelty, inventiveness, or industrial applicability, it can be revoked.
- **Non-payment of Fees:** Failure to pay renewal fees can lead to a patent's revocation.
- **Fraud or Misrepresentation:** If the patent holder misrepresented information or made false statements during the application process.
- **Lack of Use:** Some jurisdictions require a patent to be used or worked in the country for it to remain valid. Non-use may lead to revocation.
- **Prior Art:** If a previously existing patent or invention was discovered after the grant of a patent, it could challenge the novelty of the granted patent, leading to revocation.

The procedure for revocation typically involves:

- Filing a request with the relevant patent office or tribunal.
- Providing evidence or arguments to support the claim for revocation.
- The patent holder may have the opportunity to defend the validity of the patent.

b. **Annual Renewal Process, Fees, and Maintaining the Validity of a Patent:**

- **Renewal Process:** Patents are granted for a limited period (typically 20 years). To maintain a patent's validity, the patent holder must pay renewal fees at regular intervals, typically annually or at periodic milestones (e.g., at the 5th, 10th, and 15th years).
- **Renewal Fees:** The renewal fees increase over time, reflecting the long-term nature of the patent. These fees must be paid to keep the patent in force; failure to pay these fees results in the patent lapsing and losing its legal effect.
- **Maintaining Validity:** The holder must ensure the patent meets all the legal and procedural requirements, including paying fees, responding to requests from the patent office, and meeting certain use requirements (depending on the jurisdiction).

c. **Restoring Lapsed Patents and Managing Deadlines:**

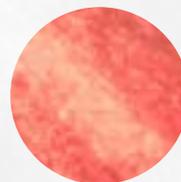
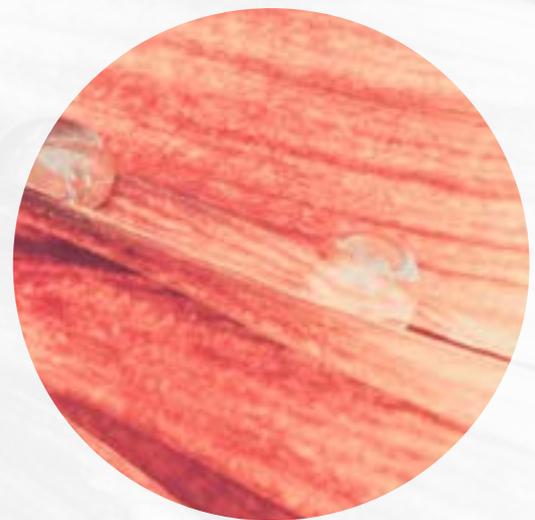
- **Restoration of Lapsed Patents:** If a patent lapses due to the non-payment of renewal fees or other administrative issues (e.g., missed deadlines), many jurisdictions offer a restoration process. This allows the patent to be reinstated under specific conditions, such as paying overdue fees with penalties or providing a valid reason for the lapse (e.g., clerical error or inability to pay).
- **Managing Deadlines:** Patents are subject to strict deadlines for renewal, responses to office actions, and other legal procedures. Failing to adhere to deadlines can lead to the loss of patent rights, so patent holders must carefully manage these dates. Many use patent management software or rely on legal experts to track and manage these critical timelines.

3. **Why This Matters:**

- **Patent Holders:** It is important for businesses and inventors to understand the process of renewal and potential revocation to ensure they maintain their exclusive rights. This includes planning for the renewal of fees and actively managing deadlines.

- **Patent Offices:** These processes help patent offices ensure that only valid patents remain active in their systems. It also ensures fairness, as patents that are no longer valid due to non-compliance or invalidity can be removed from the registry.
- **Competitors:** For businesses and individuals in similar industries, understanding revocation and renewal procedures is important as it allows them to identify patents that may no longer be enforceable, creating new opportunities for innovation or market entry.

By managing patent revocation and renewal, a patent holder can ensure they maintain their intellectual property rights for as long as possible, while competitors can challenge invalid patents and ensure fair market practices.



8. Landmark judgments in Patent law in India

- 1. Yahoo! Inc. v. Akash Arora (1999):**
 - **Issue:** The case dealt with the issue of infringement related to software and domain names.
 - **Outcome:** The Delhi High Court ruled that domain names could not be patented, which set a precedent for considering software as part of the internet domain, but not necessarily as a standalone patentable entity.
- 2. Ranjit Singh v. TATA Consultancy Services (2003):**
 - **Issue:** This case concerned the issue of copyright infringement in relation to software programs and the patentability of software code.
 - **Outcome:** The court held that software could be copyrighted, but it cannot be patented under Indian law if it does not involve a “novel” invention.
- 3. Microsoft v. I4 Software (2011):**
 - **Issue:** The case revolved around the alleged infringement of Microsoft’s patented software products.
 - **Outcome:** The Delhi High Court ruled in favour of Microsoft, affirming that software related to systems and processes could be subject to patent protection if it meets the criteria of novelty, inventive step, and industrial applicability.
- 4. Google Inc. v. Indian Patent Office (2017):**
 - **Issue:** Google challenged a decision of the Indian Patent Office regarding the rejection of its software patent application.
 - **Outcome:** The Intellectual Property Appellate Board (IPAB) sided with the Patent Office, stating that mere automation of a task or a software-based process could not be patented unless it included a technical solution that went beyond just a computer program.
- 5. SAP v. Intellectual Property Appellate Board (2020):**
 - **Issue:** The case examined the patentability of software-related inventions that involved business processes.
 - **Outcome:** The Supreme Court dismissed SAP’s appeal, reinforcing the stance that abstract ideas or business methods cannot be patented in India unless they show technical innovation.
- 6. F. Hoffmann-La Roche Ltd. v. Cipla Ltd. (2015)**
 - **Key Issue:** Dispute over the patent for *Tarceva*, an anti-cancer drug, and whether Cipla’s generic version infringed Roche’s patent.
 - **Outcome:** The Delhi High Court ruled in favour of Roche, holding that Cipla’s generic version infringed Roche’s patent. However, the case was settled out of court, allowing Cipla to continue selling its generic version with some restrictions.
- 7. Merck Sharp & Dohme (MSD) v. Glenmark Pharmaceuticals Ltd. (2018)**
 - **Key Issue:** Dispute over the patent for *Sitagliptin*, a drug used for treating diabetes.
 - **Outcome:** The Delhi High Court ruled that Glenmark’s generic version of *Sitagliptin* infringed Merck’s patent. The court granted an injunction against Glenmark, blocking the sale of its generic version. This judgment reinforced the protection of patent rights in India.
- 8. Indian Patent Office v. Roche Molecular Systems (2020)**
 - **Key Issue:** Involvement of private parties seeking clarity on the scope and enforceability of patents.
 - **Outcome:** This case reaffirmed the Indian Patent Office’s role in reviewing and granting patents, with a focus on international norms and domestic legal requirements. The case addressed the balance between patent protection and public health, especially in the context of diagnostics.



2. Trademarks

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1. Introduction to Trademark Protection in India

Key Points:

- **Definition and Importance of Trademarks:**

A trademark is any symbol, logo, name, sound, or combination thereof that identifies and distinguishes the goods or services of one entity from another. It is a critical asset for businesses, safeguarding brand identity and market reputation.

- **Legal Framework in India:**

The Trademarks Act, 1999, and its accompanying rules govern trademark registration, protection, and enforcement in India. These laws align with international treaties like the TRIPS Agreement, ensuring robust intellectual property (IP) protection.

- **Global Relevance for Businesses Entering India:**

For multinational corporations and global players entering the Indian market, trademarks are essential for establishing their brand presence and protecting intellectual assets from infringement in a rapidly expanding economy.

2. Types of Trademarks Recognized in India

Key Points:

1. **Traditional Trademarks:**

- **Word Marks:** These are trademarks consisting of words or a combination of words, letters, or numbers (e.g., "TATA" or "Amul"). Word marks protect the brand name itself, independent of its stylized representation.
- **Device Marks and Logos:** A device or logo refers to graphical representations or designs that symbolize a brand (e.g., the Nike Swoosh or Apple's logo).
- **Slogans:** Taglines or phrases that represent a brand's identity and appeal to its audience (e.g., "Just Do It" by Nike).
- **Trade Dress:** Protects the overall visual appearance of a product, including packaging, shape, colour combination, or unique presentation (e.g., the Coca-Cola bottle design).

2. **Non-Traditional Trademarks:**

These include distinctive elements beyond the traditional categories and have been increasingly recognized in India:

- **Sound Marks:** Unique sounds that serve as brand identifiers (e.g., the iconic four-note Intel jingle).
- **Smell Marks:** Rare but possible, a distinct smell that identifies goods or services. While challenging to register, it has been achieved in global jurisdictions.
- **Colour Marks:** A specific colour or combination of colours associated with a brand (e.g., the purple colour used by Cadbury for its chocolates).
- **Shape Marks:** Protect the distinctive shape of a product that sets it apart in the market (e.g., the Toblerone chocolate bar's triangular shape).

3. Examples of Successful Unique Trademark Registrations in India:

- **Yahoo's Yodel:** Successfully registered as a sound mark in India.
- **Zippo Lighter's Shape:** Registered as a shape mark for its distinctive rectangular design.
- **ONGC's Slogan:** "Making Tomorrow Brighter" represents their services and mission.

3. Eligibility and Registrability of Trademarks

Key Points:

1. Criteria for Registrability:

To be eligible for registration under the Trademarks Act, 1999, a trademark must meet the following requirements:

- **Distinctiveness:**

The mark must be capable of distinguishing the applicant's goods or services from others in the market. Distinctiveness can be inherent (e.g., a coined word like "Google") or acquired over time through consistent use.

- **Non-Descriptiveness:**

Marks that describe the goods or services (e.g., "Fresh Milk" for dairy products) are generally not registrable unless they have acquired distinctiveness through extensive use.

- **Non-Deceptiveness:**

The mark should not mislead consumers about the nature, quality, or geographical origin of the goods or services. For example, a mark falsely indicating a product is made in a specific country is prohibited.

2. Prohibited Marks Under the Trade Marks Act:

Certain categories of marks are explicitly barred from registration:

- **Marks Likely to Cause Confusion:**

A mark that is identical or similar to an existing registered trademark in the same or related class of goods/services is prohibited to prevent consumer confusion.

- **Marks Contrary to Public Order or Morality:**

Trademarks containing offensive, obscene, or unethical content are not registrable.

- **Marks Containing Deceptive Words or Symbols:**

Marks implying false connections with government bodies, religious symbols, or misleading representations are not allowed. For instance, the use of national emblems or names such as “Mahatma Gandhi” requires special permissions.

- **Generic and Common Words:**

Generic terms (e.g., “Book” for a bookstore) or words commonly used in the trade cannot be registered.

3. **Common Pitfalls to Avoid During the Trademark Selection Process:**

- **Conducting Inadequate Searches:**

Failing to perform a comprehensive trademark search can lead to conflicts with existing trademarks, resulting in rejection or opposition.

- **Choosing Descriptive or Generic Marks:**

Selecting marks that merely describe the goods or services may result in rejection for lack of distinctiveness.

- **Using Offensive or Prohibited Elements:**

Incorporating controversial or banned symbols, terms, or imagery can lead to rejection.

- **Ignoring Global Branding Implications:**

If the business intends to expand internationally, it’s essential to ensure the mark is registrable and culturally appropriate in other jurisdictions as well.

- **Failing to Consider Long-Term Usability:**

Marks that are trendy or tied to temporary fads might lose relevance, reducing the brand’s long-term value.

4. Trademark Registration Process in India

The process of trademark registration in India is governed by the Trade Marks Act, 1999, and involves several stages to ensure that the mark is eligible for protection. Below is a breakdown of the key steps, documents, and timelines.

Key Points:

1. Preliminary Trademark Search:

- **Purpose:** A preliminary search is conducted to check for existing trademarks that may conflict with the proposed mark. This minimizes the risk of objections or oppositions during the registration process.
- **Steps:**
 - Search the Indian Trademark Registry database for identical or similar marks in the same or related classes of goods/ services.
 - Analyse the results to determine the distinctiveness and availability of the mark.
- **Tip:** Consider consulting a trademark attorney to ensure a thorough search and analysis.

2. Filing an application:

- **Required Documents:**
 - Trademark details: Name, logo, slogan, or design of the trademark.
 - Applicant details: Name, address, nationality, and business type.
 - Power of Attorney (if filed by an attorney or agent).
 - Proof of use (if the trademark is already in use) or a declaration of intent to use.
- **Fees:**
 - Fees vary depending on the type of applicant (individual, startup, MSME, or corporate entity). As of 2025, the fees range from ₹4,500 to ₹9,000 per class of goods/services.

- **Forms:**

- Use Form TM-A for trademark registration. The application can be filed online or offline with the Trademark Registry.

3. Examination and Objections:

- After filing, the application is examined by the Trademark Registry to ensure compliance with legal requirements.

- **Possible Outcomes:**

- **Accepted:** If the mark meets all criteria, it proceeds to the next stage.
- **Objections Raised:** If the examiner finds issues (e.g., lack of distinctiveness or similarity to an existing mark), a written objection report is issued.
- **Response to Objection:** The applicant must submit a reply within the stipulated time, addressing the concerns raised by the examiner. In some cases, a hearing may be scheduled.

4. Publication in the Trademark Journal:

- If the application passes examination or objections are resolved, the mark is published in the Trademark Journal.
- **Purpose of Publication:**
 - Provides an opportunity for third parties to oppose the trademark within 4 months of publication.
 - If no opposition is filed, the application proceeds to registration.
 - If opposed, the opposition proceedings involve a review, submissions, hearings, and decisions by the Registrar.

5. Registration and Certificate Issuance:

- Once the opposition period lapses or the opposition is resolved in favour of the applicant, the trademark is registered.
- A Trademark Registration Certificate is issued, granting the owner exclusive rights to use the mark.
- The trademark is valid for 10 years from the date of filing and can be renewed indefinitely in 10-year increments.

6. Timeline and Procedural Complexities:

- The entire registration process typically takes 12-18 months if there are no objections or oppositions. Delays may occur due to:

- Pending responses to objections.
- Opposition proceedings.
- Workload at the Trademark Registry.

- **Streamlining Tips:**

- File a well-prepared application with all necessary documents.
- Monitor the application status regularly on the IP India website.
- Respond promptly to objections or oppositions to avoid unnecessary delays.

5. International Trademark Protection

Key Points

1. India's Participation in the Madrid Protocol

• What is the Madrid Protocol?

The Madrid Protocol is an international system administered by the World Intellectual Property Organization (WIPO) that facilitates the registration of trademarks in multiple countries through a single application.

• India's Membership

India joined the Madrid Protocol on July 8, 2013. This allows Indian businesses to seek trademark protection in other member countries while allowing foreign businesses to designate India for trademark registration.

• Benefits for Businesses

- Streamlined application process for international trademarks.
- Cost-efficient compared to filing separate trademark applications in individual countries.
- Centralized management of trademark renewals and updates through WIPO.

2. Filing an International Trademark with India as a Designated Country

• Steps for International Applicants

- File a trademark application in the applicant's home country (basic application).
- Submit an international application through the home country's Intellectual Property Office, designating India as one of the desired countries.
- WIPO reviews and forwards the application to India's Trademark Registry for examination.
- If approved, the trademark is protected in India under the Trademarks Act, 1999.

• Steps for Indian Applicants Seeking Global Protection

- File a basic trademark application with the Indian Trademark Registry.
- Submit an international application to WIPO via India's Intellectual Property Office.
- Designate other countries where protection is sought.

3. Strategies for Securing Global Trademark Rights with India as a Focus

• Conduct Comprehensive Trademark Searches

- Ensure that the trademark does not infringe on existing trademarks in India or other jurisdictions.
- Use WIPO's Global Brand Database and India's Trademark Registry for searches.

• Focus on Regional and Global Markets

- Identify key markets where trademark protection is essential based on business expansion plans.
- Prioritize countries that are members of the Madrid Protocol for streamlined filing.

• Leverage India as a Base for Expansion

- Protect the trademark in India first, as it is a fast-growing market and a hub for international trade.
- Use India's participation in the Madrid Protocol to secure cost-effective global protection.

• Monitor and Enforce Rights

- Actively monitor trademark usage in designated countries to prevent unauthorized use.
- Use India's enforcement mechanisms, such as infringement lawsuits, to safeguard trademarks locally.

• Renewals and Modifications

- Maintain vigilance regarding trademark renewal deadlines.
- Update ownership or address changes centrally through WIPO to reflect in all designated countries.

6. Trademark Opposition, Rectification, and Cancellation

This section explores the mechanisms for challenging and defending trademarks in India under the Trade Marks Act, 1999. These procedures ensure fair competition, protect the rights of trademark owners, and maintain the integrity of the trademark register.

Key Points:

1. Trademark Opposition Process During Publication:

- **When Can Opposition Be Filed?**

After a trademark application is examined and accepted, it is published in the Trademark Journal. Opposition can be filed within 4 months of the publication date.

- **Who Can File Opposition?**

Any person or entity (e.g., competitors, third parties, or the general public) who believes that the trademark's registration could harm their interests can file an opposition.

- **Steps in the Opposition Process:**

- **Notice of Opposition:**

- Filed using Form TM-O, along with the applicable fee.
- The notice must state the grounds for opposition, such as similarity to an existing mark, lack of distinctiveness, or deceptive nature of the mark.

- **Counterstatement by Applicant:**

- The trademark applicant must respond to the opposition by filing a counterstatement within 2 months. Failure to respond may result in the application being abandoned.

- **Evidence Submission:**

- Both parties submit supporting evidence in the form of affidavits, documents, or other proofs to strengthen their case.

- **Hearing:**

- The Registrar of Trademarks conducts hearings to review arguments and evidence from both sides.

- **Outcome:**

- The Registrar decides whether to allow or reject the trademark application based on the merits of the case.

- **Common Grounds for Opposition:**

- The mark is identical or deceptively similar to an already registered trademark.
- The mark is descriptive or lacks distinctiveness.
- The mark is contrary to public policy or morality.
- The mark is likely to cause confusion or deception among consumers.

2. Grounds for Rectification and Cancellation of Existing Marks:

- **Rectification:**

Rectification refers to correcting an error or omission in the trademark register or removing a trademark that is no longer valid.

- **Who Can File a Rectification Application?**

Any person aggrieved by the trademark's registration, including the trademark owner themselves (in case of errors).

- **Common Grounds for Rectification:**

- Non-compliance with procedural requirements.
- Incorrect or incomplete details in the trademark registration.
- The trademark was registered without sufficient cause or in violation of the law.
- Non-use of the trademark for a continuous period of 5 years from the date of registration.

- **Cancellation:**

Cancellation refers to the complete removal of a trademark from the register.

- **Who Can Apply for Cancellation?**

Any party who believes that the trademark's registration affects their rights or violates legal provisions.

- **Common Grounds for Cancellation:**

- Fraudulent or misleading registration.
- The trademark has become generic and no longer serves as a distinctive identifier.
- The trademark is deceptive or was registered in bad faith.
- The trademark has not been used in commerce within the stipulated time frame.

3. **Defending Your Trademark Against Challenges:**

Protecting your trademark from opposition, rectification, or cancellation requires strategic action and proactive measures:

- **Regular Monitoring:**

Regularly monitor trademark journals and databases to identify any conflicting applications.

- **Gather Evidence of Use:**

Maintain records of trademark usage, such as sales invoices, advertisements, website screenshots, and product packaging, to demonstrate active use and brand reputation.

- **Responding to Opposition Notices:**

Submit a detailed and timely counterstatement, supported by strong evidence, to refute claims of similarity, non-distinctiveness, or other objections.

- **Defending Against Rectification or Cancellation Requests:**

- File a response with appropriate documentation to challenge the claims.
- Show proof of continuous use, goodwill, and reputation of the trademark.

- **Engage Legal Experts:**

Enlist the help of trademark attorneys to ensure effective representation during hearings and proceedings.

7. Trademark Infringement and Enforcement

This section outlines the framework for understanding and addressing trademark infringement and the legal mechanisms available for enforcing trademark rights. Below is a detailed explanation of the key points:

Key Points

1. Types of Trademark Infringement

- **Identical Marks:** This occurs when a third party uses a mark identical to the registered trademark for similar or identical goods/services, causing confusion in the marketplace.
- **Deceptively Similar Marks:** This involves marks that are not identical but closely resemble the registered trademark in a way that might deceive or confuse the public.

Example: A trademark like "Colgate" being copied as "Colgote" for similar toothpaste products could constitute deceptive similarity.

2. Legal Remedies

Trademark holders can seek the following remedies:

- **Civil Suits:** File a lawsuit against the infringer for unauthorized use of the trademark.
 - Relief can include damages, costs of litigation, and recovery of profits.
- **Damages:**
 - **Compensatory Damages:** To compensate for financial losses incurred due to infringement.
 - **Punitive Damages:** To penalize wilful or malicious infringement.
- **Injunctions:**
 - **Interim Injunctions:** Temporarily restrains the infringer from using the trademark until the case is resolved.
 - **Permanent Injunctions:** Prohibits the infringer from further usage after a court decision.

3. Role of Key Entities

- Courts: Primary bodies for adjudicating trademark disputes. Courts can issue injunctions, award damages, and pass other orders.
- **Intellectual Property Appellate Boards (IPAB):**
 - Before its dissolution in 2021, the IPAB had jurisdiction over appeals related to trademarks, and it was a specialized body that dealt with trademark enforcement. Since the dissolution, trademark-related appeals are now handled by the High Courts.
- **Enforcement Agencies:**
 - Includes police, customs, and other regulatory authorities.
 - They play a role in curbing counterfeit products and enforcing injunction orders.

8. Licensing, Assignment, and Franchising of Trademarks

This section discusses how trademarks can be commercially utilized beyond their primary role of brand protection. It covers licensing, assignment, and franchising as key avenues for monetizing trademarks and leveraging them in business growth.

Key Points

1. Trademark Licensing

Licensing involves granting permission to another party (the licensee) to use the trademark while the ownership remains with the trademark owner (the licensor). Types of licensing include:

- **Exclusive Licensing:**
 - The licensor grants the licensee exclusive rights to use the trademark in a specific territory or industry.
 - The licensor cannot use the trademark or license it to any other party during the term of the agreement.

- **Non-Exclusive Licensing:**

- The licensor retains the right to use the trademark and can license it to multiple licensees simultaneously.
- Common for expanding a brand's reach across different geographical regions or product categories.

- **Co-Branding Agreements:**

- Two or more brands collaborate to market a single product or service.
- Example: Co-branded credit cards (e.g., a financial institution and a retail brand) leveraging their trademarks together.

Key Considerations in Licensing:

- Duration of the agreement.
- Quality control provisions to ensure the licensee maintains the trademark's reputation.
- Payment terms such as royalties or lump-sum fees.

2. Assignment of Trademark Ownership

Assignment refers to the transfer of ownership of a trademark from one entity to another. It can occur with or without goodwill associated with the brand.

- **Types of Assignments:**

- Assignment with Goodwill: The new owner can use the trademark for the same goods/services for which it was originally registered.
- Assignment without Goodwill (also known as gross assignment): The new owner can use the trademark for different goods/services than originally registered.

- **Implications of Assignment:**

- The assignee acquires all legal rights to the trademark.
- Assignment must be documented and recorded with the trademark registry in India to ensure validity.

Example: A technology company selling a product division might transfer the associated trademarks to the acquiring company to enable seamless branding.

3. Franchising Opportunities Using Trademarks

Franchising leverages trademarks as a critical component of the franchise model. A franchisor allows a franchisee to use its trademark, brand identity, and business model to operate a business under the franchisor's name.

- **Growth Potential in India:**
 - India's growing consumer market provides significant opportunities for franchising, especially in sectors like food & beverage, retail, and education.
 - A well-established trademark enhances consumer trust and attracts franchisees.
- **Key Components of Trademark Franchising:**
 - Licensing of the trademark as part of the franchise agreement.
 - Guidelines for maintaining brand standards and reputation.
 - Ongoing support from the franchisor, including training, marketing, and supply chain management.

Example: Global brands like McDonald's, Starbucks, and Domino's have successfully franchised their trademarks in India, establishing strong market footprints.

9. Well-Known Trademarks in India

Well-known trademarks enjoy enhanced legal protection in India due to their wide recognition and goodwill among consumers. These trademarks transcend specific goods or services and are protected even in unrelated categories.

Key Points:

1. Criteria for a Trademark to Be Declared "Well-Known" by the Indian Trademark Registry:

The Trade Marks Act, 1999, under Section 2(1)(zg) and Section 11(6)–(9), provides the criteria for determining well-known trademarks. Factors considered include:

- **Recognition Among the Public:**

The trademark must be widely recognized by the general public in India due to extensive use, advertising, or promotion.
- **Extent of Use and Registration:**

A history of extensive and long-term use, including registrations in multiple jurisdictions, strengthens the case for recognition.
- **Value and Reputation:**

The trademark must have a strong reputation, signifying quality and trustworthiness, both in India and globally.
- **Evidence of Enforcement:**

Demonstrated instances where courts or trademark authorities have recognized the mark as well-known in India or other countries.
- **Cross-Class Protection:**

Even if the trademark is registered in one class, it must demonstrate that its recognition extends to other unrelated classes.

Application Process:

- Trademark owners can apply for recognition as a well-known trademark by submitting a request to the Registrar of Trademarks, supported by evidence such as:
 - Market surveys proving widespread recognition.
 - Copies of judgments or orders declaring the mark well-known.
 - Advertising expenses and sales data demonstrating goodwill.

2. Advantages of Well-Known Trademarks:

Well-known trademarks enjoy a higher level of protection under Indian trademark law, ensuring their distinctiveness and reputation remain intact.

- **Broader Protection Across Classes:**
 - Well-known trademarks are protected against use or registration in unrelated goods or service categories. For example, a well-known brand like “Coca-Cola” is protected even if someone tries to use it for non-beverage products.
- **Automatic Protection Without Registration in India:**
 - A well-known trademark does not need to be registered in India to claim protection. Its global reputation is sufficient for enforcement.
- **Prevention of Dilution and Tarnishment:**
 - Unauthorized use of the trademark, even in non-competing sectors, can be prevented to avoid dilution or harm to its reputation.
- **Enhanced Legal Standing:**
 - Recognition as a well-known trademark makes it easier to win opposition, rectification, or infringement cases.
- **Exclusive Rights:**
 - The owner can prevent third parties from using similar or deceptively identical marks, regardless of the goods or services involved.

3. Examples of Global Brands Recognized as Well-Known Trademarks in India:

The Indian Trademark Registry maintains a list of well-known trademarks. Some globally renowned brands that have received this status include:

- **Apple:** Recognized for its dominance in technology and consumer electronics.
- **Google:** A household name synonymous with internet searches and technology services.
- **Nike:** Known worldwide for its sportswear, footwear, and “Swoosh” logo.
- **TATA:** A homegrown Indian conglomerate with global recognition across diverse industries.
- **McDonald’s:** Famous for its fast-food services and the “Golden Arches” logo.
- **Sony:** Known for its electronics, entertainment, and gaming products.
- **Mercedes-Benz:** Recognized for luxury automobiles, its three-pointed star logo is iconic.
- **Louis Vuitton:** A symbol of luxury fashion and accessories.

10. Renewal and Maintenance of Trademarks

The section on “Renewal and Maintenance of Trademarks” refers to the ongoing requirements and processes necessary to ensure a trademark remains valid and protected over time. Here’s a breakdown of the key points:

Key Points:

- **Trademark validity period and renewal process (every 10 years):**
 - Trademarks are typically granted for an initial period of 10 years. After that, the trademark must be renewed periodically, usually every 10 years, to continue its protection. The holder must file a renewal application with the appropriate trademark office before the expiration of the validity period.
- **Consequences of non-renewal and procedures for restoration:**
 - If a trademark is not renewed within the set timeframe, it may be considered abandoned or no longer in force. In such cases, the trademark holder could lose their exclusive rights to the mark. However, many trademark offices allow the restoration or revival of an expired trademark under certain conditions, often requiring a late fee and proof that the trademark holder still intends to use the mark.
- **Monitoring and protecting your trademark post-registration:**
 - Even after registration, the trademark holder must actively monitor the market for potential infringing uses or unauthorized use of their trademark. This includes watching for similar trademarks that could cause confusion. Trademark owners should take legal action against infringement to maintain the strength and value of their trademark.

11. Case Studies of Notable Trademark Enforcement Cases in India

- **Amul vs. Amul Butter Masala:**
 - **Issue:** Unauthorized use of the “Amul” trademark for unrelated products.
 - **Outcome:** The court ruled in favour of Amul, stating that the use of its trademark by the defendant was deceptive and diluted the brand.
- **Yahoo Inc. vs. Akash Arora & Anr.:**
 - **Issue:** The defendant used a deceptively similar domain name “Yahoolndia.com” to mislead users.
 - **Outcome:** The Delhi High Court upheld Yahoo Inc.’s rights and restrained the defendants from using the domain name.
- **Tata Sons Limited vs. Manu Kishori & Ors.:**
 - **Issue:** Infringement of the “Tata” brand name by unrelated parties.
 - **Outcome:** The courts granted injunctions to protect the trademark’s goodwill and reputation.
- **Rajat Sharma v. Ashok Venkataraman (2019):**
 - **Issue:** unauthorized use of Rajat Sharma’s name in an advertisement campaign by the defendants, defaming him and violating his publicity rights.
 - **Outcome:** The Delhi High Court granted an injunction restraining the defendants from using plaintiffs name and ordered the removal of defamatory advertisements, upholding his personality rights.
- **Today Tea Ltd. v. Today Foods Pvt. Ltd.**
 - **Issue:** Use of the trademark “TODAY” by Today Foods Pvt. Ltd. for biscuits infringed upon the registered trademark “TODAY” owned by Today Tea Ltd. for tea.
 - **Outcome:** Court granted a permanent injunction in favour of Today Tea Ltd., recognizing that such use would result in deception, thus passing off, as both products are served and consumed together.





3. Industrial Designs

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1. Introduction to Design Protection in India

Key Points:

1. Definition of an Industrial Design and Its Significance in Differentiating Products:

- An industrial design refers to the ornamental or aesthetic aspect of a product. It encompasses the shape, configuration, pattern, ornamentation, or combination of these elements. The key here is that it relates to the visual appeal, rather than the technical or functional aspects of the product.
- Industrial designs play a crucial role in creating the first impression for consumers. A distinctive design helps businesses stand out in the marketplace, attracts customers, and can act as a competitive differentiator.
- Designs are applicable to a wide range of products, such as furniture, textiles, electronics, packaging, and even automobiles. The uniqueness of a design often becomes a trademark of the product, enhancing its value and recognition in the consumer's mind.

2. Overview of The Designs Act, 2000, and Its Alignment with International Treaties like the Hague Agreement:

- The Designs Act, 2000 is the primary law governing design protection in India. It provides the legal framework for the registration, protection, and enforcement of industrial designs in the country.
- Under the Designs Act, a design must be new or original, and it should not have been disclosed to the public before the filing of the application for registration.
- The Act aligns with international treaties like the Hague Agreement, an international treaty administered by the World Intellectual Property Organization (WIPO), which facilitates the international registration of industrial designs. Through this alignment, Indian businesses can protect their designs in multiple countries by filing a single application under the Hague System.

- This ensures that businesses in India can access global markets with stronger intellectual property protection for their designs.

3. Importance of Design Registration for Protecting Product Aesthetics:

- Design registration offers exclusive rights to the owner, granting them the legal authority to prevent others from making, selling, or using products that infringe on the registered design.
- It is essential for businesses to register their designs to avoid unauthorized copying and counterfeiting, which can harm the reputation, sales, and value of their products.
- Registration acts as proof of ownership and helps in legal disputes, providing the right to sue for damages and seek injunctions against infringers.
- Beyond legal protection, having a registered design can also be an asset in negotiations, collaborations, and business deals as it represents the brand's unique identity and creative investment.

2. What Qualifies as a Registrable Design?

Key Points:

1. Definition of a Design:

- A design under Indian law refers to the aesthetic aspects of a product, not its functional elements. Specifically, it includes:
 - **Shape:** The three-dimensional form of an article, such as the contour of a piece of furniture or an electronic device.
 - **Configuration:** The arrangement or layout of parts of an article. This could be the structural layout of a machine or the design of a watch.
 - **Pattern:** A recurring design or arrangement that is repeated across a product, like a textile or wallpaper design.
 - **Ornamentation:** Decorative elements applied to a product to enhance its appearance, such as engravings or patterns on a phone case or jewellery.

- **Composition of Lines or Colours:** The combination of collars and lines that are applied to an article to create an overall aesthetic effect. This could include color schemes on packaging, logos, or even furniture upholstery.
- These features must visibly contribute to the article's overall appearance, impacting how the consumer perceives the product visually.

2. Criteria for Registration:

- For a design to qualify for registration under the Designs Act, 2000, it must meet the following criteria:
 - **Originality:** The design must be new and not previously disclosed to the public. This means it should not be something that already exists or has been published in the public domain. Even minor similarities to an existing design can render a design non-registrable.
 - **Novelty:** The design must be different from prior designs, meaning that no identical or substantially similar designs should have been previously registered or used in the market. The novelty of the design is assessed from the date of the design application.
 - **Visibility during Normal Use:** The design must be visible in the article's intended use. This means that the design should not be hidden or invisible when the article is used in its normal or expected manner. For example, if a design is only visible when the product is disassembled, it may not qualify for registration. The design must be aesthetically noticeable when the product is viewed in normal conditions.

3. Non-Registrable Designs:

- Certain designs do not qualify for registration under Indian law. These include:
 - **Designs Dictated Solely by Function:** If the design is purely functional or technical and does not have any aesthetic value, it is not registrable. For example, the shape of a simple tool that is dictated entirely by its functionality (like a wrench or screw) would not be eligible for design protection, as it is not driven by visual appeal.

- **Trademarks:** A design that functions as a trademark or is intended to identify the brand source of the goods does not qualify for design protection. Trademarks are covered under a separate registration system in India.
- **Immoral or Scandalous Content:** Any design that includes elements that are offensive, immoral, or scandalous to public morals will not be eligible for protection. This can include designs that depict obscene or controversial content that does not align with societal standards.

3. Design Registration Process in India

Key Points:

1. **Application Requirements:** To initiate the design registration process, the applicant must submit the following:
 - **Application Forms:** The applicant must file the design application using the prescribed form, typically Form-1 for design registration. This form requires details such as the applicant's name, address, a brief description of the design, and the class of goods for which the design is intended. The form can be submitted either online or offline.
 - **Representation of the Design:** A clear and accurate representation or depiction of the design is required. This should include graphical representations or drawings of the design from different views (front, side, and back or any other views), allowing examiners to fully assess the design's visual appearance. If the design involves complex shapes or structures, multiple perspectives are necessary.
 - **Fees:** A prescribed fee must accompany the application. The fees depend on the type of applicant:
 - **Individual or startup:** A reduced fee.
 - **Corporations and other entities:** Standard fee. The fee schedule is available from the official website of the Office of the Controller General of Patents, Designs & Trademarks.

- **Power of Attorney:** If the applicant is represented by an agent (for example, a lawyer or an IP professional), a power of attorney must be submitted with the application.
 - **Priority Claim:** If the applicant is claiming priority based on an earlier foreign application, the relevant details must be provided.
2. **Online and Offline Filing Processes:**
- **Online Filing:** The Indian Patent Office offers a web portal for filing design applications online. Applicants can create an account, complete the required form, upload representations of the design, and pay the fees electronically. Online filing is preferred for its convenience and faster processing.
 - To file online, visit the Designs e-filing portal on the official website of the Indian Patent Office.
 - **Offline Filing:** If applicants choose to file offline, they must visit the local branch of the Indian Patent Office (the main office is in Kolkata, with regional offices in Delhi, Mumbai, and Chennai). The application and all supporting documents (including representations of the design and payment receipt) must be submitted in person or via post.
3. **Examination Process and Handling Objections:**
- **Examination:** Once the application is filed, it will be examined by a Design Examiner at the Patent Office. The examiner checks whether the design meets the requirements of originality, novelty, and visibility, as per the Designs Act, 2000. The examiner may also verify the design's compliance with the criteria for registrability (i.e., it is not functional, offensive, or a trademark).
 - If the design meets the criteria, it will be accepted for registration.
 - If the examiner finds objections or issues with the application (e.g., lack of novelty, improper classification, or incorrect representation), they will raise an objection.
 - **Handling Objections:** If an objection is raised, the applicant will be issued an examination report that outlines the reasons for the objection. The applicant must then respond to the objection within a prescribed time period (usually 3 months).
 - The applicant may amend the application or provide additional evidence to support the design's originality. If the response is satisfactory, the examiner may accept the application.
 - If the objection is not resolved or the response is inadequate, the application may be abandoned or rejected.
4. **Timeline for Registration and Publication in the Designs Journal:**
- **Timeline for Registration:** The registration process can typically take 6 to 12 months from the date of filing. The timeline varies based on the complexity of the design, the speed of the examiner's review, and whether any objections are raised.
 - If the application is accepted, the design will be granted protection and will be officially registered under the Designs Act.
 - **Publication in the Designs Journal:** Once a design is registered, it is published in the Designs Journal. The Designs Journal is a periodic publication of the Indian Patent Office that contains all the registered designs. The purpose of this publication is to make the design publicly available and notify other parties of the existence of the design registration.
 - The publication of the design in the Journal is an important step because it serves as public notice of the design's protection and establishes the design's novelty. The design is published after it is registered, and the date of publication is considered the date of registration.

4. Rights Conferred by Design Registration

Key Points:

- **Exclusive Rights to Use the Design:**
 - The person or entity who registers a design has the exclusive right to use that design.
 - This means no one else can produce, sell, or import articles that carry the same design without permission from the registered owner.
 - The owner can also license the design to others, thereby granting them the right to use it under agreed conditions.
- **Scope of Protection:**
 - The protection applies only to the visual appearance of the design and not its functional aspects.
 - For example, if a product's shape, colour, pattern, or ornamentation is unique, the design protection will cover those visual elements.
 - It does not cover technical or functional features, which are protected by patents or utility models, not design registration.
- **Duration of Protection:**
 - A registered design is protected for an initial period of 10 years from the date of registration.
 - After the initial 10 years, the protection can be extended for an additional 5 years, making the total protection period up to 15 years.
 - After this period, the design becomes part of the public domain and can be freely used by others.

5. International Design Protection

Key Points:

- **India's Non-Membership in the Hague Agreement and Implications for International Filing:**
 - The Hague Agreement is an international treaty administered by the World Intellectual Property Organization (WIPO) that allows creators to file a single international application for design protection across multiple countries that are members of the treaty.
 - However, India is not a member of the Hague Agreement. This means that Indian designers or businesses cannot use the Hague system to file a single international application for design protection in multiple countries.
 - Instead, Indian applicants must file separate design applications in each country where protection is sought, which can be more time-consuming and costly.
- **Filing Designs in Multiple Jurisdictions Through National Applications:**
 - Since India is not part of the Hague Agreement, businesses or designers looking for international protection must apply for design protection in each individual country where they wish to protect their designs.
 - This process requires filing national design applications in each jurisdiction. The rules and procedures vary from country to country, and fees will also differ based on the respective country's laws.
 - A multinational strategy is required, which involves understanding the legal requirements of each country and managing the filing process effectively.

6. Infringement and Remedies for Design Protection

Key Points:

- **Acts of Infringement: Unauthorized Application, Sale, or Import of Products Bearing the Registered Design:**

- **Infringement** occurs when someone uses a registered design without permission or authority. It typically includes the following acts:

- **Unauthorized Application:** Using a registered design on products without the consent of the design owner. This may involve manufacturing or producing goods that incorporate the protected design.
- **Unauthorized Sale:** Selling products that bear the registered design without the permission of the design owner. This could involve placing the products on the market or using them for commercial purposes.
- **Unauthorized Import:** Importing goods from other countries that use the protected design without authorization. In some cases, infringement may occur even if the goods are manufactured outside the country, as long as they are imported for sale in the local market.

- These acts violate the exclusive rights granted to the design owner and result in the unauthorized exploitation of the protected design, causing financial harm to the design owner.

- **Legal Remedies: Civil Suits for Damages, Injunctions, and Accounts of Profits:**

- The Designs Act does not provide for any criminal remedies. In India, a registered design can only be enforced through civil proceedings. The owner of a registered design has the exclusive right to apply the design to articles within the class for which it is registered. In case

of infringement, the owner may file a suit before the District Court where the defendant resides, conducts business, or where the infringement occurred.

- Defendants may contest such claims using the defence of non-infringement or challenge the validity of the design. Grounds for invalidity include lack of novelty, resemblance to an existing design, or containing scandalous content. If invalidity is raised as a defence, the case is transferred from the District Court to the High Court with jurisdiction over that district.
- Under the Act, the registered owner must mark the article with "Regd" or "Registered" and the registration number (except for textile designs and articles made from charcoal dust). Failing to do so disqualifies the owner from claiming damages. Indian courts frequently address design infringement disputes, contributing to a well-established body of case law.
- When infringement occurs, the design owner can seek legal remedies to stop the infringement and compensate for any losses suffered. The main legal remedies available include:
 - **Civil Suits for Damages:** The design owner can file a civil lawsuit against the infringer seeking compensation for the financial damage caused by the infringement. This compensation may include lost profits, expenses incurred in protecting the design, and any harm to the business reputation.
 - **Injunctions:** An injunction is a court order that requires the infringer to cease and desist from using the registered design. There are two types of injunctions:
 - **Provisional Injunction:** A temporary order issued early in the litigation process to prevent further infringement while the case is being decided.

- **Permanent Injunction:** A final order that permanently stops the infringer from continuing to use the registered design once the case has been resolved.
- **Accounts of Profits:** In some cases, the design owner may opt for an account of profits, which requires the infringer to account for and pay over any profits made from the unauthorized use of the registered design. This remedy ensures that the infringer does not profit from the wrongful use of the design.
- These remedies help to not only stop the infringement but also compensate the design owner for the losses incurred and deter others from infringing on the design rights.
- **Role of Courts and Dispute Resolution in Design Protection:**
 - Courts play a central role in resolving disputes related to design infringement. The process typically involves:
 - **Filing a Lawsuit:** The design owner files a lawsuit in the appropriate court (e.g., civil court) to assert their rights and seek legal remedies. This can include seeking an injunction, damages, and other relief.
 - **Burden of Proof:** In a court of law, the design owner must prove that they hold the registered design rights and that the infringer has violated those rights by copying or imitating the design.
 - **Expert Testimony:** In some cases, the courts may seek expert testimony or opinion regarding the uniqueness or originality of the design to determine whether infringement has occurred.
- **Alternative Dispute Resolution (ADR):**
 - In addition to court litigation, parties involved in design infringement disputes may choose alternative dispute resolution (ADR) methods like mediation or arbitration. These methods provide an opportunity to resolve the conflict outside of the courtroom and may offer quicker, less costly solutions.
- **Mediation:** Involves a neutral third party who helps the parties negotiate a settlement.
- **Arbitration:** Involves a neutral third party who listens to both sides and then makes a binding decision.
- **Customs and Border Control:** In some jurisdictions, design owners can work with customs authorities to prevent the importation of counterfeit or infringing products. This can be a proactive way to stop the flow of infringing goods into the market.

Additional Considerations:

- **Statutory Damages:** In some cases, instead of proving actual damages, the design owner may be entitled to statutory damages, which are pre-determined amounts set by law. These damages are designed to deter infringement and make it less profitable.
- **Criminal Action:** In some countries, design infringement may also involve criminal action if the infringement is deemed to be wilful or intentional. Criminal penalties could include fines or imprisonment, though this is less common than civil remedies.
- **Injunctions Across Borders:** In cases of international infringement, the design owner may seek cross-border injunctions. This involves enforcing a court order in a foreign jurisdiction where the infringement is occurring, provided that the foreign court is willing to enforce the order.

7. Design Renewal, Restoration, and Maintenance

Key Points:

- **Process for Renewing a Design After the Initial 10-Year Term:**
 - In India, the initial term of protection for a registered design lasts 10 years from the date of registration.
 - After this period, the design owner has the option to renew the registration for an additional 5 years. This is the maximum protection period for a design, as the total duration of design protection can be up to 15 years.
 - To renew the design, the owner must file an application with the Design Office before the expiration of the 10-year term. A renewal fee must be paid at the time of renewal.
 - The renewal application should include the original registration details, and payment of the prescribed fees should be completed to keep the design rights intact.
 - It is important to submit the renewal request within the prescribed time frame to avoid complications, as late renewals can incur additional fees or legal risks.
- **Restoration of Lapsed Designs Due to Non-Renewal:**
 - If the design owner fails to renew the design before the expiration of the 10-year term (or 15-year term if already renewed), the design will lapse, meaning the exclusive rights to that design will no longer be protected.
 - However, in some jurisdictions, including India, a restoration process exists. If the design owner misses the renewal deadline, the design can be restored under certain conditions.
 - To restore a lapsed design, the owner must file an application for restoration with the Design Office within a specific time after the expiration. This process may involve:
 - A formal request explaining why the renewal was missed (such as an inadvertent oversight or other justifiable reason).
 - Payment of any overdue fees, including the late renewal fee.
 - The Design Office will evaluate the application, and if the reasons for non-renewal are accepted, the design may be restored and the protection rights reactivated.
 - However, if the restoration request is not made in time or if there are other issues, the design will no longer be valid, and the design owner will lose their exclusive rights to the design.
- **Monitoring and Protecting Designs Post-Registration:**
 - After registration, the design owner must actively monitor the use of their design to ensure no unauthorized parties are infringing on their rights.
 - Design owners should look for instances of counterfeiting, imitation, or any unauthorized use of their design in the marketplace, whether it's in domestic or international markets.
 - Key steps for monitoring and protecting designs include:
 - **Regular monitoring:** Regularly checking the market for copies or unauthorized reproductions of the design.
 - **Legal Action:** If an infringement is detected, the owner can take legal action by sending a cease-and-desist letter or pursuing a lawsuit in the court to stop the infringement.
 - **Customs and Border Protection:** In some countries, design owners can register their designs with customs authorities, allowing them to monitor and prevent the import or export of counterfeit goods.

- **International Protection:** As mentioned in previous points, for global protection, the owner must file in each jurisdiction where they wish to safeguard the design, and it's important to monitor for infringements in those markets as well.

Additional Considerations for Design Maintenance:

- **Record Keeping:** Designers should maintain accurate and up-to-date records of their designs, including copies of registration certificates, renewal documents, restoration requests, and any correspondence with the Design Office. This is crucial for proving ownership and rights in the event of a dispute.
- **Ownership Changes:** If there's a transfer of ownership (e.g., through sale or licensing of the design), the new owner must ensure that the design registration is updated with the Design Office to reflect the change in ownership. This helps avoid potential legal issues.
- **International Considerations:** As designs are registered in multiple jurisdictions, the owner must track renewal deadlines in each country and take appropriate steps to ensure that designs remain protected abroad. If India is part of a global portfolio, this coordination becomes even more important.

8. Design Rights in Overlapping IP Regimes

Key Points:

- **Distinctions Between Design Protection, Copyright, and Trademarks:**
 - **Design Protection:** Design registration primarily protects the visual appearance of an article. This can include the shape, colour, pattern, or ornamentation of a product. Design protection is typically granted for a limited period (usually 10 years, extendable by 5 years), and the focus is on ensuring that the aesthetic features of the product are exclusive.
 - **Copyright:** Copyright protects original works of authorship, such as literary works, music, and visual art. When applied

to designs, copyright may protect the artistic elements of a product, but not its functional aspects. Copyright does not require registration in many jurisdictions (including India) for automatic protection, though registering it provides added legal benefits. The duration of copyright protection is typically longer than design protection, often lasting the lifetime of the author plus 60 years.

- **Trademarks:** Trademarks are used to protect brand identifiers, such as logos, words, and distinctive features (like the shape of packaging or product design that identifies the source of goods or services). Trademarks are intended to avoid consumer confusion by distinguishing one brand from another. Trademark protection can last indefinitely, as long as the mark remains in use and is renewed periodically.

Each of these IP protections serves a unique purpose:

- Design protection ensures exclusive use of a product's visual appearance.
- Copyright protects artistic creativity, including designs that have artistic merit.
- Trademarks protect brand identifiers to avoid confusion in the marketplace.
- **When Dual Protection (e.g., Copyright for Artistic Works) May Apply:**
 - **Overlapping Protection:** In certain cases, a product may be eligible for both design protection and copyright. For example, an artistic design that is applied to a product (like a custom-designed chair or fashion accessory) can be eligible for both types of protection:
 - **Design Registration:** For protecting the visual appearance of the article itself.
 - **Copyright:** For protecting the artistic expression embodied in the design (e.g., intricate patterns or artistic artwork).
 - **Example:** A sculptural piece that is part of a product (such as a uniquely designed lamp) could be protected by design

law (for its functional aspects) and by copyright law (for its artistic merit). This dual protection can provide broader legal coverage and additional enforcement avenues if infringement occurs.

- **Trademarks and Designs:** In some cases, trademark protection may also overlap with design protection. For example, a product design that is used consistently in the market as a distinctive brand identifier (such as the unique shape of a soft drink bottle) might be eligible for trademark protection. This would allow the business to protect not only the functional design but also the brand recognition aspect of the design.

9. Case Studies: Successful Design Protection in India

- **Examples of Businesses Successfully Leveraging Design Protection in India:**

- **Kollmorgen India Ltd. v. Laxman G. Tiwari (2001)**

Background: Kollmorgen India Ltd., a manufacturer of mechanical and electronic products, had registered a design for its “gear box”. The defendant, Laxman G. Tiwari, was alleged to have copied the design and marketed the same.

Issue: The issue in this case was whether the design of a functional article could be protected under Indian design law, even if it had utilitarian functionality.

Judgment: The Delhi High Court ruled that designs that are purely functional are not eligible for protection under the Indian Design Act. The court emphasized that to be eligible for design protection, the design must primarily have an aesthetic purpose and not just functional utility.

Impact: This case reinforced the principle that designs are protected for their visual appeal rather than their function. It also highlighted the importance of distinguishing between functional features

and ornamental features when seeking design protection.

- **Tata Sons Ltd. v. Greenpeace (2005)**

Background: Tata Sons Ltd. had applied for design protection for the “Tata Nano” car, claiming its unique shape and design. Greenpeace, an environmental group, filed a petition to cancel the design registration, alleging that the design of the Tata Nano was not original and was already in the public domain.

Issue: The issue in this case revolved around whether Tata’s design for the Tata Nano could be protected under the Indian Design Act, considering the alleged prior existence of similar designs.

Judgment: The Design Appellate Board upheld the design registration, ruling that the Tata Nano design was original and met the requirements for registration under the Indian Design Act. The court rejected the claim that the design was not novel.

Impact: This case highlighted the importance of novelty and originality in design registration and emphasized that once a design is registered, it enjoys protection from copying by others unless proven otherwise.

- **Nestle India Ltd. v. Milkwell Dairy Products Pvt. Ltd. (2011)**

Background: Nestle India Ltd. had a registered design for its packaging of its “KitKat” bars. Milkwell Dairy Products allegedly copied the packaging design for their competing chocolate product.

Issue: The central issue was whether the packaging design was eligible for protection under the Design Act and if the defendant’s packaging was a copy of Nestle’s registered design.

Judgment: The Delhi High Court ruled in favour of Nestle, emphasizing that distinctive packaging is eligible for design protection, even if it’s used in combination with a trademark. The court also issued an injunction preventing Milkwell Dairy Products from selling the infringing product.

Impact: This case reinforced that distinctive packaging designs are protectable under Indian design law. It also demonstrated the importance of design registration as a legal tool for protecting brand identity and product appearance from imitations.

- **M/s. N.T. Raspani & Co. v. M/s. T.K. Saravanam (2014)**

Background: This case involved the registered design of a “shutter lock” used in industrial security systems. The design was allegedly copied by another company.

Issue: The issue was whether the shutter lock design was validly registered and if its features were novel and original to qualify for protection.

Judgment: The Delhi High Court ruled that even minor modifications in a design that enhance its visual appearance could make it eligible for design protection. In this case, the court ruled that the lock’s design was distinctive and ordered the infringing company to cease production of similar locks.

Impact: This judgment was significant in confirming that designs don’t need to be radically new to be protected; even small visual modifications can be enough for a design to be registered and enforced under the Indian Design Act.

- **The Coca-Cola Company v. Bisleri International Pvt. Ltd. (2016)**

Background: Coca-Cola had registered the design for its distinctive bottle shape. Bisleri International allegedly began selling bottles with a similar shape, leading to claims of design infringement.

Issue: The main issue was whether Coca-Cola’s bottle design could be protected under the Indian Design Act given that the design had functional aspects (i.e., ergonomic shape for easier gripping).

Judgment: The Delhi High Court ruled in favour of Coca-Cola, upholding the protection of the bottle shape design. The court emphasized that even if a design has functional features, as long as it is aesthetically distinctive and serves a purpose in distinguishing the product in the market, it qualifies for design protection.

Impact: This case set an important precedent for the protection of designs that blend functionality with aesthetic appeal, confirming that designs that serve both functional and visual purposes can still be eligible for protection under the Indian Design Act.





4. Copyright

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1. Introduction to Copyright Protection in India

Key Points:

- **Definition of Copyright:** Copyright is the exclusive statutory right granted to the creators of original works, allowing them control and benefit from their creations. It ensures that creators can monetize their work and prevents unauthorized exploitation.
- **Overview of India's Copyright Act, 1957:** This Act governs the comprehensive legal framework for copyright protection in India, aligning with International conventions such as the Berne Convention, the WIPO Copyright Treaty and the Trade-related Aspects of Intellectual Property Rights (TRIPS) Agreement. These international commitments ensure reciprocity and uniformity in copyright protection globally.
- **Key Differences in Copyright Protection:** India's copyright regime differs from other jurisdictions in areas like software copyright protection, where provisions are more detailed. For instance, Section 52 of the Act outlines exceptions such as fair dealing for educational purposes, which is narrower in scope as compared to the U.S. fair use doctrine. Additionally, copyright terms lengths differ, with India's protection extending to the lifetime of the author plus 60 years posthumously.

2. Works Eligible for Copyright Protection

Key Points:

- **Categories of Works Protected:** Indian copyright law encompasses diverse creative works and expressions, including:
 - **Literary works:** Novels, poems, academic articles, textbooks, software code, and more.
 - **Dramatic works:** Plays, scripts, choreographic works, and more.
 - **Musical works:** Musical compositions, including melodies and lyrics.
 - **Artistic works:** Paintings, drawings, sculptures, architectural designs and more.
 - **Cinematograph films:** Motion Pictures, documentaries, animations and movies.
 - **Sound recordings:** Audio recordings, including music albums, podcasts and more.
 - **Computer programs:** Sources and object code of software.
- **Originality as a Requirement for Protection:** For copyright protection, a work must exhibit originality, meaning it is a product of the author's intellectual effort and not a mere copy of an existing work. Courts have clarified that originality does not imply novelty but requires a minimal level of creativity.
- **Special Cases:**
 - **Databases:** Databases with an original arrangement of data qualify for protection under Section 2 (o) of the Act.
 - **Software:** Software programs are explicitly protected as literary works under Section 2 (o), including both the source and object codes.
 - **Derivative Works:** Adaptations and translations are eligible for protection if they involve significant creative input by the author.

These points are crucial in determining whether a project can be copyrighted or not and the scope of protection available to the creator in India.

3. Automatic Nature of Copyright and Ownership

Key Points:

- **Copyright arises automatically upon creation:**
 - Once a work is created and fixed in a tangible form (e.g., written, recorded), copyright protection is conferred automatically without requiring registration. This aligns with Article 5 (2) of the Berne Convention, which mandates automatic protection.
- **Ownership rights:**
 - The creator (author, artist, composer, etc.) is typically the first owner of the copyright, possessing exclusive economic and moral rights. However, there are exceptions:
 - **Works made for hire:** The employer owns the copyright for the work created by an employee as a part of their job duties or under a contractual agreement, as stated under Section 17.
 - **Commissioned works:** In cases where a creator is hired to make any specific work (such as a freelance writer or artist), the copyright ownership may be contractually assigned to the commissioner.
- **Joint ownership and rights in collaborative works:**
 - Collaborative work results in joint ownership, requiring mutual agreement for deciding how the work can be used, modified, or distributed. They typically share profits and have the right to license the work, but the specifics depend on the terms of their agreement.

This automatic nature ensures that creators have instant protection without needing to go through a formal process, although registering can provide additional legal benefits.

4. Economic and Moral Rights of Authors

Key Points:

- **Economic Rights:** These rights enable authors to commercially exploit their works and include:
 - **Reproduction:** Exclusive right to make copies in any format.
 - **Distribution:** Control over the dissemination of the work.
 - **Performance:** The right to publicly perform or show the work before an audience.
 - **Adaptation:** The right to create derivative works, such as adapting a novel into a film or translating a book into another language.
 - **Translation:** The exclusive right to translate the work into other languages, ensuring that the creator has control over the presentation of the work in other linguistic and cultural contexts.
- **Moral Rights:** These rights are inalienable and safeguard the creator's reputation and connection to the work:
 - **Right of Attribution:** The right for the author to be credited as the creator of the work whenever it is used or published.
 - **Right to Integrity:** The right to protect against distortion or mutilation of the work that could harm the creator's honour or reputation. For instance, an artist could prevent their artwork from being altered in a way that misrepresents their intentions.

- **Balancing Moral Rights with Economic Exploitation in Commercial Scenarios:** In commercial contexts, there can be conflicts between an author's economic rights and their moral rights. For instance, a publisher might want to adapt or modify a work to appeal to a wider market, but this could conflict with the author's moral rights to protect the integrity of their creation. The challenge lies in balancing the economic interests of those who wish to profit from the work (publishers, studios, etc.) with the author's right to maintain control over how their work is presented and used.

5. Copyright Registration Process in India

Key Points:

- **Benefits of Registration:**
 - **Prima Facie Evidence:** Registration provides presumptive ownership, simplifying the burden of proof in any legal disputes.
 - **Easier Enforcement:** A registered copyright facilitates time-saving legal remedies in case of infringements.
- **Steps to Register Copyright:**
 1. **Filing Application:** The first step is to file Form XIV online through the official government portal.
 2. **Payment of Fees:** A prescribed fee is required to be paid along with the application. The fee varies depending on the type of work (e.g., literary, musical, artistic).
 3. **Submission of Work:** A copy of the work for which copyright is being claimed must be submitted, along with any supporting documents that establish the authorship and originality of the work.
 4. **Examination and Objections:** Applications undergo scrutiny, with objections resolved before issuance of the registration certificate.
- 5. **Timeline:** The registration process typically takes around 3 to 6 months, in case of no objections on the applications.
 - **Online Registration System:** The Copyright Office has digitized the registration process, ensuring greater accessibility and efficiency.

6. Copyright Protection and Enforcement in India

Key Points:

- **Protection Under Indian Copyright Law:**
 - **Automatic Protection:** Under Section 13 of the Indian Copyright Act, 1957, a work is automatically protected by copyright as soon as it is created and fixed in a tangible medium (e.g., written, recorded, or otherwise made permanent), even if not registered. However, registration under Section 45 provides stronger legal evidence in case of disputes and is advantageous in litigation.
 - **Duration of Protection:** Copyright protection subsists for the lifetime of the author plus 60 years in case of literary, dramatic, musical work as stated under Section 22 of the Act. For cinematograph films, sound recordings and photographs, protections last for 60 years from the year of publication, under section 25 of the Act.
- **Rights of Copyright Holders:**
 - **Economic Rights:** Copyright holders enjoys exclusive right to reproduce, distribute, perform, display, and adapt their work. These rights can be assigned or licensed to other under Section 18 and 19 of the Copyright Act.
 - **Moral Rights:** In addition to the economic rights, author retains moral rights under Section 57, such as the right to attribution (to be recognized as the creator) and the right to object to derogatory treatments of the work that could harm their reputation.

- **Copyright Infringement:**
 - **Definition:** Copyright infringement occurs when someone reproduces, distributes, performs, or publicly displays a copyrighted work without the authorization of the copyright holder. This includes unauthorised uses beyond the scope of fair use or any agreed licensing arrangements.
 - **Types of Infringement:** Common examples of infringement include unauthorized reproduction of books, music, films, software piracy, and online piracy.
- **Enforcement Mechanisms:**
 - **Civil Remedies:** Copyright holders make seek civil remedies, including injunctions (to halt the infringement), damages (monetary compensation), and an account of profits (disgorgement of profits earned from infringement), as per Section 55.
 - **Criminal Remedies:** Wilful infringement can result in criminal charges under Section 63 of the Copyright Act, with penalties including fines and imprisonment. In cases of significant violations, such as mass piracy or counterfeiting, the penalties may be more severe.
 - **Customs Authorities:** The Indian Customs are empowered to seize counterfeit goods that infringe copyright under Section 53A of the Copyright Act.
- **Online and International Enforcement:**
 - **Digital Rights Management (DRM):** Copyright holders often employ DRM technologies to control the copying, distribution and usage of their digital works in order to combat piracy.
 - **International Protection:** India is a member of international treaties such as the Berne Convention for the Protection of Literary and Artistic Works (1886), which mandates that copyright protection be granted to works of foreign authors on the same terms as those granted to the Indian authors.

- **Monitoring and Prevention:**
 - **Anti-Piracy Measures:** Various government and private initiatives work towards monitoring and combating piracy, especially in the digital space. For instance: the National Anti-Privacy Council (NAPC) and initiatives by the Indian Music Industry (IMI).
 - **Public Awareness Campaigns:** The government along with private entities organizes campaigns highlighting the economic and creative value of original works.

7. Copyright Infringement and Exceptions

Key Points:

- **Acts That Constitute Infringement:**
 - **Unauthorized Reproduction:** Copying or reproducing a copyrighted work without the permission of the copyright holder, be it is a book, song, movie, software, or any other creative work.
 - Example: Downloading pirated versions of movies or books from unauthorized websites is considered infringement.
 - **Unauthorized Distribution:** Selling or distributing a copyrighted work without the creator's consent.. This can involve selling, renting, or distributing copies of the work.
 - Example: Selling or distributing counterfeit software or music albums without the creator's consent.
 - **Unauthorized Adaptation:** Creating derivative works (e.g., translations, adaptations, or adaptations into different formats) of a copyrighted work without authorization.
 - Example: Turning a novel into a movie or creating a remix of a song without proper authorization would be an infringement if done without consent from the original copyright holder.
- **Statutory Exceptions and Fair Use Provisions Under Section 52 of the**

Copyright Act: Section 52 of the Indian Copyright Act enumerates several exceptions to copyright infringement, which includes:

- **Fair Use for Research and Education:** Copyrighted works may be used for educational or research purposes, without infringing, if the use is non-commercial and does not harm the market for the original.
 - Example: A researcher may quote a passage from a book in a scholarly paper, citing the source properly.
- **Criticism, Review, and Reporting:** A copyrighted work may be used for critique, review or reporting purposes, provided that the use is fair, and the source is acknowledged.
 - Example: A movie critic using film clips in their review, or a book reviewer quoting excerpts from a novel.
- **Libraries and Archives:** Libraries and archives are permitted to make copies of copyrighted works for preservation, research, or educational purposes.
- **Private and Non-Commercial Use:** If copyrighted works are used privately and not for profit, such as for personal usage, this may not constitute infringement.
 - Example: A person making a backup copy of a music CD they legally own for personal use.
- **Compulsory Licensing for Public Use:** Certain works, such as music or films, may be used without permission in some circumstances, such as for public performances or broadcasts, through a compulsory licensing system.
- **Case Studies of Fair Use in Educational, Research, and Creative Contexts:**
 - **Educational Contexts:** In an academic setting, students, teachers, or researchers may use portions of copyrighted texts (like quotes or excerpts) for analysis, discussion, or review in their work, provided that it doesn't substitute for the original work or affect the market for the original.
 - Example: A researcher may quote a chapter of a book to analyse it critically in their paper, as long as it falls within fair use limits and is cited properly.
 - **Creative Contexts:** Parodies, critiques or transformative uses are considered as fair use. Fair use also applies to transformative works, where the use of copyrighted material changes the original work to create something new or different.
 - Example: A satirical piece using excerpts from any popular TV shows for commentary is generally protected under fair use.
 - **Research Contexts:** Researchers often use excerpts from copyrighted materials, such as books or articles, within the scope of scholarly work, provided the use is non-commercial and respects the boundaries of fair use.
 - Example: An academic writing a paper might cite portions of copyrighted books or articles as part of their literature review or argument, without requiring permission from the authors.



8. Enforcement of Copyright in India

Key Points:

- **Civil Remedies:**
 - **Injunctions:** A copyright holders can seek an injunction to prevent further infringement, which can be either temporary (interim) or permanent, depending on the situation, as per Section 55 of the Act.
 - Example: A film producer can seek an injunction to prevent the distribution of pirated version of their movie.
 - **Damages:** A court can award damages, including financial compensation for actual damages or statutory damages, to compensate the copyright holder for losses incurred due to the infringement.
 - Example: A photographer whose image is used without permission may receive compensation for the unauthorized use.
 - **Accounts of Profits:** The court may direct the infringer to pay the copyrighted work.
 - Example: A person who has illegally reproduced and sold copies of a book may be required to pay the profits earned from that illegal sale.
- **Criminal Remedies:**
 - **Fines and Imprisonment:** Under Section 63, wilful infringement is a criminal offense and may lead to fines and imprisonment.
 - Example: A person selling pirated software or music could face fines and imprisonment for violation under Section 63 of the Copyright Act.
 - **Punishments for Repeat Offenders:** Repeat offenders or people causing large-scale infringements may face harsher penalties, including higher fines and longer terms of imprisonment.
 - **Law Enforcement:** Police authorities have the power to arrest and investigate copyright violations, especially in cases involving counterfeit goods or piracy.
- **Role of the Judiciary, Police, and Copyright Societies in Enforcement:**
 - **Judiciary:** The judiciary plays a critical role in enforcing copyright by issuing injunctions, awarding damages, and adjudicating disputes..
 - **Police:** Law enforcement authorities are involved in investigating and prosecuting copyright violations, particularly in cases of online piracy and counterfeiting.
 - **Copyright Societies:** These are organizations manage the licensing and enforcement of copyright on behalf of creators. They also monitor infringements and collect royalties.
- **Importance of Digital Rights Management (DRM) in Combating Online Piracy:**
 - **Digital Rights Management (DRM):** DRM refers to technological tools and software that restrict the unauthorised access to and distribution of copyrighted digital works. DRM plays a critical role in combating online piracy and ensuring that copyrighted works are protected in the digital environment.
 - Example: DRM tools may prevent users from copying, sharing, or printing content that is protected by copyright, making it harder for illegal copies to be distributed.
 - **Combating Online Piracy:** DRM prevent unauthorized access to the copyrighted works which are distributed online. It plays a key role in curbing online piracy, where works are often shared illegally through peer-to-peer networks, torrent sites, and illegal streaming platforms.
 - **Enforcement through Technology:** DRM can be used alongside legal and administrative actions to enforce copyright protections online. It provides copyright holders with the means to monitor the usage of their works, detect violations, and take action against piracy.

9. Digital Copyright and Online Piracy

Key Points:

- **Protection of Digital Content:**
 - **Software:** Software, including applications and programs, is protected under copyright law, granting developers exclusive rights to use, distribute, and modify their programs.
 - Example: A software company can safeguard its product by preventing the sale or distribution of unauthorised versions.
 - **E-books:** E-books are safeguarded by copyright laws, however their digital format presents unique enforcement challenges. Authors and publishers rely on encryption and Digital Rights Management (DRM), to restrict unauthorized sharing and copying.
 - Example: DRM-enabled e-books often restrict users from copying text or distributing the file without proper authorization.
 - **Streaming Media:** Online platforms like Netflix, Spotify, and YouTube use licensing agreements and legal frameworks to ensure their digital content is accessible only through authorized users.
 - Example: A movie available on Netflix is protected by copyright law, and the platform ensures it is not shared or accessed illegally.
- **Tackling Online Piracy:**
 - **Takedown Notices:** Copyright holders can issue takedown notices to websites or platforms hosting infringing content.
 - Example: A copyright holder can submit a takedown notice to remove a pirated film from YouTube.

- **Indian IT Act Framework:** In India, Section 79 Information Technology Act, 2000 (IT Act) provides intermediary protections, contingent on compliance with due diligence requirements. Platforms must take actions on infringing content upon receiving notice.
 - Example: A website hosting pirated content must remove the infringing content after being notified under the IT Act to avoid legal consequences.

10. Performing Rights and Copyright Societies

Key Points:

- **Role of Copyright Societies in Managing Royalties and Public Performance Rights:** Copyright societies play a crucial role in managing the performing rights of the creators and ensuring compensations in cases where their works are publicly performed, reproduced, or broadcast. These societies act on behalf of copyright holders, handling the collection of royalties and the enforcement of their rights.
 - **Public Performance Rights:** Creators are entitled to royalties when their works are publicly performed, broadcasted or reproduced. Copyright societies monitor these performances and ensures fair compensation.
 - Example: A restaurant playing a band's music must obtain a license from the relevant copyright society.
 - **Royalty Collection and Distribution:** Copyright societies collect fees from users (e.g., radio stations, TV broadcasters, concert organizers, restaurants) and distribute them to the creators.
 - **Licensing Agreements:** These societies negotiate terms for public performances, digital broadcasts, and other uses of copyrighted material.

- **Monitoring Use and Enforcement:** Societies track public performance, track royalties, and pursue legal action in cases of infringement.
- **Major Copyright Societies in India (e.g., IPRS, PPL) and their Functions:** India has several copyright societies that specialize in different sectors of copyright management. Some of the major societies include:
 - **Indian Performing Right Society (IPRS):**
 - **Function:** IPRS is responsible for managing the performing rights for musical works, collecting royalties for public performances in India on behalf of songwriters, composers, and music publishers for the public performance of their music. IPRS is also involved in licensing music for use in films, television, and radio.
 - **Role:** It ensures that Indian and foreign music creators are compensated when their works are performed or broadcast in public.
 - **Phonographic Performance Limited (PPL):**
 - **Function:** PPL manages public performance rights for sound recordings, distributing royalties to record labels and performers.
 - **Role:** PPL ensures that copyright holders of recorded music, including musicians, singers, and music producers, receive compensation for their music being played in public venues like clubs, restaurants, and stores.
 - **Copyright Society of India (CSI):**
 - **Function:** CSI represents authors, publishers, and literary creators in managing royalties for literary works. It helps authors and publishers with royalty collection for books, articles, and other written material that is publicly performed or reproduced.
- **Engaging with Indian Copyright Societies:** Global businesses involved in sectors like broadcasting, music, publishing, and film can collaborate with Indian copyright societies to

ensure their compliance with local copyright laws and fairly compensate Indian creators for the use of their works.

- **Licensing Agreements:** Foreign businesses can obtain licenses from Indian society to legally use of copyrighted Indian works (examples such as music, films, books and more). For instance, a global streaming platform like Spotify or Netflix can obtain licenses from IPRS and PPL to legally stream Indian music or films, and the royalties collected will be distributed to the creators.
- **Cross-Border Royalties:** Reciprocal agreement ensure that Indian creators earn royalties for works used abroad, and foreign creators receives royalties in India.
- **International Copyright Compliance:** Global businesses must be aware of India's copyright regulations and engage with local copyright societies to ensure their operations within the legal framework and paying the appropriate royalties. This helps protect their brand and avoid legal issues related to copyright infringement.
- **Digital Rights Management (DRM):** Copyright societies collaborate on DRM solutions for streaming platforms, digital music, and e-books, ensuring compliance with Indian copyright laws.

11. Landmark Case Laws on Copyright Enforcement in India

1. Early Establishment of Copyright Protection

- **R.G. Anand vs. Delux Films (1978):**

Issue: The case concerned the unauthorized adaptation of a play's script into a film without obtaining the playwright's consent.

Outcome: The Hon'ble Supreme Court unequivocally established that adaptations and reproductions of literary works without prior authorization would constitute a blatant infringement of copyright. This case was seminal in delineating the scope of protection afforded to literary works, particularly with regard to their adaptation into other media forms.

2. Expansion of Moral Rights in Copyright Law

- **Amar Nath Sehgal vs. Union of India (2005):**

Issue: This case concerned the unlawful removal and deterioration of a sculptor's mural by governmental authorities, infringing upon the artist's moral rights under the Copyright Act.

Outcome: The Delhi High Court reaffirmed the sanctity of moral rights under Indian copyright law, emphasizing the artist's right to attribution and the integrity of their work. The Court mandated the return of the mural and awarded damages, thus reinforcing the principle of moral rights, a cornerstone in the protection of an author's personal and creative interests.

3. Enforcing Digital Copyright and Combatting Software Piracy

- **Microsoft Corporation vs. Mukesh Jain (2005):**

Issue: This case pertained to the unlawful installation and distribution of pirated Microsoft software.

Outcome: The Delhi High Court granted an injunction and awarded damages,

reaffirming the judiciary's commitment to safeguarding intellectual property rights in the digital domain. The case underscored the imperative of enforcing digital copyright, particularly in the realm of software piracy, marking a critical juncture in the protection of technological and digital innovations.

4. Licensing and Unauthorized Broadcasts of Musical Works

- **M/S. Super Cassettes Industries Ltd. vs. Hamar Television Network (2008):**

Issue: The case dealt with the unauthorized broadcast of copyrighted music by a television network without securing the requisite licenses.

Outcome: The Delhi High Court ruled in favour of the plaintiff, issuing an injunction and awarding damages. The case highlighted the indispensable nature of licensing agreements and underscored the legal repercussions of non-compliance with copyright provisions, thereby reinforcing the necessity for authorized usage of creative works in the public domain.

5. Protection of Databases and Compilations

- **Telecare Network India Pvt. Ltd. vs. Rajesh Agarwal (2009):**

Issue: The matter involved the infringement of copyright in a phone directory, which was reproduced without authorization.

Outcome: The Court granted an injunction and awarded damages, emphasizing the protection of databases and compilations under the Copyright Act. This case reinforced the recognition of non-traditional works, such as databases, as eligible for copyright protection, marking a progressive step in recognizing the evolving forms of intellectual property.

6. Fair Use and Copyright Limitations

- **Civic Chandran vs. Ammini Amma (1996):**

Issue: The case raised the issue of whether substantial copying of a

copyrighted drama for creating a counter-drama could be justified under the fair dealing exception.

Outcome: The Kerala High Court, while interpreting the scope of fair dealing, ruled that substantial copying could be permissible if the new work served the public interest. This judgment emphasized the nuanced balancing act between the protection of copyright and the freedom of expression, delineating the boundaries within which fair dealing may operate in the context of literary works.

7. Reinforcing Licensing in Public Performance

- **Indian Performing Right Society Ltd. vs. Sanjay Dalia (2015):**

Issue: The case revolved around the unauthorized public performance of copyrighted musical works without the necessary licenses.

Outcome: The Delhi High Court delivered a judgment emphasizing the paramount importance of securing licenses for public performances of copyrighted music. The Court not only issued an injunction but also awarded damages, underscoring the significance of protecting the economic rights of creators, particularly in the realm of public performances.

8. Enforcing Software Licensing Contracts

- **Dassault Systems SolidWorks Corporation vs. Spartan Engineering Industries Pvt. Ltd. (2021):**

Issue: The case dealt with the unauthorized use of software beyond the limits of the licensing agreement, which amounted to copyright infringement.

Outcome: The Delhi High Court issued an injunction and granted damages, affirming the enforceability of software licensing agreements and demonstrating the judiciary's commitment to protecting software creators' rights. The decision further solidified the application of copyright law in the digital age, particularly in safeguarding the integrity of licensed software products.

9. Protection of Literary Works in Adaptations

- **Mr. John Hart Jr. & Anr. vs. Mukul Deora & Ors. (2021):**

Issue: The issue revolved around the unauthorized adaptation of a screenplay into a film, potentially infringing upon the copyright of the original literary work.

Outcome: The Court found substantial similarities between the original work and the adaptation, granting an injunction. This judgment reinforced the protection of literary works from unauthorized adaptations, highlighting the necessity of obtaining prior authorization for any such adaptations, and underscoring the judicial commitment to preserving the integrity of creative works.

10. Personality Rights and Copyright Protection

- **Krishna Kishore Singh vs. Sarla A. Saraogi & Ors. (2021):**

Issue: The case addressed the depiction of a public figure's life in a film without the express consent of the figure's family, raising issues related to personality rights and the infringement of privacy.

Outcome: The Delhi High Court ruled that the portrayal of public figures, provided it does not defame or violate privacy rights, does not inherently infringe upon personality rights. This case illustrated the delicate balance between freedom of expression in artistic works and the protection of personal rights, particularly in the context of copyright law.

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