

# INTELLECTUAL PROPERTY RIGHTS

## 1 Introduction to Intellectual Property Rights

- History and International Regime: Pre- TRIPs and post TRIPs
- Justification and Rationale
- Balancing Rights of the IPR Holder and the Society
- Enforcement of IPRs
- Exhaustion of IPRs
- IPR and Human Rights
- Interface between IPR and Competition Law

## 2. Law of Copyright and Design

### ➤ Copyright

- Meaning, Nature, Justification, Registration
- History and International Treaties
- Idea/expression Dichotomy; Copyright in Concept Notes
- Moral Rights
- Rights of Performers, Rights of Broadcasting Organizations etc.,
- Modes of Transfer
- Infringement: Civil and Criminal Remedies
- Border Protection Measures
- Fair Dealing
- Copyright in Database, Software and Digital Works
- Folklore and Cultural Expressions

### ➤ Industrial Design and Layout Designs of Integrated Circuit

- Meaning, Scope and Registration
- History, International Developments
- Designs v/s Copyright and Trademark
- Infringement and Remedies

## 3. Law of Patent and Undisclosed Information

### ➤ Patent

- Scope, Objectives and Justification
- History and International Treaties
- Patentability Criteria
- Patentable and Non- patentable inventions
- Registration, Ownership, Rights of Patentee, Transfer of technology
- Working of Patents and Compulsory licensing
- Infringement
- Impact of TRIPs and TRIPs Flexibilities

- Pharma patents *vis a vis* Public Health Issues
- Patent vis-à-vis Copyright: Software and Computer Programmes
- Utility Patent

➤ **Undisclosed Information**

- Rationale and Subject matter of Confidential Information
- TRIPS Regime
- Trade Secrets v. other forms of protection
- Techniques of Secrecy Protection ( India and International level)

**4. Law of Trademark and Geographical Indication**

➤ **Trademark**

- Justification, History, and International Treaties
- Registration (India and International level) and Scope of Protection
- Kinds : Conventional and Non-conventional
- Licensing and Assignments
- Passing off, Infringement and Remedies
- Character Merchandising
- Comparative Advertisement and Disparagement
- Interplay of Unfair Competition and Trademark Law

➤ **Geographical Indication**

- National and International Perspective
- Meaning, Nature and Justification
- Geographical Indication v. other forms of IPRs
- Registration, Infringement and remedies
- TRIPS and Concerns for developing countries

**5. Intellectual Property in the Digital Age**

- Impact of internet: Issues for Developing Countries
- WIPO Digital Agenda : WCT and WPPT
- Protection of Trademark: Use of trademarks as Meta tags, Domain name dispute resolution
- Protection of Copyright: Liability of ISPs, Rights of Performers and Digital Broadcasters, Licensing and Rights Management

**6. Sui Generis System of Intellectual Property Protection**

- TRIPS, International Institutions and Treaties
- Different *sui generis* approaches
- Advantages and options for developing countries
- Role of Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
- *Sui generic* protection for plant and genetic resources

- Protection of new varieties of plants, UPOV; Protection of Plant Varieties and Farmers Rights Act, 2001
- Protection of Traditional Knowledge and Indigenous Knowledge
- Concepts of benefit sharing, prior informed consent etc.; Biological Diversity Act, 2002
- Administration and Enforcement of *sui generis* rights

### Suggested Readings\*

#### BOOKS

1. Alka Chawla, *Copyright and Related Rights: National and International Perspectives* (Macmillan India Ltd., Delhi, 2007).
2. Ashwani Bansal, *Law of Trade Marks in India with introduction to Intellectual Property Laws* (Institute of Constitutional and Parliamentary Studies, New Delhi, 2009)
3. David Bainbridge, *Intellectual Property* (Pearson Education, Delhi, 2003).
4. Elizabeth Verkey, *Law of Patent* (Eastern Book Company, Lucknow, 2005).
5. Holyoak & Torremans, *Intellectual Property Law* (Oxford University Press, New York, 2010).
6. J. K. Das, *Intellectual Property Law* (Kamal Law House, Kolkata, 2008).
7. J.A.L. Sterling, *World Copyright Law* (Sweet & Maxwell, London, 2009).
8. Janice M. Mueller, *Patent Law* (Wolters Kluwer Law & Business, New York, 2009).
9. Jeremy Philips and Alison Firth, *Introduction to Intellectual Property Law* (LexisNexis, Butterworths, UK, 2001).
10. Kailasam and Vedaraman, *Law of Trade Marks and Geographical Indications* (Wadhwa, Nagpur, 2009).
11. Latha R Nair & Rajendra Kumar, *Geographical Indications: A Search for Identity* (Lexis Nexis, New Delhi, 2005).
12. Lionel Bentley and Brad Sherman, *Intellectual Property Law* (Oxford University Press, New Delhi, 2003).
13. Mira T. Sundara Ranjan, *Moral Rights* (Oxford University Press, New Delhi, 2011).
14. Richard Arnold, *Performers' Rights* (Sweet & Maxwell, London, 2004).
15. Shailaja Menon, *Protection of IP in Cyber Space* (Author Press, Delhi, 2003).
16. Srikanth Venkataraman, *Understanding Design Law* (Universal Law Publishing Co. Pvt. Ltd, New Delhi, 2008).
17. Steven D. Anderman (ed.), *The Interface between Intellectual Property Rights and Competition Policy* (Cambridge University Press, New York, 2007).
18. Tanya Aplin & Jennifer Davis, *Intellectual Property Rights Law* (Oxford University Press, New York, 2009).
19. V.K. Ahuja, *Intellectual Property Rights in India* (Lexis Nexis, Butterworths, Wadhwa, Nagpur, 2009)
20. W. R. Cornish, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* (Universal Law Publishing Co. Pvt. Ltd, Delhi, 1999).

#### ARTICLES

1. Ajay Kumar, 'Indian Patent Regime and its impact on life saving drugs', 35(1-4) *Indian Bar Review* 15-62 (2008)

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\* Suggested Readings are not exhaustive. Need to be supplemented with additional readings.

2. Anupam Goyal, "Recognizing the property rights regime for indigenous knowledge of biodiversity in face of TRIPS Agreement", 6-9 *National Capital Law Journal* 129-153 (2003).
3. Anurag Dwivedi & Monika Saroha, "Copyright Laws as a Means of Extending Protection to Expressions of Folklore", 10(4) *JIPR* 308-314 (2005).
4. M.D.Nair, "TRIPS, WTO and IPR: Bio diversity Protection: Critical Issue", 16(1) *JIPR* 3537 (2011).
5. Malak Bhatt, "Digital Rights Management in light of proposed Indian amendment: A boon or a bane", 1(1) *GNLU Law Review* 157-67 (2008).
6. Mayuri Patel & Subhashis Saha, "Trade Mark Issues in Digital Era", 13(2) *JIPR* 118-28 (2008).
7. Mishita Jethi, "Dealing fairly with software in India", 16(4) *JILI* 313-320 (2011).
8. Philippe Cullet, "Human Rights, Knowledge and Intellectual Property Protection", 11(1) *JIPR* 7-14 (2006).
9. S Bala Ravi, "Effectiveness of Indian *Sui Generis* Law on Plant Variety Protection and its Potential to Attract Private Investment in Crop Improvement", 9 *JIPR* 533-548 (2004)
10. S K Tripathi, "Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: International, Regional and National Perspectives, Trends and Strategies", 8 *JIPR* 468-477 (2003)
11. Shashank Jain & Sunita Tripathy, "Intellectual Property and Competition Laws: Jural Correlatives", 12(2) *JIPR* 224-235 (2007)
12. V.Vijay Lakhmi & Patro, "Intellectual Property Protection at Border", 14(4) *JIPR* 330-339 (2009).
13. Zakir Thomas, "Overview of Changes to the Indian Copyright Law", 17 *JIPR* 324-334 (2012).

**Note: This is a draft syllabus, which is to be approved by the Competent Authority.**