

Introduction to the Working of IP Laws

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TWO COMPETING INTERESTS

- KNOWLEDGE SHOULD BE FREE AND BE ACCESSIBLE TO ALL – IT IS LIKE OXYGEN FOR PROGRESS AND DEVELOPMENT
- CONTROL OF KNOWLEDGE CREATORS OVER THEIR CREATION

TWO QUESTIONS

- IS IP NECESSARY FOR CREATION OF KNOWLEDGE?
- ARE THERE OTHER REASONS/METHODS OF CREATION OF KNOWLEDGE

THE PARADOX

- IP BEGETS IP
- IP MAY RESULT INTO DENIAL OF ACCESS TO KNOWLEDGE CREATING A REGIME OF LICNECE PERMIT RAJ – FRUIT IS APPROPRIATED BY CORPORATIONS

WHAT IS IPR?

- AN UMBRELLA TERM
- ALSO A TERM OF CONVENIENCE
- AN EXCLUSIVE RIGHT
 - IDEA OF 'EXCLUSIVITY' IS CENTRAL TO ALL IPR
- INTANGIBLE
- TERRITORIAL

OVERVIEW OF IPR SPECTRUM IN INDIA – Acts and Rules

1. The Copyright Act, 1957 & Copyright Rules, 2013
2. The Patents Act, 1970 & Patents Rules, 2003
3. Trade Marks Act, 1999 & Trade Marks Rules, 2002
4. The Geographical Indications of Goods (Registration and Protection) Act, 1999, & the Geographical Indications of Goods (Registration and Protection) Rules, 2002
5. The Designs Act, 2000 & the Designs Rules, 2001
6. The Semiconductor Integrated Circuits Layout-Design Act, 2000, & The Semiconductor Integrated Circuits Layout-Design Act, 2001
7. The Protection of Plant Varieties and Farmers' Rights Act, 2001, & the Protection of Plant Varieties and Farmers' Rights Rules, 2003
8. The Biological Diversity Act, 2002, & the Biological Diversity Rules, 2004
9. [Draft] National Innovation Act, 2008

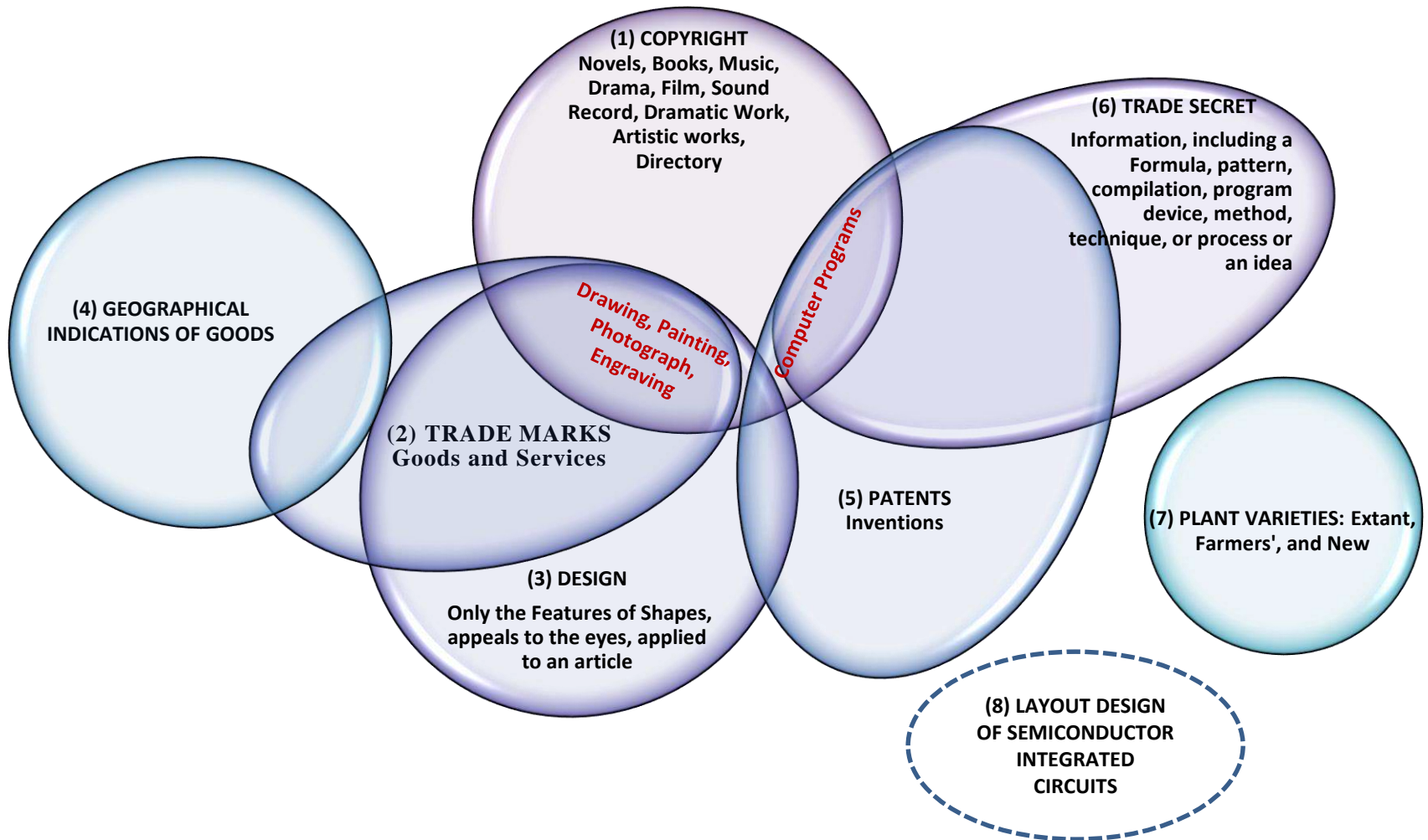
OVERVIEW OF IPR SPECTRUM IN INDIA – Subject Matter of Protection

1. The Copyright Act, 1957 – Work
2. The Patents Act, 1970 – Inventions
3. Trade Marks Act, 1999 - Marks
4. The Geographical Indications of Goods (Registration and Protection) Act, 1999 – Goods (quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin)
5. The Designs Act, 2000 (features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article . . . appeal to and are judged solely by the eye)
6. The Semiconductor Integrated Circuits Layout-Design Act, 2000 (lay-out design of semi-conductor integrated circuits)
7. The Protection of Plant Varieties and Farmers’ Rights Act, 2001 (plant varieties)
8. The Biological Diversity Act, 2002 (bio-resources and associated knowledge)
9. [Draft] National Innovation Act, 2008 (confidential information)

OVERVIEW OF IPR SPECTRUM IN INDIA – Term of Protection

1. The Copyright Act, 1957 – **Life of Author + 60 years** (LDMA); and **60 years** in case of anonymous, pseudonymous, posthumous, film, sound recording, govt., public undertaking, international organization
2. The Patents Act, 1970 – **20 years** from the date filing, Renewable every year after grant
3. Trade Marks Act, 1999 – Renewable after **10 years** (registered trade mark), unlimited in case of unregistered one
4. The Geographical Indications of Goods (Registration and Protection) Act, 1999 – Renewable after **10 years**
5. The Designs Act, 2000 – **10+ 5 years**
6. The Semiconductor Integrated Circuits Layout-Design Act, 2000 – **10 years**
7. The Protection of Plant Varieties and Farmers' Rights Act, 2001:
09 years in case of trees and vines, **06 years** in case of other crops, and may be reviewed and renewed ... subject to the condition that total period of validity shall not exceed:
18 years in case of trees and vines, **15 years** in case extant varieties from the date of notification, in other cases **15 years** from the date of registration
8. [Draft] National Innovation Act, 2008 - **unlimited**

Indian IP Family



Summary of Civil Wrong & Offences in IP Legislations

Act	Civil Wrongs	Offences
The Patents Act 1970	Section 104-114 Section 104- Not inferior to District Court	No
The Copyright Act 1957	Section 54-62 Section 62- In District Court having jurisdiction	Section 52A, 63-70 Section 70- Not inferior to a Metropolitan Magistrate or a Judicial Magistrate of the First Class
The Trade Marks Act 1999	Section 134-135 Section 134- Not any court inferior to a District Court	Sections 101-121 Section 115- No court inferior to a Metropolitan Magistrate or a Judicial Magistrate of the First Class
The Designs Act 2000	Section 22-23 Section 22- Not any court below the Court of the District Judge	No
The Geographical Indications of Goods (Registration and Protection) Act, 1999	Section 66-67 Section 66- Not any court inferior to a District Court	Section 37-54 Section 50- No court inferior to a Metropolitan Magistrate or a Judicial Magistrate of the First Class
The Protection of Plant Varieties and Farmer's Rights Act, 2001	Section 64-66 Section 65- Not any court inferior to a District Court	Section 68-77 Any Magistrate (According to Part II of the First Schedule of Cr. PC for not specified in the Act
The Semi-Conductor Integrated Circuits Layout Designs, 2000	Section 16-18	Magistrate of the First Class (Cr. PC), Section 56-67, Not Specified by the Act,
The Biological Diversity Act, 2002	Section 55-56	Section 57-58, Magistrate of the First Class (Cr. PC), Section 56-67, Not Specified by the Act,

