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Cluster level IP Awareness program

An initiative of the office of the Controller General of Patents, Designs and Trademarks (CGPDTM) in association with Industry Associations (CII, FICCI, ASSOCHAM)

A. About the Initiative

Background: In the globally competitive environment, intellectual property has placed itself on a pedestal in the context of economic growth and has become more important than ever. Intellectual Property is the fuel that powers the engine of prosperity, fostering invention and innovation. Being an intangible asset, Intellectual Property plays a very important role in the socio-economic ecosystem and their creation and protection is essential for the sustained growth of a nation. Increasing significance of intangible assets in the global economy is forcing business organizations to actively manage the role of IP as a key driver for building and sustaining their competitive advantage and achieving superior performance.

Intellectual Property Rights (IPRs) are exclusive rights over such intellectual property granted to creators / holders which protect their rights from misappropriation by third parties without their authorization. They are now not only being used as a tool to protect creativity and generate revenue but also to build strategic alliances for socio-economic and technological growth. Accordingly, in order to foster the protection of innovations and creativity, the Intellectual Property Office under the Ministry of Commerce and Industry is dedicated to mobilize the use of such technological advancement for the economic development of the country.

Intellectual Property Laws in India are TRIPS compliant and coupled with a strong enforcement mechanism and a vibrant judicial system, they create the best investment opportunities and a conducive environment for protecting IP Rights in order to enable the industrial community to diversify its commercial activities.

India has also developed a national framework for creation and protection of IPRs, which is continuously evolving and meets global standards. The challenge before the country is to scale up the process of IP creation and capture value from the scientific and technological creations to catapult the country into the league of most innovative and developed nations.

Recognizing the importance of intellectual property, the Hon'ble President of India declared the decade of 2011-2020 as the Decade of Innovation. The

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future prosperity of India in the new knowledge economy would increasingly depend on its ability to generate new ideas, processes and solutions, and the process of innovation would convert knowledge into social good and economic wealth. The President called upon the people to step up expenditure on research to pursue innovation in a big way. In a globally competitive world, India had to unleash its innovation potential to increase capacity, productivity, efficiency, and inclusive growth. “The spirit of innovation has to permeate all sectors of economy from universities, business and government to people at all levels.”

Relevance and Importance of Intellectual Property Rights for cluster – The times are changing and now we can no longer count on a large and regulated market to shelter us in the 21st century. In today’s globalised scenario, industries need to step up their efforts and ability to innovate to make better products and become more proactive to protect their innovations. Innovation- the successful exploitation of new ideas- is the key business process that enables one to compete effectively in the increasing competitive global environment. It is now critical for the Indian industry to understand the implications of Intellectual Property protection – both legal and economic, to protect its own business interests in India and abroad.

However, Indian industry is yet to realize the potential role of intellectual property rights despite their inherent innovative capability. This is evident from the applications filed for protection of intellectual property rights. There exists a two-fold need with respect to intellectual property rights in India:

- Greater understanding across the industrial sector about the fundamentals and different facets of IP and,
- Advanced learning in the area of patents in order to provide trained individuals who can perform at peak potential from early in their career.

In this background, the Intellectual Property Office, in association with the Industry Associations namely the Confederation of Indian Industry (CII), the Federation of Indian Chambers of Commerce & Industry (FICCI) & ASSOCHAM, has planned to conduct a series of cluster specific awareness programs on IP in year 2013-2014 to create Intellectual Property awareness among the specific clusters so as to encourage these clusters to promote Intellectual Property Right protection.

Cluster level IP Awareness program

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A.1 Cluster Selected for 2013

The following clusters 12 clusters have been identified for these awareness programs:

1. Auto - Chennai
2. Leather - Ambur TN
3. Handloom - Ludhiana
4. Leather - Kanpur
5. Gems and Jewellery - Surat
6. Foundry - Belgaon
7. Auto - Pithampur Indore
8. Engineering & Technology -Nasik MH
9. Chemical - Ankleshwar
10. Machine Tools - Bangalore
11. Auto - Pune
12. Coir - Alappuzha Kerala

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A.2 Methodology

The following methodology were used in conducting these awareness programs.

Step-I:

A one day awareness programme was held, which is designed with topics covering various aspects of intellectual Property rights including Introduction to Technology Transfer, IP Licensing, Valuation and Auditing and IP Commercialization to offer a comprehensive introduction and up-to-date knowledge to all the participants, particularly those work deals with intellectual property and its effective protection. The program will also focus on issues relating to Enforcement of IPRs & Remedies against Infringement. The 1-day programme would be tailored made as per the specific clusters' requirement.

Step-2:

The following activities was undertaken by the Industry associations.

- Mapping of Awareness levels currently existing and advice on the way forward, based on questionnaire distributed in the workshop.
- Identifying & short-listing protectable products / processes- creation of a repository of technologies/ products / processes which could be protected through IPRs.

Step-3:

- Identifying suitable IP Protection for the products/processes or designs identified.
- Suggesting mechanisms for protection of intellectual property.
- Developing a Road Map for IP Management Practices.
- Handholding activities by Industry Associations for filling IP applications.

Cluster level IP Awareness program

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B. Objectives

The Intellectual Property Office has selected twelve clusters out of 39 clusters being supported by Department of Industrial Policy & Promotion under the Industrial Infrastructure Upgradation Scheme (IIUS) for conducting the IP Awareness programs. The overall objective of the training programme is to give both advisory and protection services. The objectives of these awareness programs are mentioned below.

- To sensitize the clusters about Intellectual Property Right and their protection.
- To identify protectable innovations.
- To suggest steps for transforming innovations into proprietary assets.
- To use IP information, particularly relating to patents and designs, for further research and development in developing new product and process.
- Utilize the IP information in their business development.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

C. PLACE & VENUE

Confederation of Indian Industry (CII) in collaboration with Intellectual Property Rights office India, under Department of Industrial Policy and Promotion (DIPP) and with support of ITDC-Ichalkaranji conducted the Cluster level Awareness Session on Intellectual Property Rights for Textile Cluster 5 i Ef d 31 24b Eb b b Lbeb Uf di db Fe db T d f - Textile & Engineering Institute, Rajwada, Ichalkaranji, Dist. Kolhapur (Maharashtra).

Kolhapur is situated in the southwest corner of Maharashtra and shares its eastern and southern border with the State of Karnataka Kolhapur is one of the fastest-growing cities in Maharashtra and is one of the highest per capita income cities in India.

The Dattajirao Kadam Education society as its first step established the Textile and Engineering Institute in 1982. This was the first educational institute in the state to be started on grant basis and encouraged by the successful establishment of this, the Maharashtra State Government took a policy decision in 1983 to permit various social and industrial organizations of the state to start professional educational institutes, the decision which brought a revolution in the thinking and pattern of the education in the state.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure I Detailed Programme

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE I

Detailed Programme

0900	1030 Hrs	REGISTRATION & WELCOME TEA/ COFFEE	
1030	1100 Hrs	OPENING SESSION	
		Opening Address	Mrs Namrata Kavle Assistant Controller Intellectual Property office, India
		Address	Mrs Kishori Awade Chairperson Ichalkaranji Garment Cluster Ltd
		Special Address	Dr P V Kadole Principal DKTE-Ichalkaranji
		Special Address	Mr Abhay Daptardar Deputy Director MSME-DI
		Inaugural Address	Shri Prakash Awade Former textile Minister of Maharashtra
		Concluding Remarks	Mr Punnet Jain Executive Confederation of Indian Industry
1100	1230 Hrs	Technical Session I: <i>Introduction to IPR: A Basic Overview of all forms of Intellectual Property Rights & its importance with examples.</i> • <i>Why IPR</i> • <i>IPR and Business Competitiveness</i> • <i>Patents</i> • <i>Copyrights</i> • <i>Trademarks & Service marks</i> • <i>Geographical Indicators</i> • <i>Industrial Designs</i> • <i>Trade Secrets</i> • <i>Plant Varieties</i> • <i>Semi Conductor Integrated Circuits lay out designs</i> Different aspects of Design and Trademark related issues specific to Textile cluster with the Case Studies	

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

	Speaker	Mr Tushar Shrikhande Advocate R K Dewan &Co.
		Mrs Namrata Kavle Assistant Controller Intellectual Property office, India
1230 1330 Hrs	Lunch	
1330 1430 Hrs	Technical Session III ➤ <i>Introduction to technology Transfer, IP Licensing, IP Valuation & IP Audit</i> ➤ <i>IP Commercialisation</i> ➤ <i>Case Studies on IP Commercialisation & Appreciation of Revenue Models</i> ➤ <i>Case studies on IP Management</i>	
	Speakers	Mr Nitin Brainleague Bangalore
	Q&A Session	
1430 1500 Hrs	Technical session III: Enforcement of IPRs & Remedies against Infringement: Case Laws.	
	Speaker	Mr Tushar Shrikhande Advocate R K Dewan & Co.
		Mrs Namrata Kavle Assistant Controller Intellectual Property office, India
	Q&A	
1500 1530 Hrs	Technical Session IV: Interactive & Feed Back Session	
1530 1600 Hrs	Technical Session V: Issues identified in the Cluster Road map ahead.	
		Mrs Namrata Kavle Assistant Controller Intellectual Property office, India
1530 Hrs	Close of the Proceeding	

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure II

Speaker(s) profile

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE II

Namrata Kavle

Assistant Controller
Intellectual Property office, India

Ms Namrata Kavle holds a degree of bachelor of Electronics from Mumbai and has been working with Intellectual Property Office, India since 2002 and is holding the post of Asstt. Controller of patents & Designs since 2009 onwards

Tushar Shrikhande

Advocate
R K Dewan

Advocate Tushar Shrikhande completed his BSL LLB in the year 2007 from the prestigious Symbiosis College of Law in Pune. For a short duration he worked with a Sfb F b f Ef f f G L b b b bK Mb Pggdf /X i b f hf b hands on experience in the field of Real property he joined Wadia Ghandy, Advocates and Solicitors, Pune who primarily dealt with property law. After a little more than a year he shifted his sights to the exciting world of Intellectual Property Law and joined the Pune branch of R. K. Dewan & Co, Trade Mark & Patent Attorneys. He has been working with R. K. Dewan & Co. since October 2008 as a legal Associate, under the personal guidance of Dr. Mohan Dewan, a stalwart & ff if gfe gJ f fd b Q f Mb /U i b d f f h i f ebg h agreements and pleadings, however in order to get hands on experience with litigation and prosecution he did a b i f g Efi Pggdf i f f i b h was supervised by the eminent litigator Advocate N. K. Bhardwaj and his team of ex trade mark examiners. He was recently invited to attend the International Trade mark B db B b Nff h i f e b Dallas, USA where he participated in a table conference on the topic - Corporate Global Trademark Strategies and Tips with Limited Resources. While attending INTA at Dallas, he met and exchanged notes and strategies with trade mark lawyers from all over the world. Over the years, Tushar has given many presentations and contributed to many seminars in the field of IP, including giving lectures to LLM students of his Alma Mater, Symbiosis law Pune, addressing entrepreneurs at events/ courses organized by Ministry of Micro, Small and Medium Enterprises (Government of India), the Mahratta Chamber of Commerce, Industries & Agriculture and IIT Bombay to name a few.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Mr Nitin

Brainleague

Bangalore

Mr Nitin heads the electronics and telecommunications patent services team at Brain League. As a Partner, he supervises projects related to the electrical, electronics, communications and software sectors. He works with some of the leading companies in electronics, software and telecommunication sectors on patent searching, drafting and prosecution projects. Mr Nitin also helps clients make decisions on product launch and strategy by providing FTO analysis, infringement analysis and technology landscaping reports.

Mr Nitin is a member of the quality control team at Brain League and plays an important role in defining quality processes and standards. Before starting his career in patents, Mr Nitin worked with companies in the US on projects relating to Radio Frequency and Communications.

Mr Nitin has completed his Bachelors in Engineering in Electronics and Telecommunication from Bombay University and subsequently, pursued his Masters in Electrical Engineering, specializing in Radio frequency Engineering from Syracuse University, USA.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure III

List of Registered Participants

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE III

Cluster level Intellectual Property Awareness Program (Cluster: Textile)			
5 E f d f c f 3124 Eb b b Lbeb Uf di db Fe db T d f - Textile & Engineering Institute, Rajwada, Ichalkaranji, Dist. Kolhapur (Maharashtra)			
S. No.	Name	Designation	Company
1	S.S. Lavase	Asst Prof	D.K.T.E
2	S.S .Borikar	Lecturer	D.K.T.E
3	S.R. Patil	Student	D.K.T.E
4	Sandip M. Rathod	Student	D.K.T.E
5	G. Gnananthayan	Student	D.K.T.E
6	Samir Bonsule	Student	D.K.T.E
7	R.S. Patil	Asst Prof	D.K.T.E
8	S.B. Kamble	Student	D.K.T.E
9	Vignesh Dhabala	M.Tech	D.K.T.E
10	Vikram	Owner	Rathore Group of Textile
11	Pranoti Dhuppe	M.Tech	D.K.T.E
12	Priyanka Bonde	M.Tech	D.K.T.E
13	Nayana M	M.Tech	D.K.T.E
14	Vijeyaya Lolge	Student	D.K.T.E
15	Rashmi Shrivias	M.Text	D.K.T.E
16	Snehal Kasture	M.Text	D.K.T.E
17	Rashi	M.Text	D.K.T.E
18	Saloni Sharma	M.Text	D.K.T.E
19	Babubah Kabnure	Asst Prof	D.K.T.E
20	Vikas Magdum	Asst Prof	D.K.T.E
21	Pravin Pandit Harane	ME PDD	D.K.T.E
22	Kolhapure Rakesh	ME PDD	D.K.T.E
23	M.A. Bote	Asst Prof	D.K.T.E
24	Namita Jadhav	Student	D.K.T.E
25	Avadhut Jadhav	Student	D.K.T.E
26	Manjunath Burji	Professor	D.K.T.E
27	Manjunath R N	Student	D.K.T.E
28	Daniel Kartbik	Student	D.K.T.E
29	Satish R. Parihar	Student	D.K.T.E

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

30	Patil Suraj	Student	D.K.T.E
31	Ashish Hulle	Student	D.K.T.E
32	Sanjay	Director	Polluelean
33	Lalitas Balwan	Director	Eastone Industries
34	Akshay Shastri	M.Tech	D.K.T.E
35	Abhishek Rawat	M.Tech	D.K.T.E
36	Pravin Bhdcare	M.Tech	D.K.T.E
37	Tushar Patil	M.Tech	D.K.T.E
38	Vivek Mane	M.Tech	D.K.T.E
39	Shindde Ravinder	M.Tech	D.K.T.E
40	Rushikesh M Jambhale	M.Tech (TC)	D.K.T.E
41	Sandip B Patil	Student	D.K.T.E
42	Anuj R Patil	Student	D.K.T.E
43	Manoj S. Date		Date Textiles
44	Vallabh S Shedsale	Student	D.K.T.E
45	Bugad Omkar	Student	D.K.T.E
46	Vrame Mahendra	Student	D.K.T.E
47	A.A. Raybagi	Asst Prof	D.K.T.E
48	Rahul Satpute	Business Professional	Unitech / UTP
49	V.R. Balwan	ME Student	D.K.T.E
50	R.D. Patil	ME Student	D.K.T.E
51	V.S. Bingrade	ME Student	D.K.T.E
52	Rahul Tgare	Project Manager	KWITC
53	Chandan Shedsale	Businessman	Shedsale Group
54	Gadkaei Rahul	Student	D.K.T.E
55	Bagadi Nikhil	Student	D.K.T.E
56	Chavan Hrishikesh V	Research Scholar	D.K.T.E
57	Sarda Nitish	Research Scholar	D.K.T.E
58	Indrgit N Pujan	Prop	Duralite Industries
59	Chetan	Schalkarn Ji	Textile Group
60	Shakil B Salati		Saicla Group
61	Pokhande Nitin	Student	D.K.T.E
62	Atul W. Pohane	Student	D.K.T.E
63	Raj Kumar		
64	Soj P.M	Prop	Joe Textile R.M Textile

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

65	Mohatte	Director	Amit weaving Mills
66	Kkumbhar Amit	Student	D.K.T.E
67	A.K.Auti	Self Employee	Tarun Fabrics
68	V.B. Upadhye	Associate Prop	DKTE COE
69	Aniket Bhute	Scientist	DKTE COE
70	Varun S.Goud	Scientist	DKTE COE
71	Swapnil Bagade	Enterprenure	
72	Atul Bawve	CEO	Soea Fabrics
73	Dattatray Belehar		Vandana Sizars
74	Parakesh Goud	CEO	Vijayshree Prakash Textile Region
75	Dharat Desai	MD	Desai Poly Pvt Ltd
76	Chinelrakint Mane		Laxmi Industries Estate
77	Anil Lahoti	Prop	Lawti Group
78	Rajesh Sawant		Sawant Processcos
79	Ajit		
80	Omkar Deshpande		
81	Narsing		
82	Pravin Patil		K.A.T.P
83	Omkar Kulkarni		D.K.T.E
84	Dhunal Shridhar		D.K.T.E
85	Aditya		Trimury Spinning Mills
86	P.K. Valsay		D.K.T.E
87	V.A / Goud		D.K.T.E
88	S.M. Hupre		D.K.T.E
89	Sachin		D.K.T.E

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure IV

Feedback

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE IV

FEEDBACK

Evaluation of the programme was done on the following basis:-

- Overall Programme Evaluation
- Programme Structure
- Quality of Speakers
- Content of Presentation
- Level of Learning

Feedback from Participants

- The quality of the speakers and the content of the presentation were good.
- It is preferred to have local speakers or speakers well versed with the local language of the cluster. This helps to connect with the audience.
- More information on the Government facilities regarding finances as regards filing of patent application.
- On spot training on drafting of Patents, State of art search facilities and Government facilities for enforcement of patents through licensing or other means.

Feedback by the Speakers: -

- U f h b b c b b e f b f e c i f b f b b g i f l c f F Minister.
- Some of the speakers exceeded the time given to them, others had to rush through their topics.
- Long hours of speech led to a group of unenthusiastic and un-interested Audience.

Way forward

- Timelines should be adhered to.
- Reading material should be distributed before the day of the event.
- The sessions should be more interactive and less of presentation.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

PRESENTATIONS

TRADEMARKS and DESIGNS

Copyright © 2013 R. K. Dewan & Co.

Introduction

“trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.”

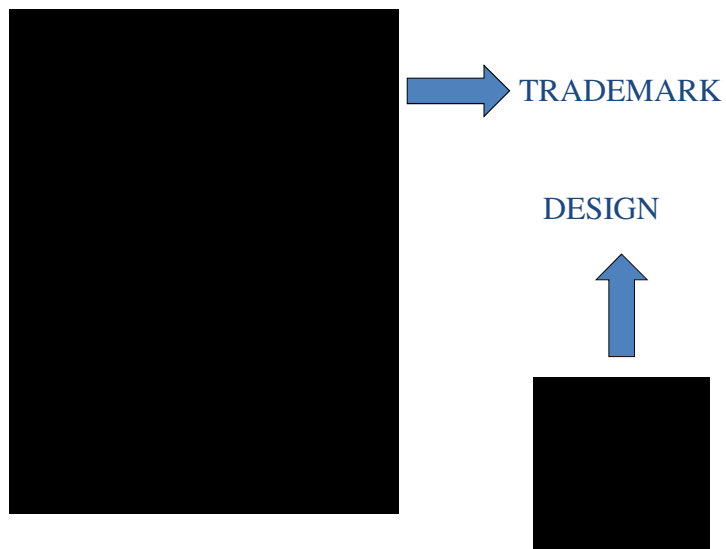
Copyright © 2013 R. K. Dewan & Co.

Design

- According to Section 2(d) of the Design Act 2000 means only the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are **judged solely by the eye**.

Copyright © 2013 R. K. Dewan & Co.

Example of Trademark



Copyright © 2013 R. K. Dewan & Co.

Trademark

- Trademark can include Words, Letters, Symbols, Logo, Colours, Combination of words & letters, Shapes, Pictures, Slogans, Corporate Names, Collective marks, Certification marks, Domain names
- Goods Classes: 1 to 34 and Service Classes: 35 to 45
- Perpetual right provided its renewed
- Infringement of Trade Mark (Criminal + Civil Remedies)

-
- Deterrent to the infringer
 - Statutory right to restrain
 - Association with quality of product in the mind of the consumer
 - Creation of goodwill
 - Cost-effective
 - Intangible Property-
BUY IT, SELL IT, MORTGAGE IT, TRANSFER IT, LICENSE IT AND WILL IT

-
- Any individual, company, association of persons or body of individuals, society, partnership firm, claiming to be the proprietor of a trademark ‘used’ or ‘proposed to be used’ by him may file an application for registration

Registration Offices and their Jurisdiction

- | | |
|----------------------------|--|
| • Mumbai Office: | • Maharashtra, Madhya Pradesh and Goa |
| • Ahmedabad Office: | • Gujarat, Rajasthan, Daman, Diu, Dadra and Nagar Haveli |
| • Kolkatta Office: | • Arunachal Pradesh, Assam, Bihar, Orissa, West Bengal, Manipur, Mizoram, Meghalaya, Nagaland, Sikkim, Tripura, Andaman & Nicobar Island |
| • Delhi Office: | • Jammu & Kashmir, Punjab, Haryana, Uttar Pradesh, Himachal Pradesh, Delhi and Chandigarh |
| • Chennai office: | • Andhra Pradesh, Kerala, Tamil Nadu, Karnataka, Pondicherry & Lakshadweep |

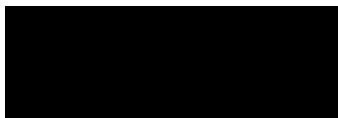
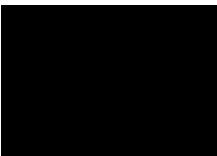
Concept of “Proposed to be Used”

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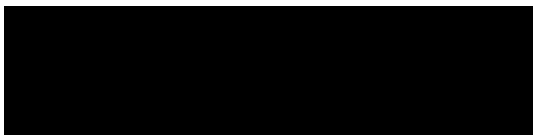
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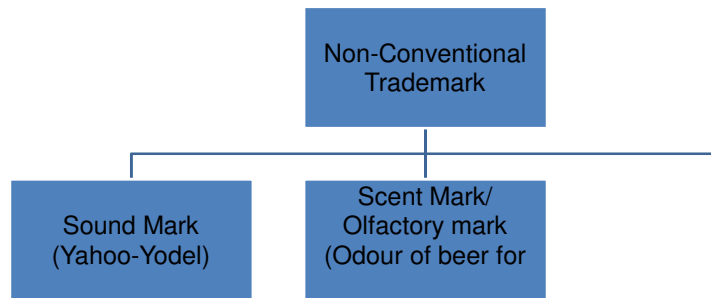


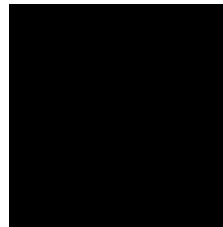
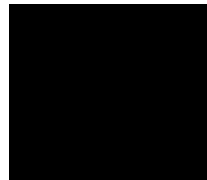
ZARA



VERSACE







Features of certification marks

- Can be used by a number of traders
- Cannot be used as a trade mark
- Standards are set by the owners of the certification marks
- Government has no control over standards setting
- Registration can be cancelled of a certification mark, if misused

Collective marks

- Trademark owned by an organization, whose members use them to identify themselves with a level of quality or accuracy, geographical origin, or other characteristics set by the organization.
- e.g. J K Group, Tata, Reliance Dhirubhai Ambani Group
- Section 63 deals with the registration of Collective marks

marks

Search

-
-
-
-

SEARCH [PER MARK PER CLASS]

FILE TRADEMARK APPLICATION
[PER MARK PER CLASS]

GET THE APPLICATION NO

RECEIVE THE EXAMINATION REPORT

COMPLY WITH EXAMINATION REPORT

MARK IS ACCEPTED OR REJECTED

IF ACCEPTED
PUBLISHED IN TRADE MARK JOURNAL

Opposition can be filed within 4 months from date of publication

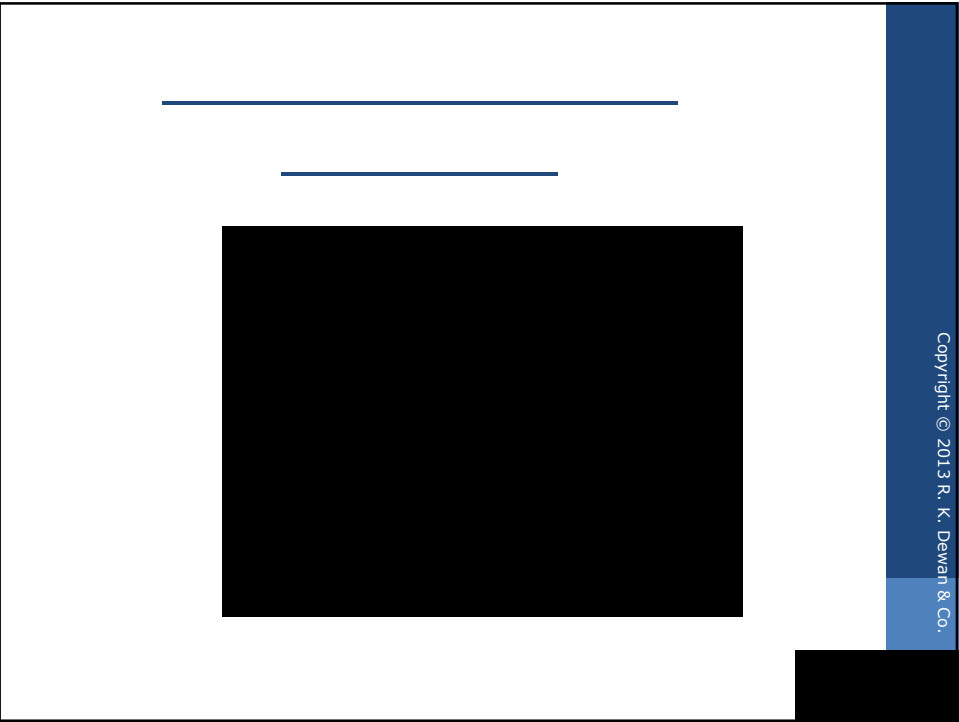
If No Opposition
Trademark registration certificate awarded (within 12 months)
from the date of publication

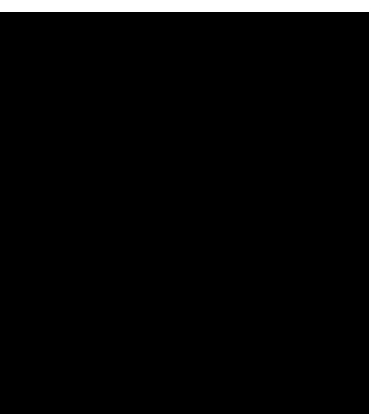
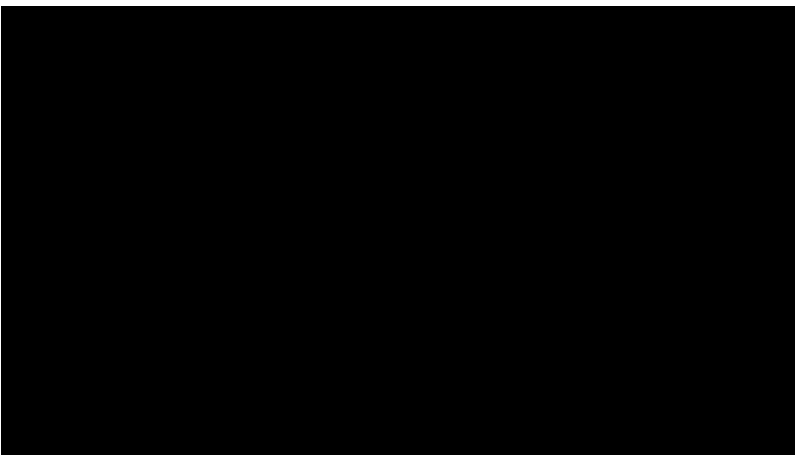
Renewal every 10 years

Falsification of trademarks

-
-
-
-
-

-
- **Imprisonment with Fine**
 - **Minimum 6 months**
 - **Maximum 3 years**
 - **Fine**
 - **Minimum Rs. 50,000/-**
 - **Maximum Rs. 2,00,000/-**





an & Co.

n & Co.

-
- Industrial design protection is provided only for the aesthetic feature of a product, not for its functional design
 - Economic value of these products lies in enhancing their aesthetic appeal to consumers
 - Functional design not registrable

Prohibitions for Registration

A design which-

-
- Section 22(1) deals with Piracy
 - Infringement of a copyright in design is termed as "Piracy of a registered Design"
 - Civil remedies U/S 22(2) available

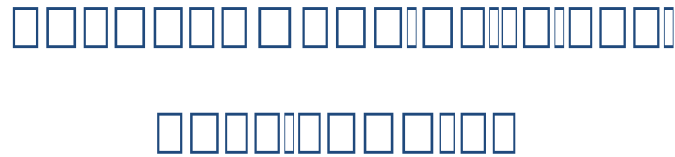
-
- To publish or to have it published or expose for sale
 - To either apply or cause to apply the design
 - To import for the purpose of sale

-
- Interlocutory Injunction
 - Damages or Compensation

-
- Registration valid for period of 10 years
 - Further renewed upto 5 years

Essentials to remember

- IT IS ABSOLUTELY FUNDAMENTAL THAT YOUR DESIGN SHOULD BE KEPT CONFIDENTIAL BEFORE REGISTRATION
- ONCE IN PUBLIC DOMAIN, ITS NOVELTY IS LOST AND THE DESIGN CANNOT BE REGISTERED



Enforcement of IP

- Trade marks:
 - Civil Remedies: damages
 - Criminal Remedies:
 - 6 months - 3 years imprisonment
 - Fine of 50,000/- Rs. - 2 lakh Rs.
 - Seizing

Enforcement of IP

- Copyright

- Civil Remedies:

Damages

Injunction

Whole or parts of profits

3

Copyright © 2013 R. K. Dewan & Co.

Enforcement of IP

- Copyright

- Criminal Remedies:

6 months - 3 years imprisonment

Fine of 50,000/- to 2 lakh rupees

Seizing

Disposal of goods

4

Copyright © 2013 R. K. Dewan & Co.

Enforcement of IP

- Patents

- Civil Remedies :

injunction+ or damages or
account of profits

+ seizing, destroying or forfeiting
of the infringing goods

5

Copyright © 2013 R. K. Dewan & Co.

Enforcement of IP

- Designs:

- Civil Remedies:

Damages of max. 50.000 Rs.

Injunction

- Criminal Remedies: NA

6

Copyright © 2013 R. K. Dewan & Co.

Enforcement of IP

- Geographical indications:

- Civil Remedies: damages

- Criminal Remedies:

- 6 months to 3 years imprisonment

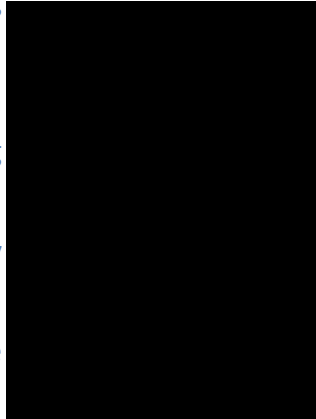
- Fine of 50,000/- to 2 lakh rupees

- Seizing



Gorbatschow Wodka K.G. v John Distilleries Ltd.

- The Russian vodka manufacturing company, Gorbatschow Wodka succeeded in restraining John Distilleries Limited from marketing vodka in a bottle similar in shape and appearance to the one used by Gorbatschow Wodka although Gorbatschow had not registered the bottle design in India.



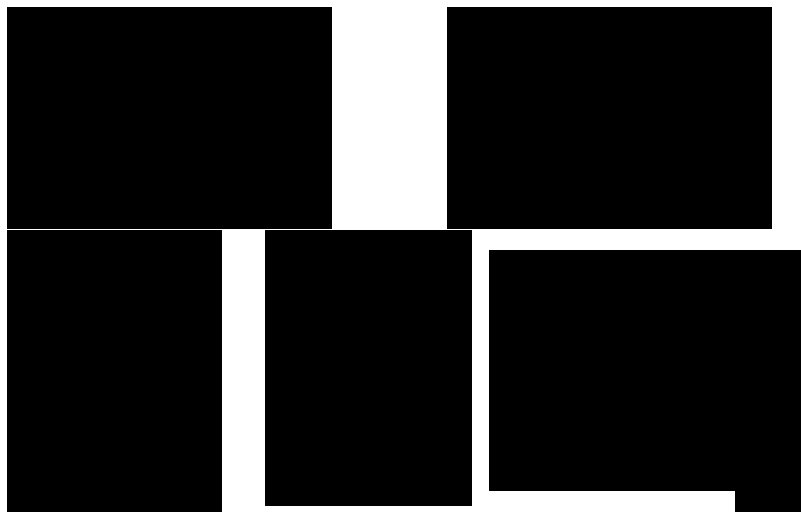
Hygienic Research Vs. Cento Products- Vasmol Case

- The Plaintiff was registered owner of Vasmol 33 and Super Vasmol 33;
- The Defendant copied not only the trade mark, but also the art work, colour scheme, get up etc. of the Plaintiff's carton;
- The Court granted an interim injunction restraining the Defendants from manufacturing the product;
- And also an order appointing a receiver to seize, seal, etc. the infringing products and material;

Hygienic Research Vs. Cento Products- Vasmol Case

- Court Receivers conducted simultaneous investigations at 3 premises of the Defendants and seized huge stocks of SUPER WAXMOL 303 branded goods.
- Defendants also served with ad-interim injunction orders.

Hygienic Research Vs. Cento Products- Vasmol Case



Eatman Foods India Pvt. Ltd Vs. Savorit Ltd.

- Eatman Foods had claimed that their registered trademark (label) “Tastee Masala” was being infringed by Savorit’s use of the trademark “Tastii”
- A Suit was filed for the grant of interim injunction before the Hon’ble Single judge

Eatman Foods India Pvt. Ltd Vs. Savorit Ltd.

- The Hon’ble Single Judge rejected the petition on following grounds:
 1. Product manufactured and marketed by the parties are different.
 2. What has been registered by the parties is only the "label".
The names "TASTEE" and 'TASTII" are part of the labels.

Eatman Foods India Pvt. Ltd Vs. Savorit Ltd.

3. The labels are not similar

- Eatman appealed before Delhi High Court
- Delhi High Court dismissed the appeal and upheld the decision of Hon'ble Single Judge

Microfibres Inc. vs. Girdhar and Co. and Anr.

- In this case, the Double Bench of the Delhi High Court dwelled on the question of artistic work (under Copyrights Act) vs. design (under the Designs Act)
- Appellant manufactured Upholstery Fabrics with unique artistic works;
- Respondent copied;
- Court held in favour of Respondent.





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

PATENT SYSTEM IN INDIA



INTELLECTUAL PROPERTY INDIA
PATENTS/DESIGNS/TRADE MARKS/ GEOGRAPHICAL
INDICATIONS

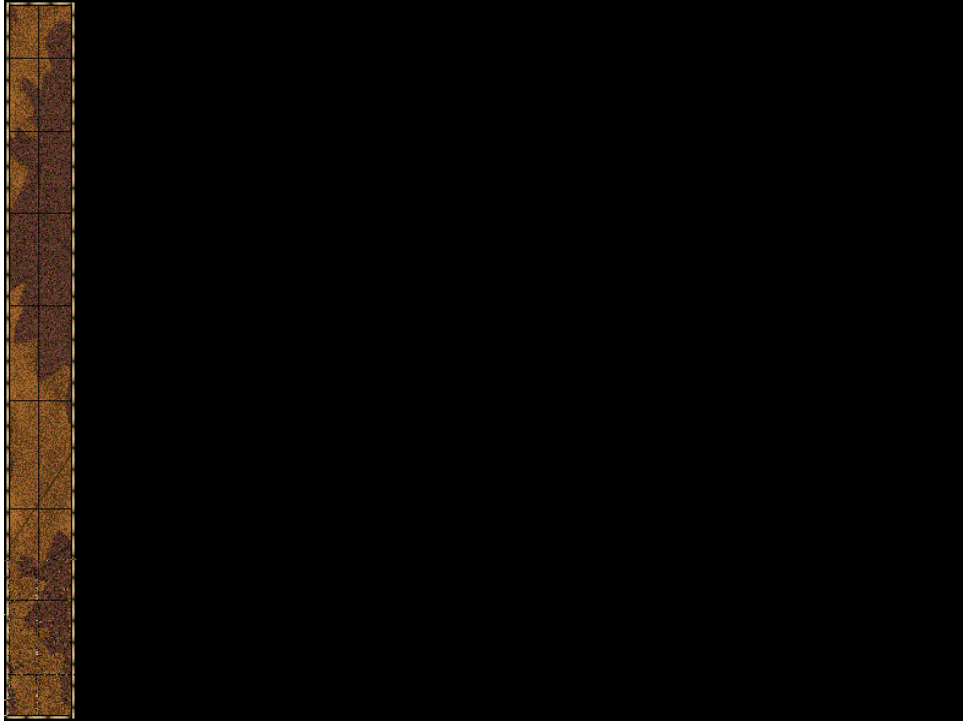
Namrata V. Kavle
Asstt. Controller of Patents & Designs
The Patent Office, Mumbai

What is patent?



What does a patent do?





Inventive Step (Non-obviousness)



What is Obviousness



Skilled Person



Industrial applicability



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable



Inventions not patentable





Opposition to the Grant of Patent



Pre-Grant Opposition proceedings

POST GRANT OPPOSITION



RIGHTS OF PATENTEE



product,
right to prevent third parties



process
using that process
the product obtained directly by that process in India

Thank You



OVERVIEW OF INTELLECTUAL PROPERTY RIGHTS

BY

NAMRATA V. KAVLE

Assistant controller of Patents & DESIGNS

THE PATENT OFFICE, MUMBAI

D/O Industrial Policy & Promotion;

M/O Commerce & Industry,

Government of India

•BRIEF OVERVIEW OF IP OFFICE

•MINISTRY OF COMMERCE & INDUSTRY

•DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION

•OFFICE OF CONTROLLER GENERAL OF PATENTS, DESIGNS TRADE MARKS & GI

•PATENTS &
DESIGNS

•PIS & RGNIIPM

•TRADE MARKS

•GI

•KOLKATA

•NEW DELHI

•MUMBAI

•CHENNAI

•NAGPUR

•MUMBAI

•KOLKATA

•NEW DELHI

•CHENNAI

•AHMEDABAD

•CHENNAI



WHAT IS IP?

- INTELLECTUAL PROPERTY(IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.
- IP is protected in law by, for example, patents, designs, trademarks, geographical indications and copyright.

13 December 2013 4

What is IPR?

- Rights given to persons over creations of mind
 - To use its own plans, ideas, or other intangible assets such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs
 - Without the worry of competition
- These rights may be enforced by court via a lawsuit.

Significance of Intellectual Property

- Avoids **duplication of research**
- ✓ Keeps abreast with **latest development of technology**
(i.e. helps industry to improve existing technology to produce better & cheaper product)
- Providing **Reward as Exclusive Right** for disclosure. Right can be shared, licensed or sold.
- Making **Profits THROUGH SELLING OR LICENSING**
- ✓ **Preventing competitors** from copying or imitating Right to initiate **legal proceedings** against Infringement.

Exploiting IP as Business Tools

- Logo(s) **TM/Copyright**
- Words and their combinations **TM/Copyright**
- Sound **TM/Copyright**
- Ornamentation, Shape, Form **Copyright/TM/Design registration**
- Functionality/Technology **Patent**
- Geographical Place of Origin **G.I.**
- Know How **Confidentiality/Trade Secrets**

Patent

☛ A MONOPOLY RIGHT

- ☐ GRANTED
 - § BY THE GOVT.
 - § FOR FULL DISCLOSURE OF **INVENTION**
 - § TO OWNER OR HIS ASSIGNEE
 - § FOR LIMITED PERIOD OF TIME i.e. **20 years**
- ☐ A TERRITORIAL RIGHT

Example

- A RAPIER DRIVE SYSTEM FOR SHUTTLELESS LOOMS
- DRIVE SYSTEM FOR A WEAVING LOOM

TRADEMARK

- A trademark is mark capable of being represented graphically and capable of distinguishing the goods or services of one enterprise from those of other enterprises.
- "TM" can be used in proximity of the symbol without registration in TM registry
- "R" can be used after registration only

DYNA PEARL

- DNYANAPLAST PVT. LTD.
- SHRI LAXMI SAHAKARI AODYOGIK VASAHAT LTD
- HATKANANGLE-ICHALKARANJI

- BALAJI INDUSTRIES
- NR. SHRI VASUDEV SOC., OPP. CHAVANWADI,
- HATKANANGLE TEK, ICHALKARANJI

Reference: **Trade Marks** Journal No: 1428 , 16/11/2009 Class 17

Designs

- Industrial designs refer to creative activity which result in the ornamental or formal appearance of a product.
- A design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or color.

Textile Design

•Design No. 191389 •No. 191320 •No.191319 •No.191318

•THE RISHABH VELVELLEN LIMITED, HARDWAR:- 249 407, U.P., INDIA.
• "TEXTILE FABRIC", 28 FEBRUARY 2003.

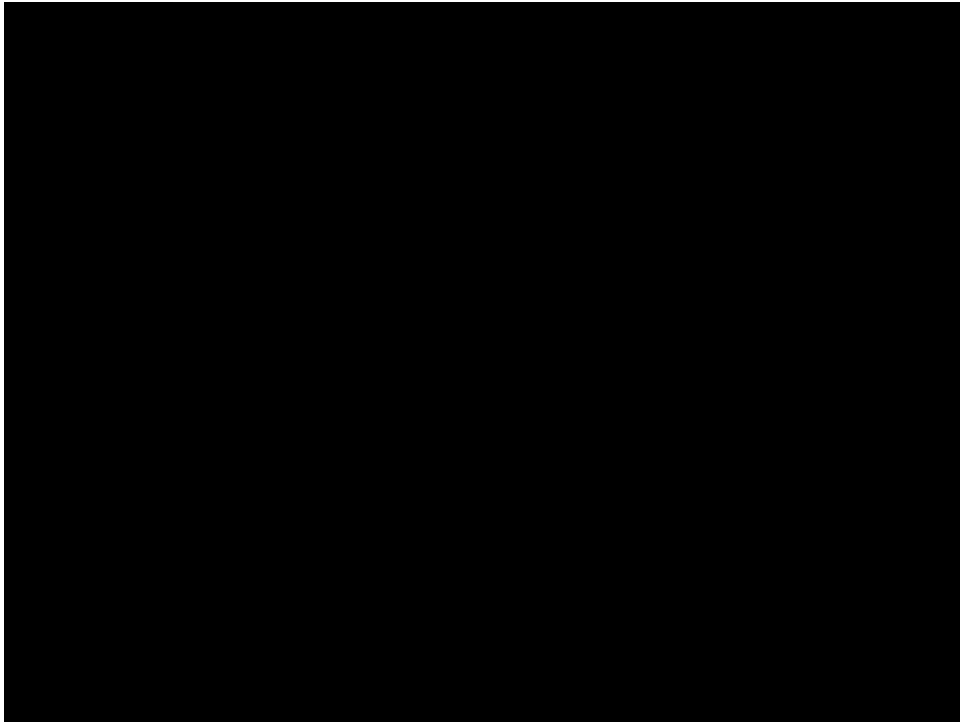
Copyright

- Copyright is a right given by the law to creators of
- literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings

It is a bundle of rights including, inter alia, rights of

- reproduction,
- communication to the public,
- adaptation and
- translation of the work.





Who can file?

- **Inventor**
- **Assignee of Inventor**
- **Legal Representative of Inventor or Assignee**

Where to file?

- The patent office where the applicant
 - Resides
 - Has place of business
 - Has originated invention
 - The patent office depending on the jurisdiction of address for service in India for Foreign applicants

Jurisdiction for filing

- | | |
|--|--|
| ■ Mumbai
<i>Gujarat, Maharashtra, Madhya Pradesh, Goa, Chhattisgarh, the Union Territories of Daman & Diu and Dadra & Nagar Haveli.</i> | ■ Chennai
<i>Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the Union Territories of Pondicherry and Lakshdweep</i> |
| ■ Delhi
<i>Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttaraanchal, National Capital Territory of Delhi and the Union Territory of Chandigarh</i> | ■ Kolkata
<i>Rest of India</i> |

How to file?

- **Manually by delivering a hard copy of all essential documents at the patent office by post, courier or hand delivery**

OR

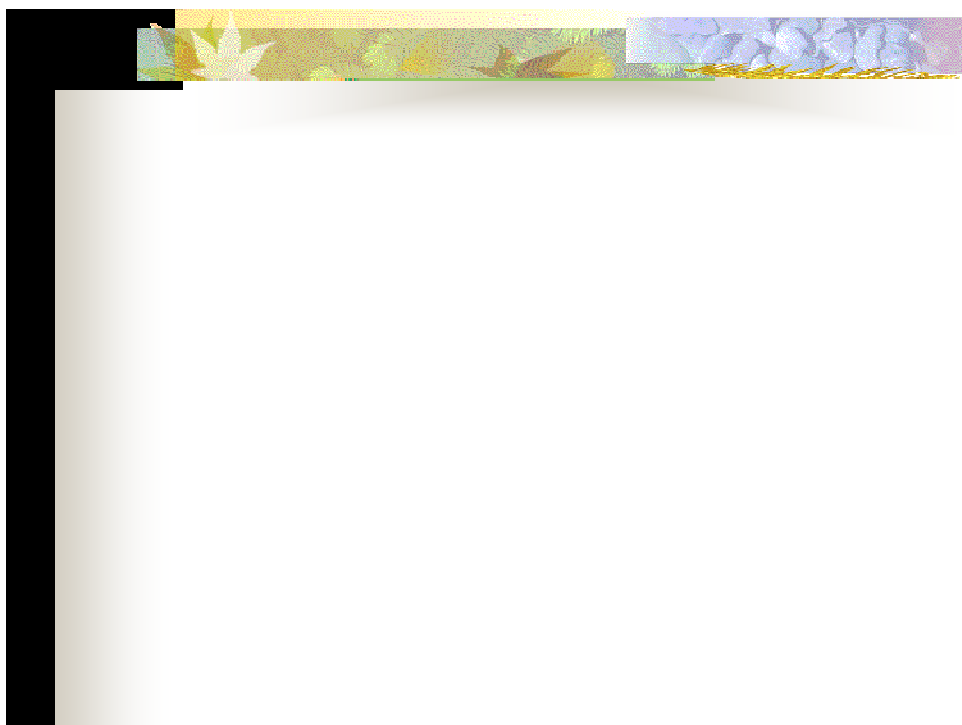
E-filing through official portal for online filing at www.ipindia.nic.in

Types of applications

- Ordinary application
- Conventional application
- PCT national phase application
- Divisional Application
- Patent of Addition
- Cognate application

Documentary requirements

- **Must on the date of filing**
 - 1. Application (Form 1)**
 - 2. Provisional/Complete specification (Form 2)**
(includes, Description, claims and drawings if any and abstract)
 - 3. Priority documents, if any, if not in English,**
English translation thereof





Publication

- After 18 months from the date of filing U/S 11A except when
 - *Secrecy direction is imposed u/s 35*
 - *The application has been abandoned u/s 9(1)*
 - *The application is withdrawn three months prior to the publication period*
- Within one month from the date of receipt of request for early publication

Examination of application

■ Subject to satisfaction of two conditions

- Application is published in the Patent Journal
- Request for examination has been made by the applicant or any person interested.

“Person interested” includes a person engaged in, or in promoting research in the same field as that to which the invention relates

Procedure for examination

- ❖ Screening
- ❖ Formality check up
- ❖ Substantive/technical examination



Screening

To determine

- Technical fields of invention
- International and Indian Classification
- Relevance to defense or atomic energy
- Correction/completing the abstract, if required



SECTION D — TEXTILES; PAPER

- D01 NATURAL OR ARTIFICIAL THREADS OR FIBRES; SPINNING
- D02 YARNS; MECHANICAL FINISHING OF YARNS OR ROPES; WARPING OR BEAMING
- D03 WEAVING
- D04 BRAIDING; LACE-MAKING; KNITTING; TRIMMINGS; NON-WOVEN FABRICS
- D05 SEWING; EMBROIDERING; TUFTING
- D06 TREATMENT OF TEXTILES OR THE LIKE; LAUNDERING; FLEXIBLE MATERIALS NOT OTHERWISE PROVIDED FOR
- D07 ROPES; CABLES OTHER THAN ELECTRIC PAPER
- D21 PAPER-MAKING; PRODUCTION OF CELLULOSE
- D99 SUBJECT MATTER NOT OTHERWISE PROVIDED FOR IN THIS SECTION [8]



Formality check

- All relevant forms, request, petitions, assignment deeds, translation etc.
- Payment of fees and other details
- Provisional and /or complete specification, Abstract, drawings (if any) whether in prescribed format
- Presence of meaningful claim(s) or absence of claims in a complete specification
- Proof of right
- Form 5(if complete after provisional)
- Form 3 requirements (Foreign filing details)



Substantive/Technical Examination

- Check for unity of invention
- Assessment of patentability of the subject matter
- Assessment of sufficiency of disclosure
- Novelty search
- Determination of the inventive step
- Judgment of validity of claims
- Disclosure of geographical origin of the Biological material
- Permission from National Bio diversity Authority

Not an anticipation

■ Prior publication

- if published without knowledge of the applicant and the application is made immediately after learning that the publication had happened

■ Previous communication to Government

- to investigate the invention or its merits

■ Prior public display

- if applied for patent within 12 months after such opening of the exhibition (notified by the Central Government) where the invention is first displayed

Not an anticipation

■ Prior reading

- If application is made within the period of twelve months after the description of the invention in a paper is read by inventor in the transactions before a learned society

■ Prior public working

- If the invention is worked in public for **a reasonable trial** because the nature of the invention is such that it was necessary to do so and application is made within the period of twelve months

■ Use and Publication after provisional specifications

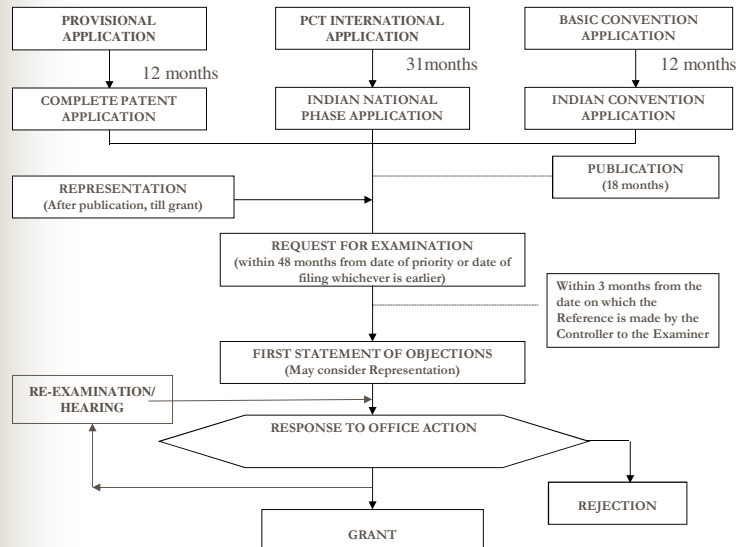
Amendments

- Voluntary – by filing form 13
OR
- To overcome the objection raised by examiner on issue of sufficiency, clarity or patentability
- Should not go beyond disclosure
- Must be by way of disclaimer, correction or explanation.

Fees: (in INR)

	For Natural Person (s)	For Co./Univ/Instt
1. Appln.	1000/-	4000/-
Sp. More than 30 sheets:	100/sheet	400/sheet
More than 10 claims:	200/claim	800/claim
2. RQ Filing:	2,500/-	10,000/-
3. Renewal Fee:		
3 rd – 6 th yr	500/yr	2000/yr
7 th – 10 th	1500/yr	6000/yr
11 th – 15 th	3000/yr	12,000/yr
16 th –20 th	5000/yr	20,000/yr
Total (one patent):	51,500/-	2,06,000

Procedural flowchart



IP And Business

By
Nitin Nair
Brain League

Stop competitors

Increase revenues

Generating licensing revenues

Increasing financial value

Business value of IP

Patents

Copyrights

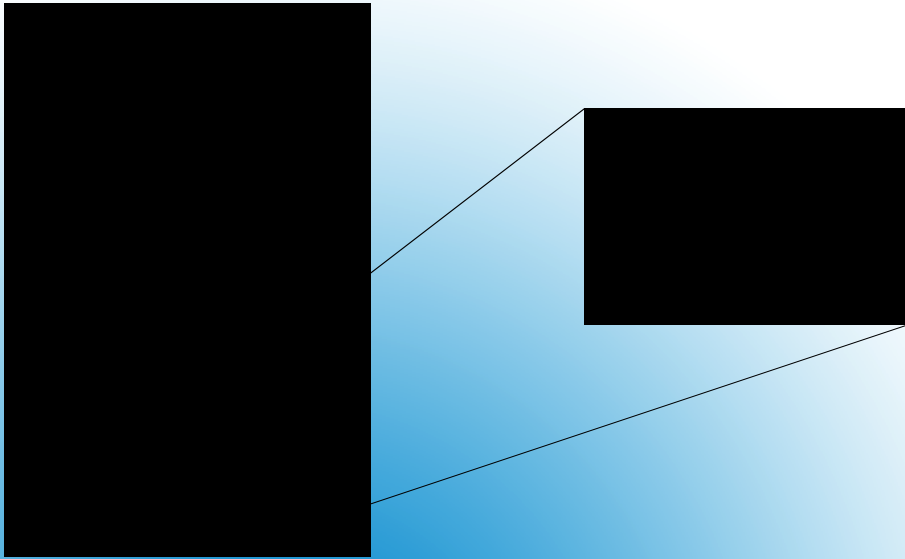
Trademarks

Design

Stop competitors

- Notices
- PR
- Marketing materials

Stop competitors



Stop competitors - Notices



Stop competitors - Notices



Stop competitors - Notices

Prevent loss of business revenue



Build new business opportunities



Revenue through exclusivity

Increase revenues



Licensing Revenue

X invents a flexible clothes hangar. Gets a patent granted on it, but his distribution network is limited to Maharashtra.

How can he generate revenue from other places?

Exercise

In a non-IP savvy company

In an IP savvy company

Tangible
Assets

Intangible
Assets

1

0.1

Tangible
Assets

Intangible
Assets

1

5-10

Increasing financial value

Competitive edge

Government tenders

Advertising and marketing campaigns

Business Development

Plast, a company that makes plastic bags, develops a machine and a process for making bags indigenously. The machine is ten times less costly than its foreign counterpart. It allows the company to make double the bags when compared to the existing machines. The process helps in improving the quality of the products.

What should the company do to gain business value?

Exercise

Cost and effort of

- Protection
- Maintenance
- Management
- Enforcement

How do you decide on filing?

- Finding the number of IPs present within a company
- Current IP management process in a company
- Provide recommendations
 - Protection
 - Process

IP Audit

A SME based in Orissa

- Audit performed under the UNIDO program
- Trademarks and designs uncovered
- Trademarks and designs filed

IP Audit – Case study

A SME based in Mumbai

- Audit performed under the UNIDO program
- Patents, trademarks and designs uncovered
- Patents, trademarks and designs filed

IP Audit – Case study

- Estimating the value of an IP
- Monetary range
 - Claim coverage
 - Prior arts
 - Number of patents in that technology area
 - Previous transactions in that technology area
 - Market

IP Valuation

A leading food industry company

- Patents related to pav bhaji and misal rassa
- Industry standards/rating method used
- Value: Rs. 1.5 - 2.5 crores

IP Valuation – Case study

- Evaluate strength of patent
- History of patent
- Agreement
 - Terms and conditions/duration
 - Payment terms
 - Usage
 - Termination

Technology Transfer - Patent

- Evaluate strength of technology
 - FTO
- Agreement
 - Terms and conditions/duration
 - Payment terms
 - Usage
 - Termination

Technology Transfer – Non-patent

- Exclusive/Non-exclusive
- Duration
- Royalty rates

Licensing

Nitin Nair

nitin@brainleague.com

9901633100

Thank you

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure V News Coverage

Cluster level Intellectual Property Awareness Program (Cluster: Textile)

ANNEXURE V

The event was covered by various media houses. The glimpse of the same are attached as below.



The Cluster level Intellectual Property Awareness Program covered by Daily Jagrut Lok - Neta

Cluster level Intellectual Property Awareness Program (Cluster: Textile)



The Cluster level Intellectual Property Awareness Program covered by

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

Annexure VI

Glimpse of The Event

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE VI



Shri P.K.Awade, Ex Minister of Textile, Maharashtra and other dignitaries inaugurating the Cluster level Intellectual Property Awareness Program on Textile Cluster



Mrs. Namrata Kavle, Assistant Controller, Intellectual Property office, India addressing the participants during Cluster level Intellectual Property Awareness Program on Textile Cluster

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)



Participants during the Cluster level Intellectual Property Awareness Program on Textile Cluster



Cluster level Intellectual Property Awareness Program

(Cluster: Textile)



Annexure VII
About Organisers

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

ANNEXURE VII

About CII

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the development of India, partnering industry, Government, and civil society, through advisory and consultative processes.

CII is a non-government, not-for-profit, industry-led and industry-managed organization, playing a proactive role in India's development process. Founded over 118 years ago, India's premier business association has over 7100 members, from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 90,000 enterprises from around 257 national and regional sectoral industry bodies.

CII charts change by working closely with Government on policy issues, interfacing with thought leaders, and enhancing efficiency, competitiveness and business opportunities for industry through a range of specialized services and strategic global linkages. It also provides a platform for consensus-building and networking on key issues.

Extending its agenda beyond business, CII assists industry to identify and execute corporate citizenship programmes. Partnerships with civil society organizations carry forward corporate initiatives for integrated and inclusive development across diverse domains including affirmative action, healthcare, education, livelihood, diversity management, skill development, empowerment of women, and water, to name a few.

The CII Theme for 2013-14 is **Accelerating Economic Growth through Innovation, Transformation, Inclusion and Governance**. Towards this, CII advocacy will accord top priority to stepping up the growth trajectory of the nation, while retaining a strong focus on accountability, transparency and measurement in the corporate and social eco-system, building a knowledge economy, and broad-basing development to help deliver the fruits of progress to all.

With 63 offices, including 10 Centres of Excellence, in India, and 7 overseas offices in Australia, China, Egypt, France, Singapore, UK, and USA, as well as institutional partnerships with 224 counterpart organizations in 90 countries, CII serves as a reference point for Indian industry and the international business community.

Cluster level Intellectual Property Awareness Program

(Cluster: Textile)

About IPO

The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) is located at Mumbai. The Head Office of the Patent office is at Kolkata and its Branch offices are located at Chennai, New Delhi and Mumbai. The Trade Marks registry is at Mumbai and its Branches are located in Kolkata, Chennai, Ahmedabad and New Delhi. The Design Office is located at Kolkata in the Patent Office. The Offices of The Patent Information System (PIS) and National Institute of Intellectual Property Management (NIIPM) are at Nagpur. The Controller General supervises the working of the Patents Act, 1970, as amended, the Designs Act, 2000 and the Trade Marks Act, 1999 and also renders advice to the Government on matters relating to these subjects. In order to protect the Geographical Indications of goods a Geographical Indications Registry has been established in Chennai to administer the Geographical Indications of Goods (Registration and Protection) Act, 1999 under the CGPDTM.

About Ichalkaranji Textile Development Cluster Limited (ITDC)

Ichalkaranji is home to one of the oldest [textile industries in India](#). Home to nearly 5,000 textile factories, it is also one of India's largest centres of [small scale industries](#). The presence of a qualified workforce and the level of technical know-how and easy accessibility to finest weavers of Ichalkaranji for outsoaring and over all good social ambience were among the factors that influenced Italian textile.

Uif Jib b b N d b D d - Jib b b Je b F b f -ELUF Uf f b e Engineering Institute, Laxmi Industrial Estate and Parvati Industrial Estate have jointly come together and formed a Special Purpose Vehicle (SPV) company viz. Jib b b Uf f Ef f f D f M fe)UED i di i b cff fh f fe and it will implement the project.

The main objects of the SPV company are:

- To form a Textile Cluster, a local agglomeration of small, medium and large textile and ancillary enterprises, which are engaged in production, marketing range of related and complementary products and services.
- To provide adequate water supply, roads, drainage system, power facilities, common infrastructure facilities.
- To develop markets, raw material bank, common processing center, industrial training center, common facility center, communication center etc.
- To provide facilities for quality improvement, common testing facilities, research and development.
- To provide fire-fighting facilities, common effluent treatment plant and to promote and develop critical infrastructure facilities for textile trade, commerce and industry.