

The background of the slide is a light gray gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance.

UNIT:1

INTELLECTUAL PROPERTY

RIGHTS.

INTRODUCTION:

INTELLECTUAL PROPERTY RIGHTS (IPRS) ARE LEGAL RIGHTS THAT PROTECT CREATIONS AND/OR INVENTIONS RESULTING FROM INTELLECTUAL ACTIVITY IN THE INDUSTRIAL, SCIENTIFIC, LITERARY OR ARTISTIC FIELDS. THE MOST COMMON IPRS INCLUDE PATENTS, COPYRIGHTS, MARKS AND TRADE SECRETS.

MANY ISSUES ARISE WHEN A STUDY GROUP DECIDES THAT IT IS TECHNICALLY PRUDENT TO INCORPORATE AN ENTITY'S INTELLECTUAL PROPERTY IN THE TEXT OF AN ITU-T RECOMMENDATION; THE ISSUES VARY ACCORDING TO THE NATURE OF THE INTELLECTUAL PROPERTY.



NEED FOR INTELLECTUAL PROPERTY RIGHT:

INTELLECTUAL PROPERTY (IP) CONTRIBUTES ENORMOUSLY TO OUR NATIONAL AND STATE ECONOMIES. DOZENS OF INDUSTRIES ACROSS OUR ECONOMY RELY ON THE ADEQUATE ENFORCEMENT OF THEIR PATENTS, TRADEMARKS, AND COPYRIGHTS, WHILE CONSUMERS USE IP TO ENSURE THEY ARE PURCHASING SAFE, GUARANTEED PRODUCTS. WE BELIEVE IP RIGHTS ARE WORTH PROTECTING, BOTH DOMESTICALLY AND ABROAD. THIS IS WHY:

INTELLECTUAL PROPERTY CREATES AND SUPPORTS HIGH-PAYING JOBS

IP-INTENSIVE INDUSTRIES EMPLOY OVER 55 MILLION AMERICANS, AND HUNDREDS OF MILLIONS OF PEOPLE WORLDWIDE.

JOBS IN IP-INTENSIVE INDUSTRIES ARE EXPECTED TO GROW FASTER OVER THE NEXT DECADE THAN THE NATIONAL AVERAGE.

THE AVERAGE WORKER IN AN IP-INTENSIVE INDUSTRY EARNED ABOUT 30% MORE THAN HIS COUNTERPART IN A NON-IP INDUSTRY

THE AVERAGE SALARY IN IP-INTENSIVE INDUSTRIES PAY \$50,576 PER WORKER COMPARED TO THE NATIONAL AVERAGE OF \$38,768.

GENESIS AND DEVELOPMENT

IPR:

INTELLECTUAL PROPERTY IS AN EXPLICITLY MODERN NOTION. THE FIRST PATENT LAW WAS ENACTED IN 1623, AND THE PRECURSOR OF MODERN COPYRIGHT - THE STATUTE OF ANNE - CAME INTO BEING IN 1710 IN ENGLAND. THESE EARLY LAWS WERE LIMITED IN SCOPE AND RESTRICTED TO ONLY A FEW TYPES OF INFORMATION; THE BROADER INTERPRETATION OF THESE PRINCIPLES USED TODAY IN THE WESTERN WORLD IS QUITE MODERN, CERTAIN ELEMENTS HAVING BEEN ADDED ONLY WITHIN THE LAST FEW YEARS.

INTELLECTUAL PROPERTY RIGHTS (IPRS) COME IN FIVE VARIETIES: PATENTS, PLANT BREEDERS' RIGHTS, COPYRIGHTS, TRADEMARKS AND TRADE SECRETS. COPYRIGHT COVERS THE EXPRESSION OF IDEAS SUCH AS IN WRITING, MUSIC AND PICTURES. PATENTS COVER INVENTIONS, SUCH AS DESIGNS FOR OBJECTS OR INDUSTRIAL PROCESSES. TRADEMARKS ARE SYMBOLS ASSOCIATED WITH A GOOD, SERVICE OR COMPANY. TRADE SECRETS COVER CONFIDENTIAL BUSINESS INFORMATION. A VERY RECENT ADDITION - PLANT BREEDERS' RIGHTS - COVERS THE AREA OF PRODUCTION OF NEW SEEDS AND PLANT VARIETIES.

EXAMPLES OF IPR:

INTELLECTUAL PROPERTY (IP) IS A CATEGORY OF PROPERTY THAT INCLUDES INTANGIBLE CREATIONS OF THE HUMAN INTELLECT. THERE ARE MANY TYPES OF INTELLECTUAL PROPERTY, AND SOME COUNTRIES RECOGNIZE MORE THAN OTHERS. THE MOST WELL-KNOWN TYPES ARE COPYRIGHTS, PATENTS, TRADEMARKS, AND TRADE SECRETS. THE MODERN CONCEPT OF INTELLECTUAL PROPERTY DEVELOPED IN ENGLAND IN THE 17TH AND 18TH CENTURIES. THE TERM "INTELLECTUAL PROPERTY" BEGAN TO BE USED IN THE 19TH CENTURY, THOUGH IT WAS NOT UNTIL THE LATE 20TH CENTURY THAT INTELLECTUAL PROPERTY BECAME COMMONPLACE IN THE MAJORITY OF THE WORLD'S LEGAL SYSTEMS.

TRADEMARKS

TRADEMARKS ARE THE NAMES, PHRASES, AND SYMBOLS THAT DIFFERENTIATE YOUR BRAND FROM OTHERS IN YOUR INDUSTRY. THEY MUST BE DISTINCTIVE AND USED IN COMMERCE TO SELL OR PROMOTE A PRODUCT OR SERVICE.

EXAMPLES: WORDS, SYMBOLS, NAMES, COLORS, OR SOUNDS THAT IDENTIFY WHERE YOUR GOODS AND SERVICES COME FROM.

TRADE SECRETS

A TRADE SECRET IS A PIECE OF CONFIDENTIAL BUSINESS INFORMATION WHOSE SECRECY GIVES YOU AN ADVANTAGE OVER YOUR COMPETITORS.

EXAMPLES: FORMULAS, PATTERNS, TECHNIQUES, OR PROCESSES THAT ARE NOT KNOWN OR READILY ATTAINABLE BY OTHERS.

KINDS OF INTELLECTUAL PROPERTY:

INDUSTRIAL DESIGN

INDUSTRIAL DESIGN IS A PRODUCTION TECHNIQUE OF A CERTAIN PRODUCT OR ARTICLE. FOR EXAMPLE, A FURNITURE COMPANY COULD COME UP WITH A NEW WAY OF MAKING A SOFA-CUM-BED AND MAY WANT TO PROTECT IT FROM BEING COPIED BY SOMEONE ELSE. IN MANY COUNTRIES, THE INDUSTRIAL DESIGN MUST BE REGISTERED TO GET PROTECTION UNDER INDUSTRIAL DESIGN LAW. IN OTHER COUNTRIES PATENTS MAY AS WELL DO THE TRICK.

GEOGRAPHICAL INDICATION

CERTAIN PRODUCTS ARE TIED TO A CERTAIN GEOGRAPHICAL LOCATION, AND PRODUCERS MAY WANT INTELLECTUAL PROPERTY PROTECTION TO ENSURE THAT PRODUCTS FROM OTHER AREAS DO NOT MISUSE THIS INDICATOR. FOR INSTANCE, BASMATI RICE HAS BEEN REGISTERED UNDER THE DEPARTMENT OF COMMERCE IN INDIA AS A PRODUCT WITH A GEOGRAPHICAL INDICATION.

IPRS PROVIDE A PLETHORA OF OPTIONS

THERE ARE MULTIPLE OPTIONS FOR COMPANIES TO PROTECT THEIR IDEAS IN EVERY SHAPE AND FORM. THESE IPRS HELP IN PROTECTION, ADD ECONOMIC VALUE AND ENSURE IDEA PROTECTION.

MAJOR INTERNATIONAL DOCUMENTS RELATING TO THE PROTECTION OF IP:

IP IS PROTECTED IN LAW BY, FOR EXAMPLE, PATENTS, COPYRIGHT AND TRADEMARKS, WHICH ENABLE PEOPLE TO EARN RECOGNITION OR FINANCIAL BENEFIT FROM WHAT THEY INVENT OR CREATE. BY STRIKING THE RIGHT BALANCE BETWEEN THE INTERESTS OF INNOVATORS AND THE WIDER PUBLIC INTEREST, THE IP SYSTEM AIMS TO FOSTER AN ENVIRONMENT IN WHICH CREATIVITY AND INNOVATION CAN FLOURISH.

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.

ECONOMIC IMPORTANCE OF INTELLECTUAL PROPERTY:

THE ROLE OF INTELLECTUAL PROPERTY IN THE ECONOMY ARE:

TO PROVIDE EXCLUSIVE RIGHTS TO THE AND TO PROTECT THE INTEREST OF THE CREATOR AND ENCOURAGE INVESTMENT IN RESEARCH AND INFORMATION CREATION;

FORBID THE COMPETITORS OR ANYBODY FROM EXPLOITING OR MISUSE THE PROPERTY WITHOUT THE PERMISSION OF THE CREATOR; AND

TO CREATE A MARKET FOR THAT INVENTION SO THAT IT COULD BE GIVEN TO GOOD USE AND WILL MOTIVATE OTHERS TO INNOVATION AND CREATION. NOW, THIS IS ECONOMICAL TO USE NEW CREATION AND IDEA BECAUSE IT DIRECTLY AFFECTS THE MATERIAL COST OF THE PRODUCT. SO, IT IS VERY IMPORTANT TO KEEP UPDATING THE TECHNOLOGY AND THE INNOVATION. IF THERE WILL BE A GOOD IPR STATUTE TO PROTECT THE INTEREST OF THE PEOPLE THEN IT WILL DISCOURAGE OTHERS TO EXPLOIT THE SAME. NOT ONLY A GOOD LAW BUT ENFORCEMENT OF THAT LAW IS IMPORTANT TOO.

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UNIT:2

TRADE MARKS AND PATENTS

TRADEMARKS: MEANING AND HISTORICAL DEVELOPMENT:

INDIA BORROWED THE BRITISH TRADEMARK ACT, 1938 AND PREPARED THE FIRST ACT ON THE SUBJECT AS TRADEMARK ACT OF 1940. INDEPENDENT INDIA MOLDED THE TRADE & MERCHANDISE MARK ACT, 1958. THE ACT IS NOW OPERATIVE AS TRADEMARK ACT, 1999 WHICH CAME INTO FORCE WITH EFFECT FROM 30TH DAY OF DECEMBER 1999.

A TRADEMARK (ALSO WRITTEN TRADE MARK OR TRADE-MARK) IS A TYPE OF INTELLECTUAL PROPERTY CONSISTING OF A RECOGNIZABLE SIGN, DESIGN, OR EXPRESSION THAT IDENTIFIES PRODUCTS OR SERVICES FROM A PARTICULAR SOURCE AND DISTINGUISHES THEM FROM OTHERS. THE TRADEMARK OWNER CAN BE AN INDIVIDUAL, BUSINESS ORGANIZATION, OR ANY LEGAL ENTITY.

NEED OF TRADEMARKS:

A TRADEMARK PROTECTS YOUR BRAND AND PROVIDES YOU WITH THE TOOLS TO PREVENT SOMEONE FROM RIDING ON THE BACK OF YOUR BUSINESS. TRADEMARK IS CAPABLE OF DISTINGUISHING THE GOODS OR SERVICES OF ONE PERSON FROM THOSE OF OTHERS AND INCLUDES THE SHAPE OF GOODS, THEIR PACKAGING, AND A COMBINATION OF COLORS. LET US KNOW MORE REASONS OF IMPORTANCE OF TRADEMARK REGISTRATION IN INDIA.

A REGISTERED TRADEMARK MAY PROVE TO BE A VALUABLE ASSETS FOR YOUR COMPANY / BUSINESS. THESE ASSETS KEEPS ON APPRECIATING OVER TIME. AS YOUR BUSINESS GROWS OVER TIME, THE VALUE OF THE TRADEMARKS GETS SCALED UP AUTOMATICALLY. SO, IF YOUR BUSINESS GROWS, YOUR TRADEMARK ALSO GROWS IN VALUE.

TRADEMARKS OFFER A VARIETY OF BENEFITS TO CONSUMERS AND PRODUCERS AND ARE VERY IMPORTANT. THE LAW TOO OFFERS PROTECTION FOR THEM

FUNCTIONS OF MARKS:

A TRADEMARK SERVES PRIMARILY TO DISTINGUISH ONE PRODUCER'S GOODS OR PRODUCTS FROM SIMILAR GOODS PRODUCED BY ANOTHER. TRADEMARKS CAN ALSO BE USED TO SHOW THAT GOODS ARE FROM A SINGLE SOURCE AND ARE OF CONSISTENT QUALITY. TRADEMARKS REFLECT THE GOODWILL OR INTEGRITY OF A PARTICULAR ORGANIZATION.

THE PRIMARY FUNCTION OF A SERVICE MARK IS TO DISTINGUISH A GIVEN SERVICE PROVIDED BY ONE BUSINESS FROM SIMILAR SERVICES PROVIDED BY ANOTHER, OR TO DISTINGUISH THE ADVERTISING OR SALES PROMOTION OF AN ORGANIZATION. SERVICE MARKS CAN ALSO BE USED TO SHOW THAT SERVICES ARE FROM A SINGLE SOURCE AND ARE OF A CONSISTENT QUALITY. SERVICE MARKS, LIKE TRADEMARKS, ALSO REFLECT THE GOODWILL OR INTEGRITY OF A PARTICULAR ORGANIZATION.

IN CONTRAST TO TRADEMARKS AND SERVICE MARKS, A TRADE NAME FUNCTIONS TO IDENTIFY A BUSINESS ENTITY AND TO DISTINGUISH IT FROM OTHER BUSINESS ENTITIES REGARDLESS OF WHAT GOODS OR SERVICES ARE PROVIDED. UNLIKE SOME OTHER STATES, MICHIGAN DOES NOT HAVE A CENTRAL REGISTRATION OF TRADE NAMES. SOLE PROPRIETORSHIPS (E.G., OWNERSHIP BY ONE INDIVIDUAL) USING AN ASSUMED NAME AND GENERAL PARTNERSHIPS REGISTER WITH THE COUNTY CLERK. CORPORATIONS (PROFIT, NONPROFIT, ECCLESIASTICAL AND PROFESSIONAL SERVICE), LIMITED LIABILITY COMPANIES, LIMITED LIABILITY PARTNERSHIPS AND LIMITED PARTNERSHIPS FILE WITH THE CORPORATIONS DIVISION OF THE CORPORATIONS, SECURITIES, & COMMERCIAL LICENSING BUREAU. FOR MORE INFORMATION PLEASE REVIEW THE ENTREPRENEUR'S GUIDE. WE ALSO HAVE A LIST OF REGISTERED TRADEMARKS AVAILABLE ON THIS SITE.

KINDS OF TRADEMARKS:

PRODUCT MARK

PRODUCT MARK IS A MARK THAT IS USED ON A GOOD OR ON A PRODUCT RATHER THAN ON A SERVICE. THIS THIS TYPE OF TRADEMARK IS USED TO RECOGNIZE THE ORIGIN OF THE PRODUCT AND HELPS IN MAINTAINING THE REPUTATION OF A BUSINESS. TRADEMARK APPLICATIONS FILED UNDER TRADEMARK CLASS 1-34 COULD BE TERMED AS A PRODUCT MARK, AS THEY REPRESENT GOODS.

SERVICE MARK

SERVICE MARK IS SIMILAR TO THE PRODUCT MARK BUT A SERVICE MARK IS USED TO REPRESENT A SERVICE RATHER THAN A PRODUCT. THE MAIN PURPOSE OF THE SERVICE MARK IS THAT IT DISTINGUISHES ITS PROPRIETORS FROM THE OWNERS OF OTHER SERVICES. TRADEMARK APPLICATIONS FILED UNDER TRADEMARK CLASS 35-45 COULD BE TERMED AS A SERVICE MARK, AS THEY REPRESENT SERVICES.

COLLECTIVE MARK

COLLECTIVE MARK IS USED TO INFORM THE PUBLIC ABOUT CERTAIN DISTINGUISHED FEATURES OF A PRODUCT OR SERVICE USED TO REPRESENT A COLLECTIVE. A GROUP OF INDIVIDUALS CAN USE THIS MARK SO THAT THEY ARE COLLECTIVELY PROTECTING A GOODS OR SERVICE. THE MARK HOLDER CAN BE AN ASSOCIATION OR CAN BE A PUBLIC INSTITUTION OR CAN ALSO BE A SECTION 8 COMPANY. IN A COLLECTIVE MARK, NORMALLY THE STANDARDS OF THE PRODUCTS ARE FIXED BY THE REGULATOR OWING THE MARK. OTHERS ASSOCIATED WITH THE COLLECTIVE ARE HELD RESPONSIBLE TO ADHERE TO CERTAIN STANDARDS WHILE USING THE MARK IN THE COURSE OF BUSINESS. A COMMONLY KNOWN COLLECTIVE MARK IN INDIA IS THE CHARTERED ACCOUNTANT DESIGNATION.

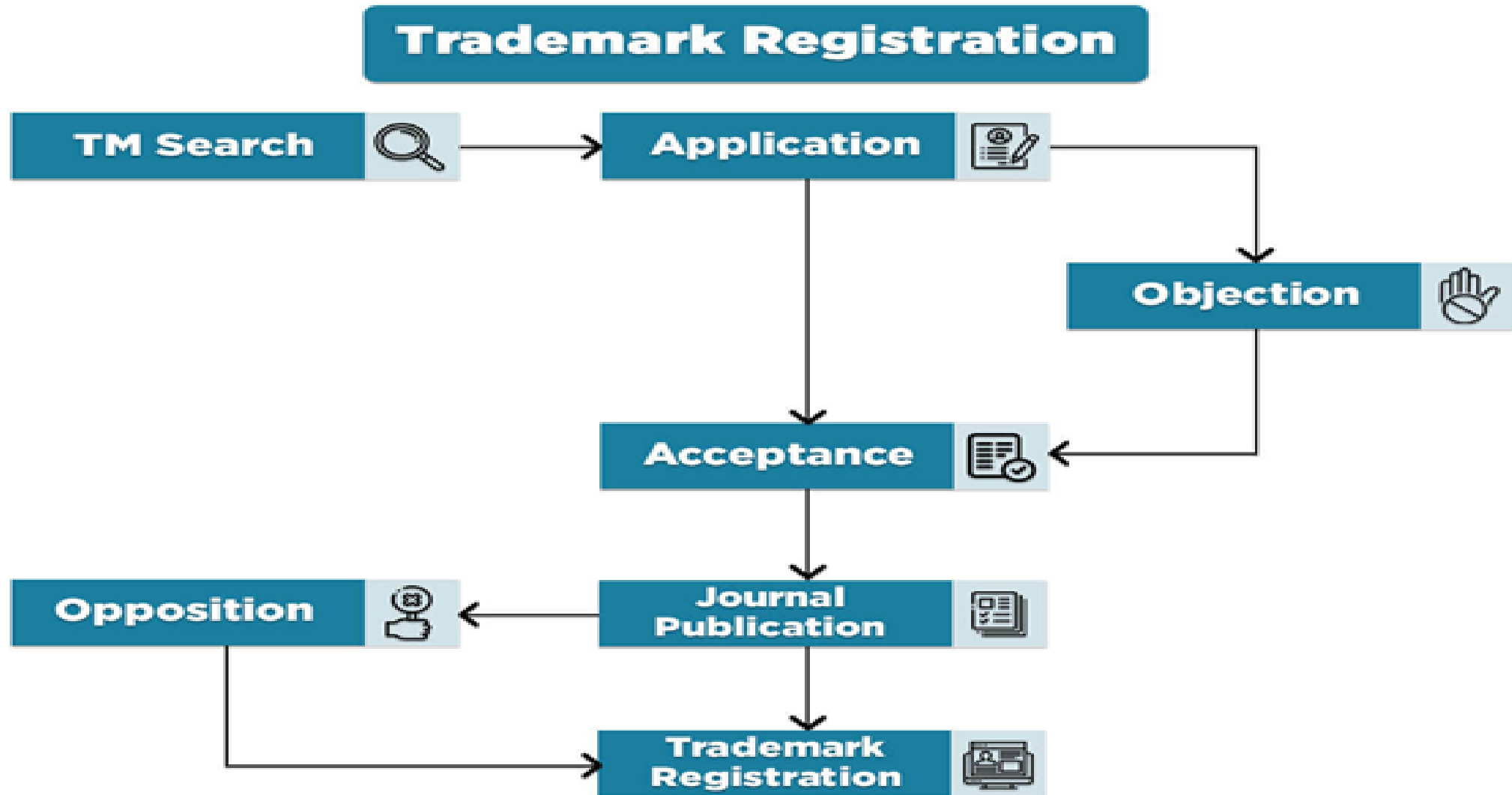
CERTIFICATION MARK

CERTIFICATION MARK IS A SIGN THAT DENOTES A PRODUCTS ORIGIN, MATERIAL, QUALITY OR OTHER SPECIFIC DETAILS WHICH ARE ISSUED BY THE PROPRIETOR. THE MAIN PURPOSE OF CERTIFICATION MARK IS TO BRING OUT THE STANDARD OF THE PRODUCT AND GUARANTEE THE PRODUCT TO THE CUSTOMERS. A CERTIFICATION MARK CAN ALSO BE USED TO UPLIFT THE PRODUCT'S STANDARD AMONGST THE CUSTOMERS BY SHOWING THAT THE PRODUCT HAD UNDERGONE STANDARD TESTS TO ENSURE QUALITY. CERTIFICATION MARKS ARE USUALLY SEEN ON PACKED FOODS, TOYS AND ELECTRONICS.

SHAPE MARK

SHAPE MARK IS EXCLUSIVELY USED TO PROTECT THE SHAPE OF THE PRODUCT SO THAT THE CUSTOMERS FIND IT RELATABLE TO A CERTAIN MANUFACTURER AND PREFER TO BUY THE PRODUCT. THE SHAPE OF A PARTICULAR PRODUCT CAN BE REGISTERED ONCE IT IS RECOGNIZED TO HAVE A NOTEWORTHY SHAPE. AN EXAMPLE OF A SHAPE IS THE COCA-COLA BOTTLE OR FANTA BOTTLE, WHICH HAVE A DISTINCTIVE SHAPE IDENTIFIABLE WITH THE BRAND.

PROCEDURE FOR REGISTRATION:



RIGHTS OF REGISTERED TRADEMARK OWNERS:

RIGHTS OF REGISTERED TRADEMARK HOLDER/OWNER

FOLLOWING ARE THE RIGHTS WHICH ARE AT DISPOSAL OF THE OWNER OR HOLDER OF A REGISTERED TRADEMARK

(I) RIGHT TO EXCLUSIVE USE

SECTION 28(1) OF THE ACT PROVIDES THAT SUBJECT TO THE OTHER PROVISIONS OF THIS ACT, REGISTRATION OF A TRADEMARK, IF VALID, GIVE TO THE REGISTERED PROPRIETOR OF THE TRADEMARK THE EXCLUSIVE RIGHT TO USE THE TRADEMARK IN RELATION TO THE GOODS OR SERVICES IN RESPECT OF WHICH THE TRADEMARK IS REGISTERED.

II) RIGHT TO SEEK STATUTORY REMEDY AGAINST AN INFRINGEMENT

SECTION 28(1) ALSO PROVIDES THAT THE REGISTERED PROPRIETOR OF A TRADEMARK CAN SEEK LEGAL REMEDY IN CASE OF AN INFRINGEMENT OF HIS TRADEMARK IN THE MANNER PROVIDED BY THIS ACT.

(IV) RIGHT TO ASSIGN

SECTION 37 OF THE ACT PROVIDES THAT THE REGISTERED PROPRIETOR OF A TRADEMARK SHALL HAVE THE POWER TO ASSIGN THE TRADEMARK AND TO GIVE EFFECTUAL RECEIPTS FOR SUCH ASSIGNMENTS.

(V) RIGHT TO SEEK CORRECTION OF REGISTER

THE REGISTERED PROPRIETOR OF A TRADEMARK HAS A RIGHT TO MAKE AN APPLICATION TO THE REGISTRAR SEEKING CORRECTION OF REGISTER REGARDING THE ERRORS PERTAINING TO THE PARTICULARS OF THE REGISTERED PROPRIETOR AND OTHER ASPECTS RELATING TO THE REGISTERED TRADEMARK.

TRADEMARKS REGISTRY AND **APPELLATE BOARD:**

IPAB (APPELLATE BOARD) WAS FIRST INTRODUCED BY THE CENTRAL GOVERNMENT IN THE YEAR 2003 TO HEAR APPEALS AGAINST THE DECISIONS OF THE REGISTRAR UNDER THE TRADE MARKS ACT, 1999 AND GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999. LATER, THE APPEALS RELATED TO THE PATENT ACT, 1970, THE COPY RIGHT ACT, 1957 AND THE PLANT VARIETIES AND FARMERS ACT (2011) WERE ALSO TRANSFERRED TO APPELLATE BOARD WHICH WERE EARLIER HANDLED BY COMMERCIAL COURTS AND HIGH COURTS RESPECTIVELY.

INTELLECTUAL PROPERTY APPELLATE BOARD (IPAB) WHICH WAS AUTHORIZED TO HEAR APPEALS AGAINST THE DECISIONS OF THE REGISTRAR IN MATTERS RELATED TO TRADEMARKS, PATENTS, COPYRIGHT, GEOGRAPHICAL INDICATIONS, AND PLANT VARIETIES HAS BEEN ABOLISHED BY THE WAY OF AN ORDINANCE THAT CAME INTO FORCE ON APRIL 04, 2021.

PATENTS: MEANING AND HISTORICAL DEVELOPMENT:

A PATENT IS IN THE FORM OF INDUSTRIAL PROPERTY, OR AS WE COMMONLY KNOW AN INTELLECTUAL PROPERTY. A PATENT IS A MONOPOLY RIGHT GRANTED TO A PERSON WHO HAS INVENTED A NEW AND USEFUL ARTICLE OR AN IMPROVEMENT OF AN EXISTING ARTICLE OR A NEW PROCESS OF MAKING AN ARTICLE. IT CONSISTS OF AN EXCLUSIVE RIGHT TO MANUFACTURE THE NEW ARTICLE INVENTED OR MANUFACTURE AN ARTICLE ACCORDING TO THE INVENTIVE PROCESS FOR A LIMITED PERIOD. UNLIKE COPYRIGHT, WHICH ARISES AUTOMATICALLY ON CREATION OF A WORK, PATENTS ARE ONLY GRANTED AFTER APPLICANT SATISFIES THE REQUIREMENTS OF REGISTRATION .

THE CONCEPT OF CONFERRING A MARKET MONOPOLY AS INCENTIVE TO INNOVATE GERMINATES FROM ANTIQUITY. IN ENGLAND AND IN OTHER PARTS OF EUROPE, IT EMERGED AS A FORM OF STATE PATRONAGE¹. JAMES I WAS PARTIAL TO REWARDING HIS POLITICAL CREDITORS WITH TRADING MONOPOLIES GRANTED BY LETTERS PATENT. IN THIS REGARD, THERE WERE MANY PRECEDENTS FROM THE PERIOD OF REIGN OF ELIZABETH I. HOWEVER, IN 1624, THE PARLIAMENT IN UK SOUGHT TO DECLARE THESE EXERCISES OF ROYAL PREROGATIVE VOID. SECTION 6 OF THE STATUTES OF MONOPOLIES EXCEPTIONALLY ALLOWED PATENT MONOPOLIES FOR FOURTEEN YEARS UPON “ANY MANNER OF NEW MANUFACTURE” WITHIN THE REALM TO THE “TRUE AND FIRST INVENTOR”. THE CONCEPT OF PATENT SPECIFICATION EMERGED ONLY IN 18TH CENTURY.

CRITERIA OF OBTAINING PATENTS AND NON PATENTABLE INVENTIONS:

YOU CAN PROTECT YOUR INVENTION WITH A PATENT. A PATENT CAN BE USED TO PROHIBIT OTHERS FROM COPYING, SELLING OR IMPORTING YOUR INVENTION.

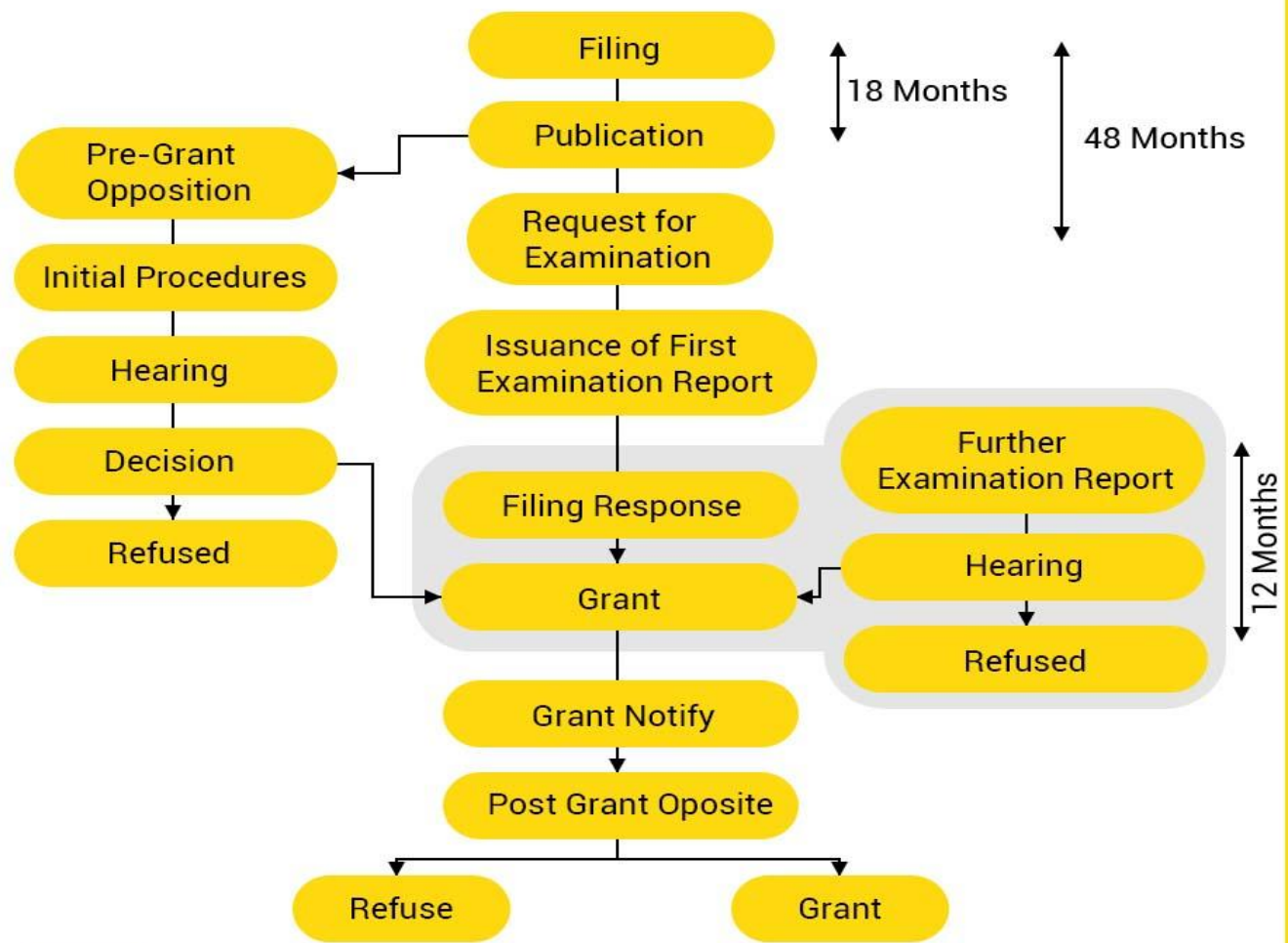
PATENT RIGHTS PROTECT INVENTIONS. IF YOU HAVE A PATENT, OTHERS ARE IN PRINCIPLE NOT PERMITTED TO MAKE, USE, RESELL, RENT OUT, SUPPLY, IMPORT OR STOCK YOUR INVENTION, OR OFFER IT TO SOMEONE ELSE.

THE NETHERLANDS PATENT OFFICE RECEIVES 2,500 TO 3,000 APPLICATIONS A YEAR. EXAMPLES OF PATENTED INVENTIONS INCLUDE THE MULTIFUNCTIONAL PUSHCHAIR THAT CAN BE ADJUSTED TO DIVERSE ANGLES, THE STORM-PROOF UMBRELLA SENZ, THE SENSEO COFFEEMAKER, THE CLAP SKATE, AND DUTCH CRISPBAKES (BESCHUIT) WITH INDENTATIONS.

ACCORDING TO THE PATENT ACT (OF INDIA), THOSE THAT FALL UNDER THE CATEGORY OF "INVENTIONS" CAN BE PATENTED, AS DEFINED IN SECTION 2 (J) OF THE ACT WHICH INVOLVES ANYTHING THAT IS NOVEL, CAPABLE OF INDUSTRIAL APPLICATION, AND IS NOT FRIVOLOUS (SUBJECT-MATTERS ELIGIBLE FOR PATENTABILITY). HOWEVER, THOSE THAT CANNOT SATISFY SUCH CONDITIONS (OR RESTRICTS THE SCOPE OF SUBJECT MATTERS ELIGIBLE FOR PATENTABILITY) ARE NON-PATENTABLE AS MENTIONED IN SECTION 3 AND SECTION 4 OF THE ACT.

PROCEDURE FOR REGISTRATION:

PATENT FILING PROCEDURE IN INDIA FLOWCHART



TERMS OF PATENT AND RIGHTS OF PATENTEE:

53. Term of patent.—(1) Subject to the provisions of this Act, the term of every patent granted, after the commencement of the Patents (Amendment) Act, 2002, and the term of every patent which has not expired and has not ceased to have effect, on the date of such commencement, under this Act, shall be twenty years from the date of filing of the application for the patent.

Explanation.—For the purposes of this sub-section, the term of patent in case of International applications filed under the Patent Cooperation Treaty designating India, shall be twenty years from the international filing date accorded under the Patent Cooperation Treaty.



Rights of a patentee

1. **Right to exploit the patent.**
 - ✓ The patentee has a right to prevent 3rd parties, from exploiting the patented invention.
2. **Right to grant license.**
 - ✓ The patentee has a power to assign rights or grant license.
3. **Right to surrender.**
 - ✓ The patentee is given the right to surrender the patent by giving notice in prescribed manner to the controller.
4. **Right to sue for infringement.**
 - ✓ A patentee is given the right to institute proceeding for infringement of the patent in a district court .

COMPULSORY LICENSE AND REVOCATION:

(1) WHERE, IN RESPECT OF A PATENT, A COMPULSORY LICENSE HAS BEEN GRANTED, THE CENTRAL GOVERNMENT OR ANY PERSON INTERESTED MAY, AFTER THE EXPIRATION OF TWO YEARS FROM THE DATE OF THE ORDER GRANTING THE FIRST COMPULSORY LICENSE, APPLY TO THE CONTROLLER FOR AN ORDER REVOKING THE PATENT ON THE GROUND THAT THE PATENTED INVENTION HAS NOT BEEN WORKED IN THE TERRITORY OF INDIA OR THAT REASONABLE REQUIREMENTS OF THE PUBLIC WITH RESPECT TO THE PATENTED INVENTION HAS NOT BEEN SATISFIED OR THAT THE PATENTED INVENTION IS NOT AVAILABLE TO THE PUBLIC AT A REASONABLY AFFORDABLE PRICE.

(2) EVERY APPLICATION UNDER SUB-SECTION (1) SHALL CONTAIN SUCH PARTICULARS AS MAY BE PRESCRIBED, THE FACTS UPON WHICH THE APPLICATION IS BASED, AND, IN THE CASE OF AN APPLICATION OTHER THAN BY THE CENTRAL GOVERNMENT, SHALL ALSO SET OUT THE NATURE OF THE APPLICANT'S INTEREST.

(3) THE CONTROLLER, IF SATISFIED THAT THE REASONABLE REQUIREMENTS OF THE PUBLIC WITH RESPECT TO THE PATENTED INVENTION HAVE NOT BEEN SATISFIED OR THAT PATENTED INVENTION HAS NOT BEEN WORKED IN THE TERRITORY OF INDIA OR THAT THE PATENTED INVENTION IS NOT AVAILABLE TO THE PUBLIC AT A REASONABLY AFFORDABLE PRICE, MAY MAKE AN ORDER REVOKING THE PATENT.

(4) EVERY APPLICATION UNDER SUB-SECTION (1) SHALL ORDINARILY BE DECIDED WITHIN ONE YEAR OF ITS BEING PRESENTED TO THE CONTROLLER.

GOVERNMENT USE OF PATENT:

VARIOUS STATUTORY PROVISIONS IN THE PATENTS ACT, 1970 (THE ACT) DEAL WITH GOVERNMENTAL USE OF PATENTED INVENTIONS. TO COMPREHEND THESE PROVISIONS BETTER AND APPRECIATE DIFFERENT FACTUAL SITUATIONS, IT IS IMPORTANT TO UNDERSTAND THE SCOPE OF THE RIGHTS CONFERRED ON GRANT OF A PATENT. SECTION 47 PROVIDES THAT THE GRANT OF PATENTS IS SUBJECT TO CERTAIN CONDITIONS. THIS SECTION INTER ALIA, STATES THAT THE GOVERNMENT MAY IMPORT OR MAKE OR HAVE MADE ON ITS BEHALF ANY PATENTED PRODUCT OR PRODUCT MADE BY A PATENTED PROCESS FOR PURPOSES 'MERELY OF ITS OWN USE'.

SECTION 100 PROVIDES THAT THE GOVERNMENT, OR ANY PERSON AUTHORIZED BY IT, IS EMPOWERED TO USE THE PATENTED INVENTION 'FOR PURPOSES OF GOVERNMENT'. THESE STATUTORY PROVISIONS IT SEEMS, RENDER THE OTHERWISE GUARANTEED RIGHTS CONFERRED BY SECTION 48 OF THE ACT, CONDITIONAL IN NATURE.

INFRINGEMENT OF PATENTS AND EXCEPTIONS TO INFRINGEMENT:

A PATENT GIVES EXCLUSIVE RIGHTS TO THE PATENTEE TO USE, SELL, MANUFACTURE AND IMPORT THE PRODUCT INTO THE COUNTRY WHERE THE PATENT IS GRANTED. WHILE A PROCESS PATENT GIVES THE RIGHTS TO EXCLUSIVELY USE THE PROCESS AND PREVENTS EVERYONE ELSE TO USE, SELL AND MANUFACTURE THE PRODUCT THAT IS DEVELOPED THROUGH THIS PROCESS. ANY VIOLATION TO THESE RIGHTS WITHOUT THE PERMISSION FROM THE PATENTEE WOULD CAUSE PATENT INFRINGEMENT. HOWEVER, THERE ARE CERTAIN EXCEPTIONAL ACTS WHERE THE USE OF PATENTED INVENTION WITHOUT CONSENT OF THE PATENTEE DOESN'T CONSTITUTE INFRINGEMENT. SECTION 107 OF INDIAN PATENTS ACT DETAILS SUCH EXCEPTIONS.

IN CERTAIN COUNTRIES INCLUDING INDIA, THE GENERIC DRUG MAKERS ARE ALLOWED TO USE THE PATENTED INVENTION WITHOUT THE CONSENT OF THE PATENTEE FOR DEVELOPMENT AND SUBMISSION OF INFORMATION REQUIRED UNDER LAW. THIS PROVISION IS CALLED BOLAR-LIKE PROVISION OR REGULATORY PROVISION.

PATENT OFFICE AND REMEDIES:

A PATENT OFFICE IS A GOVERNMENTAL OR INTERGOVERNMENTAL ORGANIZATION WHICH CONTROLS THE ISSUE OF PATENTS. IN OTHER WORDS, "PATENT OFFICES ARE GOVERNMENT BODIES THAT MAY GRANT A PATENT OR REJECT THE PATENT APPLICATION BASED ON WHETHER THE APPLICATION FULFILLS THE REQUIREMENTS FOR PATENTABILITY."

AN ACTION FOR INFRINGEMENT MUST BE INSTITUTED BY WAY OF A SUIT IN ANY DISTRICT COURT OR A HIGH COURT HAVING JURISDICTION TO ENTERTAIN THE SUIT.

THE PLAINTIFF ON SATISFYING THE COURT ABOUT INFRINGEMENT OF HIS PATENT WOULD BE ENTITLED TO THE FOLLOWING RELIEF:

1) INTERLOCUTORY INJUNCTION

2) DAMAGES

3) ACCOUNT OF PROFITS

CONCLUSION:

INTELLECTUAL PROPERTY IS IMPORTANT FOR A PERSON OR COMPANY TO SAFEGUARD. WITHOUT PROPER SAFEGUARDS IN PLACE, ONE COMPANY'S IDEAS CAN BE REPLICATED BY ANOTHER COMPANY AND USED FOR THEIR PROFIT. SOME LEGAL ISSUES CAN ARISE FROM IP, BUT AS LONG A COMPANY IS ON TOP OF THE PAPERWORK AND HAS AN ATTORNEY THEY CAN PREVENT MOST OF THE ISSUES OR FIGHT THEM IF NECESSARY. HAVING PRECAUTIONS IN PLACE CAN ALSO HELP A COMPANY KEEP THEIR TRADE SECRETS SAFE. WITH THE USE OF A NON-DISCLOSURE AGREEMENT WITH A NON-COMPETE CLAUSE CAN HELP A COMPANY KEEP THEIR SECRET INTACT FOR THEIR COMPANY TO USE WHEN IT IS NEEDED. WHILE CONTRACTS ARE PUT INTO PLACE TO ENSURE A BUSINESS WILL DO WHAT IS REQUIRED, A CONTRACT BREACH IS POSSIBLE. THE VIOLATION CAN BE RESOLVED WITH EMPLOYEE INPUT AS WELL AS MEDIATION TO ENSURE PROPER RESOLUTION FOR THE BREACH. USING SOME OF THE TECHNIQUES WILL PREVENT A COMPANY'S IP FROM GETTING INTO THE WRONG HANDS

*Thank
you*

