

Module 5

Industrial Designs & Geographical Indications

Syllabus:

Industrial Designs Eligibility Criteria. Acts and Laws to Govern Industrial Designs. Design Rights. Enforcement of Design Rights. Non-Protectable Industrial Designs India. Protection Term. Procedure for Registration of Industrial Designs. Prior Art Search. Application for Registration. Duration of the Registration of a Design. Importance of Design Registration. Cancellation of the Registered Design. Application Forms. Classification of Industrial Designs. Designs Registration Trend in India. International Treaties. Famous Case Law: Apple Inc. vs. Samsung Electronics Co.

Geographical Indications: Acts, Laws and Rules Pertaining to GI. Ownership of GI. Rights Granted to the Holders. Registered GI in India. Identification of Registered GI. Classes of GI. Non-Registerable GI. Protection of GI. Collective or Certification Marks. Enforcement of GI Rights. Procedure for GI Registration Documents Required for GI Registration. GI Ecosystem in India. Case Studies on Patents. Case study of Curcuma (Turmeric) Patent, Case study of Neem Patent, Case study of Basmati patent. IP Organizations In India. Schemes and Programmes

Textbook :

Intellectual Property A Primer for Academia by Prof. Rupinder Tewari Ms. Mamta Bhardwaj

Reference Book:

Intellectual Property Rights by N.K.Acharya Asia Law House 6th Edition. ISBN: 978-93-81849-30-9.

5.1 Industrial Designs

Definition of Design :

The word 'Design' is defined as the features of shape, configuration, pattern, ornament, or composition

of lines or colors applied to any article. The Design may be of any dimension, i.e., one or two or three dimensional or a combination of these. In addition, it may be created by any industrial process or means, whether manual, mechanical, or chemical, separate or combined, which in the finished article appeals to and is judged solely by the eye. However, the word 'Design' does not include any mode or principle of construction or anything that is in substance a merely mechanical device.

Example : Consider a smartphone case with a unique pattern embossed on its surface. The pattern and its arrangement contribute to the design of the case.

Object of Registration:

The main object of registration of industrial designs is to protect and incentivize the original creativity of the originator and encourage others to work towards the art of creativity.

Example : If an artist creates a novel and unique design for a chair, registering that design ensures that the artist is recognized as the originator and has exclusive rights to the design.

5.2 Eligibility Criteria

The Design for which protection is being sought must be **novel or original**, i.e., it should not be disclosed to the public by prior publication or by prior use or in any other way. The Design should be **significantly distinguishable** from the already registered Designs existing in the public domain.

Example : Consider a new and unique chair design that has not been publicly disclosed or used before. To be eligible for protection, this design must not closely resemble any existing registered designs in the public domain.

5.3 Acts and Laws to Govern Industrial Designs

In India, Industrial Designs are governed under *The Designs Act, 2000* (<http://www.ipindia.nic.in/acts-designs.htm>) and *Design Rules, 2001* (<http://www.ipindia.nic.in/rules-designs.htm>), which have been amended from time to time in 2008, 2013, 2014, and 2019. The Design should include the following characteristics:

It should be novel and original.

It should be applicable to a functional article.

It should be visible on a finished article.

There should be no prior publication or disclosure of the Design.

List of Industrial Designs :

A list of Industrial Designs can be accessed from <https://www.creativebloq.com/product-design/>

examples-industrial-design-12121488. Some of the famous Industrial Designs are mentioned below:

1. **Coca-Cola Bottle:** The contoured-shaped glass bottle of the Coca-Cola Company is marvelled as a master showpiece in the field of industrial design. It was designed in 1915 and is still a cynosure for all eyes.
2. **Piaggio Vespa:** Piaggio is an Italian company famous for manufacturing Vespa scooters. These scooters are sold worldwide since the 1940s. The structural design of the scooter is pleasing to the eyes, with a painted steel body concealing the engine, comfortable driver's feet rest, and a well-designed front portion.
3. **iPhone:** A highly popular mobile phone manufactured by the American company 'Apple Inc.' The sleek, handy, and rectangular body is pleasing to the eyes, with round and smooth corners. The features, such as on/off and speech volume, are easy to operate.
4. **Mini Cooper:** An automobile car manufactured by the British Motor Corporation. Its unique shape provides plenty of space (nearly 80
5. **Rocking Wheel Chair:** A sleek, circular-shaped chair that provides a smooth rocking motion. There is a provision for a headlight in the upper part of the chair.
6. **Juicy Salif:** A citrus juice squeezer considered an iconic structural design. The alumina-based body has been molded in the shape of a fish called a squid.

5.4 Design Rights

The Design registration also confers a monopolistic right to the Proprietor by which he can legally exclude others from reproducing, manufacturing, selling, or dealing in the said registered Design without his prior consent. The Design registration is particularly useful for entities where the shape of the product has aesthetic value, and the entity wishes to have exclusivity over the said novel and original Design applied to its product(s) or article(s).

Example : Consider a company that designs a unique and aesthetically pleasing chair. By registering the design, the company obtains exclusive rights to the design. This means that no other entity can reproduce, manufacture, sell, or deal in a chair with the same registered design without the prior consent of the proprietor.

5.5 Enforcement of Design Rights:

Once the applicant has been conferred with the rights over a specific Design, he has the right to sue the person (natural/entity) if the pirated products of his registered design are being used. He can file the infringement case in the court (not lower than District Court) to stop such exploitation and for claiming any damage to which the registered proprietor is legally entitled. The court will ensure first that the Design of the said product is registered under the Designs Act, 2000. If the Design is found not registered under the Act, there will not be legal action against the infringer. If the infringer is found guilty of piracy

or infringement, the court can ask him to pay the damage (Rs. 50,000/-) in respect of infringement of one registered Design.

Example : Consider a scenario where a company discovers that another entity is producing and selling products with an identical design that is registered under the Designs Act, 2000. The registered proprietor can enforce their design rights by filing an infringement case in the court (not lower than District Court). If the court finds the infringer guilty, they may be required to pay damages (Rs. 50,000/-) for the infringement of one registered Design.

5.6 Non-Protectable Industrial Designs in India

Any Industrial Design which is against public moral values.

Industrial Designs including flags, emblems, or signs of any country. Industrial Designs of integrated circuits.

Any Design describing the 'process of making of an article'.

Industrial Designs of – books, calendars, certificates, forms, and other documents, dressmaking patterns, greeting cards, leaflets, maps and plan cards, postcards, stamps, medals.

The artistic work defined under Section 2(c) of the Copyright Act, 1957 is not a subject matter for registration for Industrial Designs, such as:

- Paintings, sculptures, drawings including a diagram, map, chart, or plan.
- Photographs and work of architecture.
- Any other work related to artistic craftsmanship.

Industrial Designs do not include any Trademark (The Designs Act, 2000).

5.7 Protection Term

The outer 'Shape or Design' of a product makes it more appealing and acts as the value-adding factor to the product. Therefore, there is a need to protect one's creation from being used by third parties without consent from the original creator. The registered Designs are protected for 10 years in India and can be extended by 5 years after making a renewal application.

Example : Consider a company that registers the design of a unique and aesthetically appealing chair. The protection term for this registered design will initially be 10 years. However, to continue the protection beyond the initial term, the company can apply for a renewal, extending the protection by an additional 5 years.

5.8 Procedure for Registration of Industrial Designs

1. Prior Art Search:

Before filing an application for the registration of Industrial Designs, it is prudent to ensure that the same or similar Design has not been registered earlier. This search can be carried out using various search engines, such as:

Design Search Utility (CGPDTM): (<https://ipindiaservices.gov.in/designsearch/>).

Global Design Database (WIPO): (<https://www3.wipo.int/designdb/en/index.jsp>).

Hague Express Database (WIPO): (<https://www3.wipo.int/designdb/hague/en/#>).

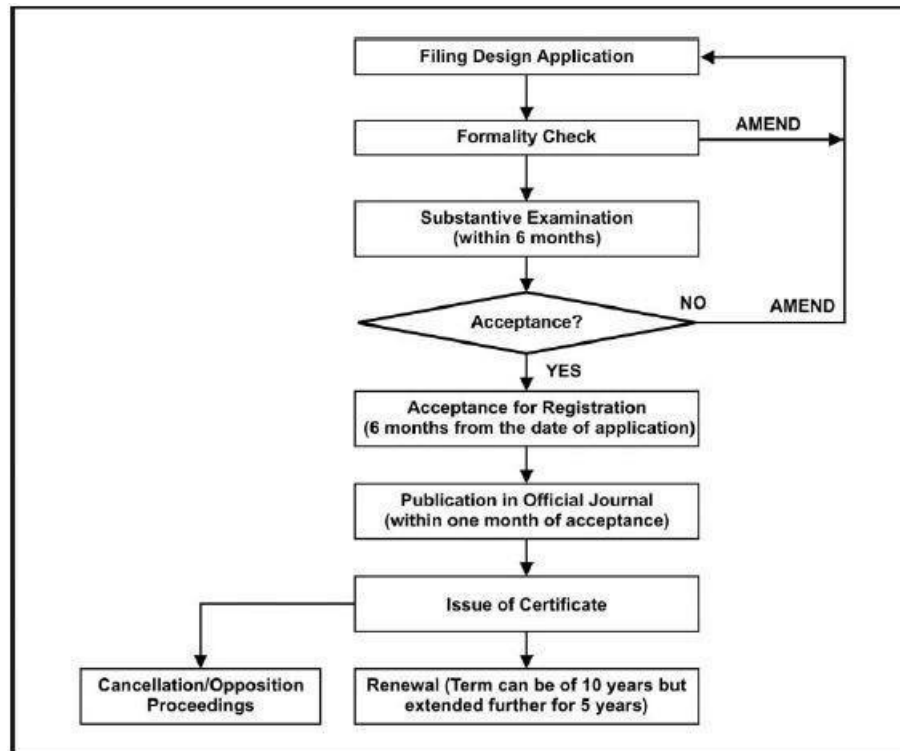
Design View (EUIPO): (<https://www.tmdn.org/tmdsviewweb/welcome#/dsview>).

2. Application for Registration :

Once the applicant is satisfied that his Design is novel and significantly distinguishable from other Designs, he can proceed with filing an application for Design registration. The application for registration of Design can be filed by an individual, small entity, institution, organization, and industry. The application may be filed through a professional patent agent or legal practitioner. If the applicant is not a resident of India, an agent residing in India has to be employed for this purpose. The applicant submits the registration application at the Design Office Deputy Controller of Patents & Designs, Patent Office, Intellectual Property Office Building, CP-2 Sector V, Salt Lake City, Kolkata-700091.

After the application has been filed, an officer (examiner) analyses the application for qualifying the minimum standards laid down for eligibility criteria for registration. In case of any query, the same is sent to the applicant, and he is supposed to respond within 6 months from the objection raised. Once the objections are removed, the application is accepted for registration. The particulars of the application, along with the representation of the article, are published in the Official Journal of Patent Office (<http://www.ipindia.nic.in/journal-patents.htm>). If no objection is received from the public, the Design is registered.

After the registration of the Design, the applicant becomes the proprietor of the Design and is conferred with the exclusive right to apply that Design to the article belonging to the class in which it is registered. The applicant puts up a request for issuance of a certificate of registration (for an Industrial Design). A flow chart of the registration process is mentioned below:



5.9 Duration of the Registration of a Design :

Initially, the Design registration is valid for ten years from the date of registration. In the case wherein the priority date has been claimed, the duration of the registration is counted from the priority date. The period of registration may be extended further for five years. An application has to be made in Form-3 accompanied by prescribed fees to the Controller General before the expiry of the said initial period of ten years.

Example : Consider a company that successfully registers the design of a new and innovative electronic device. The initial duration of protection for this registered design will be ten years from the date of registration. If the company wishes to continue the protection beyond the initial ten years, they can apply for an extension by submitting Form-3 along with the prescribed fees to the Controller General before the expiry of the initial ten-year period.

5.10 Importance of Design Registration

Registration of Design ensures the exclusive rights of the applicant on the Design. The owner can prevent the registered Design products from piracy and imitation. This helps the owner to boost the sale of the products and establish goodwill in the market.

Example : Consider a fashion designer who creates a unique and trendy clothing design. By registering the design, the fashion designer obtains exclusive rights, preventing others from producing identical or similar clothing items without consent. This exclusivity not only safeguards the designer's creative efforts

but also enhances the market value of the designer's clothing line, as consumers are more likely to associate the unique design with the original creator, thereby establishing goodwill in the fashion industry.

5.11 Cancellation of the Registered Design

The registration of a Design may be cancelled at any time. The petition has to be filed in Form-8 with prescribed fees to the Controller of Designs. The application can be made on the following grounds:

Design has already been registered.

Design has been published in India or elsewhere before the date of registration.

Design is not novel and original.

It is not a Design under Clause (d) of Section 2.

Example : Consider a scenario where a company discovers that another entity has registered a design that is identical to their own and was already registered. The aggrieved company can file a petition in Form-8 with the prescribed fees to the Controller of Designs, citing the ground that the design has already been registered. If the Controller finds merit in the petition, the registration of the design may be canceled.

5.12 Application Forms

There are a total of 24 forms pertaining to Industrial Designs. A list of important forms is mentioned below.

S. No	Name of the Form	Form No.	Fee(Natural Person)	Fee(Small Entity)	Fee(Large Entity)
1.	Application for registration of Design.	Form-1	1,000	2,000	4,000
2.	Application for the Restoration of Design.	Form-4	1,000	2,000	4,000
3.	Application for renewal of Design.	Form-3	2,000	4,000	8,000
4.	Petition for cancellation for registration of a Design.	Form-8	1,500	3,000	6,000
5.	Notice of intended exhibition or publication of unregistered Design.	Form-9	500	1,000	2,000
6.	Application for entry of name of proprietor or part proprietor in the Register.	Form-11	500	1,000	2,000
7.	Request for correction of clerical error.	Form-14	500	1,000	2,000
8.	Request for certified copy.	Form-15	500	1,000	2,000
9.	Application for rectification of Register.	Form-17	500	1,000	2,000
10.	Notice of opposition.	Form-19	100	200	400

5.13 Classification of Industrial Designs

Designs are registered in different classes as per the Locarno Agreement, 1968 (<https://www.wipo.int/classifications/locarno/locpub/en/fr/>). It is used to classify goods for the registration of Industrial Designs as well as for Design searches. The signatory parties have to indicate these classes in the official documents too. The classification comprises a list of classes and subclasses with a list of goods that constitute Industrial Designs. There are 32 classes and 237 subclasses that can be searched in two languages, i.e., English and French.

For example, Class 1 includes foodstuff for human beings, foodstuffs for animals, and dietetic foods excluding packages because they are classified under Class 9 (Bottles, Flasks, Pots, Carboys, Demijohns, and Pressurized Containers). Class 32 classifies the Design of graphic symbols and logos, surface patterns, ornamentation.

5.14 Designs Registration Trend in India

Figure 2.11 represents the statistics for Industrial Designs (filed, examined, and registered) for the period 2010-20. During this period, an increase of 88%, 117%, and 33% was observed in the parameters of Designs filed, examined, and registered, respectively. In all three parameters, the graph depicts a similar pattern (more or less) with the highest numbers observed in 2019-20 for Designs filed (12,268), examined (13,644), and registered (14,272).

5.15 Famous Case Law: Apple Inc. vs. Samsung Electronics Co.

In 2011, Apple Inc. filed a case against Samsung Electronics Co. in the United States District Court for the Northern District of California for infringing their Designs and Utility Patents of the user interface like screen app grid and tap to zoom. As evidence, Apple Inc. submitted the side-by-side image comparison of the iPhone 3GS and the i9000 Galaxy S to demonstrate the alleged similarities in both models. However, later it was found that the images were tempered by the Apple Company to match the dimensions and features of the controversial Designs. So the counsel for Samsung Electronics blamed Apple of submitting false and misleading evidence to the court, and the company countersued the Apple Company in Seoul, South Korea; Tokyo, Japan; and Mannheim, Germany, United States District Court for the District of Delaware, and with the United States International Trade Commission (ITC) in Washington D.C. The proceedings continued for 7 years in various courts. In June 2018, both companies reached a settlement, and Samsung was ordered to pay \$539 million to Apple Inc. for infringing on its patents.

5.16 Geographical Indications

Introduction:

In every country, there are certain regions famous for their traditional knowledge/heritage in various sectors, such as agriculture, food products, textiles, etc. People from far-off places used to travel to buy these products. For example, Christopher Columbus sailed from Spain to import world-famous spices from India. British people traveled to Arabian countries to import Arabian horses for siring fast running horses for commercial gains. Similarly, China silk and Dhaka Muslin have been in great demand from times immemorial. The reputation of these products was built upon and painstakingly maintained by the experts/masters of respective geographical locations. The know-how of these reputed products was passed onto future generations. With the passage of time, a specific link between the goods produced and geographical location evolved, resulting in the growth of Geographical Indications (GI).

Definition of Geographical Indications :

A GI is defined as a sign that can be used on products belonging to a particular geographical location/region and possesses qualities or a reputation associated with that region. In GI, there is a strong link between the product and its original place of production.

Examples of Geographical Indications :

Darjeeling Tea: Known for its unique flavor and aroma, Darjeeling Tea is a Geographical Indication associated with the Darjeeling region in India.

Parmigiano-Reggiano: An Italian cheese known for its high quality, Parmigiano-Reggiano is a Geographical Indication linked to specific regions in Italy where it is produced.

Champagne: The sparkling wine produced in the Champagne region of France is a classic example of a Geographical Indication.

5.17 Acts, Laws and Rules Pertaining to GI

In India, GI was introduced in 2003 and is governed under the *Geographical Indications of Goods (Registration & Protection) Act, 1999* and the *Geographical Indications of Goods (Registration & Protection) Rules, 2002*.

5.18 Ownership of GI

The ownership/holders of GI (registered) can be of the producers, as a group/association/cooperative society, or association, or in certain cases, the government.

5.19 Rights Granted to the Holders

Right to grant the license to others: The holder has the right to gift, sell, transfer/grant a license, mortgage, or enter into any other arrangement for consideration regarding their product. A license or assignment must be given in writing and registered with the Registrar of GI for it to be valid and legitimate.

Right to sue: The holder of GI has the right to use and take legal action against a person who uses the product without his consent.

Right to exploit: The holder of GI can authorize users with the exclusive right to use goods for which the GI is registered.

Right to get reliefs: Registered proprietors and authorized users have the right to obtain relief concerning the violation of such GI products.

5.20 Registered GI in India:

GI products registered in India belong to various domains, including handicrafts, agriculture, foodstuffs, alcoholic beverages, etc.

Historical Context : The first GI tag was granted in 2004 to Darjeeling Tea, and the latest were Kashmir Saffron and Manipur Black Rice (Chakhao) in May 2020.

Total GI Registrations : As of May 2020, a total of 370 GI have been registered in India.

Distribution by Category:

Handicrafts: 58%

Agriculture: 30%

Other categories: foodstuffs, manufacturing, natural goods, etc.

Regional Distribution in Handicrafts : In the Handicraft category, Tamil Nadu holds the maximum number (21) of GIs, followed by Uttar Pradesh (20) and Karnataka (19).

Notable GIs :

A few popular GIs are mentioned in the following Table.

GI	Type	State
Darjeeling Tea	Agriculture	West Bengal
Mysore Silk	Handicraft	Karnataka
Kashmir Pashmina	Handicraft	Jammu & Kashmir
Banaras Brocades and Sarees	Handicraft	Uttar Pradesh
Naga Mircha	Agriculture	Nagaland
Tirupathi Laddu	Foodstuff	Andhra Pradesh
Phulkari	Handicraft	Punjab, Haryana, Rajasthan
Basmati	Agriculture	India

International countries, such as Thailand, France, Portugal, Italy, Mexico, Peru, and the United Kingdom, have also filed GI in India, e.g., Champagne (wine) of France and Scotch Whisky of the United Kingdom.

5.21 Identification of Registered GI

Registered GI products are granted a tag, which is printed on the registered products. The tag confirms the genuineness of the product in terms of its production (by set standards) and location of production. Non-registered GI products cannot use/exploit this tag. By and large, GI tags represent the place of origin (of the product) along with cultural and/or historical identity, e.g., Darjeeling Tea, Mysore Silk, Tirupathi Laddu, etc.

Issuance of GI Tags :

In India, GI tags are issued by the Geographical Indication Registry under the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry. The head of the GI registry is located at Geographical Indications Registry, Intellectual Property Office Building, Industrial Estate, G.S.T Road, Guindy, Chennai - 600032.

Global Standards :

GI registered products can be grown/produced anywhere in the world using standards laid down by the GI Registry. However, these products cannot be labeled as GI unless they are produced/manufactured in a specific geographical location, as mentioned in the official records maintained by the GI Office. For example, plants of Darjeeling Tea can be grown in any part of India. Still, the tea leaves of these plants cannot be sold under the brand name of Darjeeling Tea, as the concerned plants were not grown in the soil and climate of the Darjeeling area.

5.22 Classes of GI

GI certified goods are classified under 34 different classes.

For example:

Class 1: Chemicals used in industry, science, photography, agriculture, horticulture, and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 33: Alcoholic beverages (except beers).

Class 34: Tobacco, smokers' articles, matches.

More details can be extracted from the official website of CGPDTM Office (<http://www.ipindia.nic.in/writereaddata/images/pdf/classificationof-goods.pdf>).

5.23 Non-Registerable GI

For GI registration, the indications must fall within the scope of Section 2(1)(e) of the GI Act, 1999. Being so, it has to also satisfy the provisions of Section 9, which prohibits the registration of a GI mentioned below:

The use of which would be likely to deceive or cause confusion.

The use of which would be contrary to any law.

Which comprises or contains scandalous or obscene matter.

Which comprises or contains any matter likely to hurt the sentiments of society.

Religious susceptibilities of any class or section of the citizens of India.

Which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin or which have fallen into disuse in that country.

5.24 Protection of GI

The IP rights to GI are enforced by the court of law of the concerned country. The GI registration of a product has certain advantages. It enables to identify pirated/non-genuine stuff, provides more commercial value to the product, and also strengthens the case if it reaches the judicial courts.

The two common methods of protecting a GI are:

1. **Sui generis systems:** Special regimes of protection.
2. **Certification or Collective Mark Systems:** Under these systems, GI is protected through certification marks or collective marks. Many countries, including India, protect GI using the sui generis system. This decision was taken after the TRIPS agreement (1995), and an option was given to the countries to choose either TRIPS standards or the sui generis system. This was decided by considering the fact that every country has different legislation and geographical structures & resources. Therefore, this system is not uniform in all countries and varies according to the jurisdiction and legislation of the particular country.

5.25 Collective or Certification Marks

Certification marks aim to certify the products comply with specific quality standards irrespective of their origin. These standards include permitted materials and manufacturing methods. Therefore, the purpose of certification marks is to distinguish certified goods from non-certified ones.

Collective marks are owned by associations ensuring compliance with the agreed standards. Collective marks signify that a good or service originates from a member of a particular association. The collective mark is used by cooperating enterprises that have agreed to comply with defined quality standards for goods or services that share common characteristics.

5.26 Enforcement of GI Rights

The rights to GI protection are typically enforced by the court of law. The sanctions provided could be civil (injunctions restraining or prohibiting unlawful acts, actions for damages, etc.), criminal, or administrative.

5.27 Procedure for GI Registration

Prior to filing an application for registering GI, it is prudent to search whether the concerned GI is already protected or not. This can be done by using search engines created by WIPO (<https://www.wipo.int/ipdl/en/search/lisbon/search-struct.jsp>) where ‘Search of Appellations of Origin and Geographical Indications’ both can be conducted.

Additionally, WIPO has created a directory of all IP offices of its member countries. The registered GI of any country can be searched by accessing the website of the respective country (<https://www.wipo.int/directory/en/urls.jsp>). The list of registered GI in India can be accessed from the official website of CGPDTM http://www.ipindia.nic.in/writereaddata/Portal/News/367_1_Registered_GI.pdf.

Once the prior search for registered GI is done, the applicant has to file an application. The application for GI can be forwarded by an individual or an organization or authority of people established under Indian law. The application in a prescribed format is submitted to the Registrar, Geographical Indications along with the prescribed fee (http://www.ipindia.nic.in/writereaddata/Portal/IPORule/1_27_1_girules.pdf). In the application, the applicant needs to mention the interest of the producers of the concerned product. The application should be duly signed by the applicant or his agent with all the details about the GI that how its standard will be maintained. The submission of three certified copies of the map of the region where the GI belongs is mandatory.

Once the application is filed at GI Registry, the Examiner will scrutinize the application for any deficiencies or similarities. If the examiner finds any discrepancy, he will communicate the same to the applicant, which is to be replied within one month of the communication of the discrepancy. Once the examiner is satisfied with the response/s, he files an examination report and hands over the same to the Registrar. Once again, the application is scrutinized. If need be, the applicant is asked to clear any doubts/objections within two months of the communication otherwise, the application will be rejected. After getting a green signal from the Registrar, the application is published in the official Geographical Indication Journal (<http://www.ipindia.nic.in/journal-gi.htm>) for seeking any objections to the claims mentioned in the application. The objections have to be filed within four months of the publication. If no opposition is received, the GI gets registered by allotting the filing date as the registration date. Initially, GI is registered for ten years but is renewable on the payment of the fee.

5.28 Documents Required for GI Registration

The following documents are required for the registration of Geographical Indications:

Details about the applicant's name, address, and particulars.

Application form GI-1A.

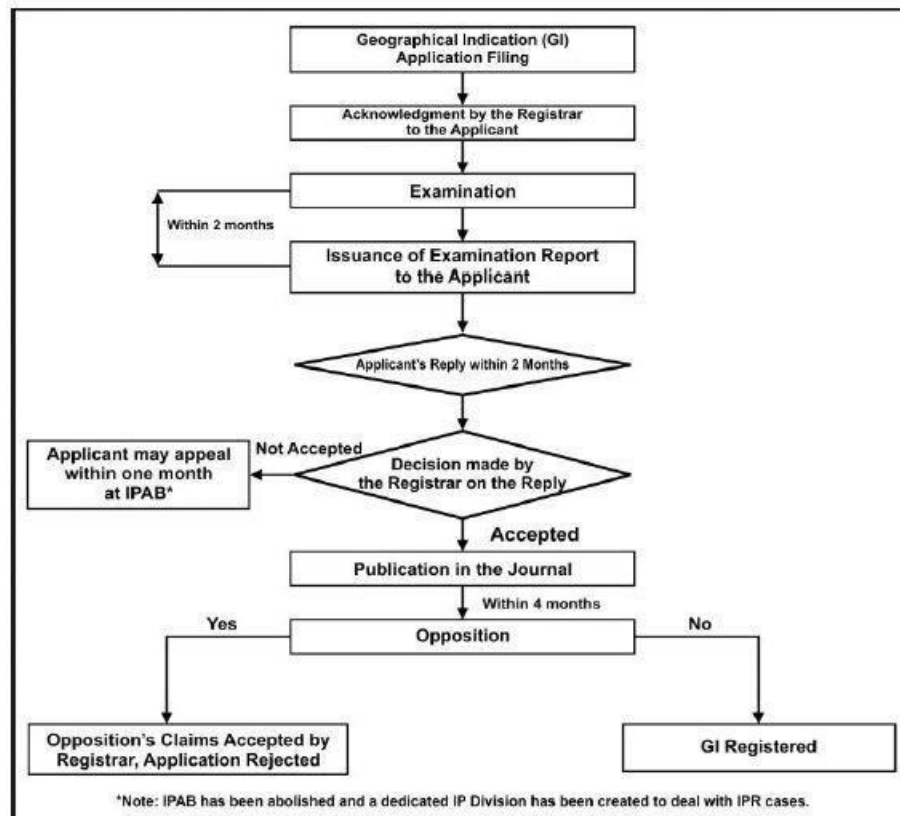
Statement about the designated goods being protected under GI.

Class of goods.

Affidavit to establish the claim of genuinely representing the interest of the producers.

Characteristics of GI.

The special human skill required (if any).



5.29 Application Forms for GI Registration in India

The important forms to file Geographical Indication (GI) in India under various classes are mentioned below:

1. **Form GI-1:** Application for the registration of a Geographical Indication for goods included in one class.

Requisite Fee: Rs. 5000

2. **Form GI-1A:** Application for the registration of a Geographical Indication for goods included in one class from a Convention country.

Requisite Fee: Rs. 5000

3. **Form GI-2:** A single application for the registration of a Geographical Indication for goods in different classes.

Requisite Fee: Rs. 5000 for each class

4. **Form GI-2A:** A single application for the registration of a Geographical Indication for goods in different classes from a Convention country.

Requisite Fee: Rs. 5000 for each class

5. **Form GI-3:** Notice of opposition to the registration of a Geographical Indication or an opposition or an authorized user.

Requisite Fee: Rs. 1000 for each class

6. **Form GI-3A:** Form of counter-statement.

Requisite Fee: Rs. 1000

7. **Form GI-3B:** Application for extension of time for filing notice of opposition.

Requisite Fee: Rs. 300

8. **Form GI-4:** Application for the registration of an authorized user of a registered Geographical Indication.

Requisite Fee: Rs. 500

9. **Form GI-5:** Request for issuance of a registration certificate as an authorized user.

Requisite Fee: Rs. 100

10. **Form GI-6:** For renewal of an authorized user.

Requisite Fee: Rs. 1000

11. **Form GI-7:** Renewal of the registration of a Geographical Indication at the expiration of the last registration.

Requisite Fee: Rs. 3000

12. **Form GI-7A:** Application for restoration of a Geographical Indication or an authorized user removed from the Register.

Requisite Fee: Rs. 1000 plus applicable renewal fee

13. **Form GI-7B:** Application for renewal within six months from the expiration of the last registration of Geographical Indication.

Requisite Fee: Rs. 3500

14. **Form GI-8:** Application for registration of a Geographical Indications agent.

Requisite Fee: Rs. 1000

15. **Form GI-10:** Application for cancellation of an entry in the Register or to strike out goods.

Requisite Fee: Rs. 300

5.30 GI Ecosystem in India

India is among the geographically and traditionally rich countries. The scope of generating Geographical Indication (GI) products in India is enormous. These products can contribute to the economic development of a particular region or society. However, till June 2021, a total of 370 GI have been registered in India, which is much below its potential (https://ipindia.gov.in/writereaddata/Portal/Images/pdf/GI_Application_Register_10-09-2019.pdf). Figure 2.13 represents the statistics for GI (filed and registered) for the period 2010-20. The maximum number (148) of GI was filed in 2011-12, whereas the minimum number (17) was observed in 2015-16. Not much change in the number of GI registrations was observed during the period 2010-20. Each year, the number hovered around in the twenties, with the maximum registrations (34) seen in 2016-17.

5.31 Turmeric Patent Case

Turmeric Plant:

Turmeric, scientifically known as *Cucurma*, is a prominent Geographical Indication (GI) in India.

Turmeric(*Curcuma longa*) is a flowering plant from the ginger family, originating from rhizomes plants. It is used as a spice

in Indian cooking and has medicinal and cosmetic uses, traditionally known for its wound-healing and anti-parasitic properties.

Turmeric Patent Battle:

The Turmeric Case is one of the most publicized cases involves the patenting of the wound healing properties of turmeric (*Curcuma longa*) by two scientists of Indian origin in the United States in 1994. Turmeric powder, specifically for wound healing, was patented in the US by the University of Mississippi Medical Center. Although existing knowledge is not patentable, and the essential criterion of novelty should disqualify it as an invention, the patent was granted due to a failure by the Patent Office to identify the existing knowledge. This case sparked considerable discussion and debate in India as the knowledge was available in ancient Ayurvedic texts. The Council of Scientific and Industrial Research (CSIR) , New Delhi challenged the patent's grant before the US Patent and Trademark Office (USPTO) and a re-examination application was filed with US Patent Office claiming the use of turmeric powder was no novel invention and the medicinal use existed since ages. All the supporting evidence of ancient Sanskrit were presented. Later, the US Patent Office revoked this patent stating the patent were obvious and agreeing the use of turmeric having been known in India for centuries.

5.32 Neem Patent Case

Neem :

Another instance involves the medicinal plant Neem (*Azadirachta indica*), whose properties were well-known in India but not as recognized in the US and Europe. Neem extracts are used in agriculture for pest and fungal control, and neem oil has medicinal properties. It has been used traditionally to treat various diseases, and neem twigs are used as toothbrushes.

Neem Patent Battle:

In 1994, the European Patent Office (EPO) granted a patent to the US corporation W.R. Grace Company and the US Department of Agriculture for a "method for controlling fungi on plants by the aid of hydrophobic extracted neem oil." This patent was opposed by various non-governmental organizations and Indian farmers, providing evidence of neem's traditional use. The European Patent Office later revoked the patent in 2000, stating it lacked inventive steps.

5.33 Basmati Patent Case

Basmati Rice :

Basmati rice is an aromatic variety grown in India and Pakistan. It has a long history in the region, with farmers conserving distinct varieties for centuries.

Basmati Patent Battle:

An American company 'RiceTec' was granted US Patent on 'basmati rice lines and grains'. The patent includes basmati and basmati-like rice. The company also claimed that it's the novel innovation of them creating such rice. Which also caused crisis between India and United States. The Indians claimed that the innovation they are claiming are false, India threateningly took the matter to WTO as violation of TRIPS. Later, RiceTec withdrew the claims of the patent. This controversy highlighted issues related to traditional knowledge.

These case studies underscore the importance of protecting traditional knowledge from misappropriation through patents. These cases also emphasize the need for a balanced approach that respects both traditional practices and modern innovations.

5.34 IP Organizations In India- Schemes and Pro- grammes

In India, the key organizations engaged in IP affairs are mentioned below.

Department for Promotion of Industry and Internal Trade (DPIIT), New Delhi

DPIIT, formerly known as the Department of Industrial Policy and Promotion (DIPP), operates under the Ministry of Commerce and Industry, Government of India. It is the apex body for intellectual property (IP) in India and was established in 1995. DPIIT plays a crucial role in regulating and administering the

industrial sector. The major categories of intellectual properties governed and administered by DPIIT are listed in Table 5.1.

S. No.	Type of IP Governing Body
1.	Patents Copyrights Industrial Designs Trademarks Geographical Indications Semiconductor Integrated Circuits Layout-Design Department for Promotion of Industry and Internal Trade, New Delhi
2.	Traditional Knowledge Digital Library Governed by CSIR & Ministry of AYUSH*
3.	Plant Variety Protection Governed by Ministry of Agriculture and Farmers Welfare, New Delhi
4.	Biological Diversity Protection Governed by Ministry of Environment, Forest and Climate Change, New Delhi
5.	Trade Secrets No specific body governs Trade Secrets. Protected under various statutes like Indian Contract Act, 1872 Copyright Act, 1957 Information Technology Act, 2000, etc.

DPIIT and Office of the Controller General of Patents, Designs, and Trade Marks (CG- PDTM)

DPIIT has established a dedicated and robust Office of the Controller General of Patents, Designs, and Trade Marks (CGPDTM). This office is responsible for formulating and implementing policies, rules, and regulations related to Intellectual Property Rights (IPR). In addition to its core responsibilities, DPIIT undertakes various IPR-related activities, including:

Modernization and strengthening of the Intellectual Property Office.

Strengthening of physical infrastructure.

Enhancement of human resources.

Expansion of physical infrastructure in Delhi, Mumbai, Kolkata, and Chennai.

IT up-gradation.

Development of software required for International Searching Authority (ISA)/International Preliminary Examining Authority (IPEA) and Madrid Protocol.

Subscription to non-patent literature required for Patent Cooperation Treaty (PCT) minimum documentation.

Digitization of records.

Sensitization and awareness programs.

Establishment of the electronic library.

Furniture and office equipment for the modernized environment in IP offices.

DPIIT actively engages in collaborations with the World Intellectual Property Organization (WIPO) and other apex industry organizations to promote and strengthen the Intellectual Property (IP) ecosystem. These collaborative efforts aim to foster innovation, protect intellectual property rights, and contribute to the overall development of the IP landscape.

In addition to collaboration, DPIIT plays a significant role in providing valuable inputs on various issues related to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS agreement). This involvement underscores India's commitment to contributing to global discussions on intellectual property matters and ensuring alignment with international standards.

Through these collaborative initiatives and informed contributions, DPIIT strives to enhance the effectiveness and coherence of intellectual property frameworks, both at the national and international levels.

Intellectual Property Appellate Board (IPAB) and Recent Changes

In response to the increasing importance of Intellectual Property Rights (IPR) worldwide, the Indian government established the Intellectual Property Appellate Board (IPAB) in 2003. IPAB, operating under DPIIT, aimed to address the rising number of disputes related to IPR.

Originally, IPAB handled appeals against decisions made by the Registrars of Trademarks and Geographical Indications, and the Controller of Patents. The Copyright Office also had a dedicated board under IPAB for determining rates, royalties, licensing, and assessment of compensation.

In 2017, the Copyright Board and Plant Varieties Protection Appellate Tribunal were merged with IPAB, operating according to their respective Acts and Rules.

However, recent amendments in the Tribunal Reforms Ordinance led to the abolishment of various Boards/Appellate Tribunals, including IPAB, as of April 4, 2021. Chief Justice D.N. Patel directed the creation of a dedicated Intellectual Property Division (IPD) within High Courts to handle all IPR-related matters, preventing conflicting decisions and reducing the burden on the judicial system.

All pending IPAB cases (around 3000) were transferred to IPD. Delhi High Court is in the process of formulating comprehensive rules for IPD, including the creation of specific rules for patent disputes, following the model of IPDs in other countries like the UK, Japan, Malaysia, Thailand, and China.

This decision is considered a landmark in the history of IPRs in India, streamlining procedures and avoiding multiplicity of proceedings.

Draft Model Guidelines on Implementation of IPR Policy for Academic Institutions

To enhance the Intellectual Property (IP) ecosystem, IP commercialization, and the entrepreneurship and start-up ecosystem in academic institutions, the Department for Promotion of Industry and Internal Trade (DPIIT) has developed draft model guidelines for the implementation of an IPR policy.

The draft guidelines are designed to provide a framework for academic institutions to effectively implement policies related to Intellectual Property Rights (IPR). These guidelines aim to foster a culture of innovation, protect intellectual property, and encourage the commercialization of IP.

The draft guidelines were made available for public feedback and suggestions from September 9th, 2019, to October 25th, 2019. Interested parties could access the draft on the official DPIIT website (<https://dipp.gov.in/draft-model-guidelines-implementation-ipr-policy-academic-institutions>). The department actively sought input from the public during this period.

As of now, DPIIT is in the process of finalizing the guidelines, and the official release is expected soon.

Scheme for Facilitating Start-ups Intellectual Property Protection (SIPP)

To safeguard and promote Intellectual Property (IP) in India, the Department for Promotion of Industry and Internal Trade (DPIIT) introduced the Scheme for Facilitating Start-ups Intellectual Property Protection (SIPP) in 2016.

The details of the scheme can be found on the official DPIIT website (http://www.ipindia.nic.in/writereaddata/Portal/News/323_1_Scheme_for_facilitating_start-ups.pdf). SIPP is specifically designed to facilitate the protection of Patents, Trademarks, and Designs generated by start-up companies.

The primary objective of the scheme is to foster the growth of innovative and emerging technologies within start-ups. SIPP aims to support these start-ups by providing mentorship and assistance in the protection and commercialization of their intellectual property. This support is extended by granting access to high-quality IP services and resources.

Through SIPP, DPIIT seeks to create an environment that encourages the development and safeguarding of intellectual property within the start-up ecosystem.

5.35 Intellectual Property Initiatives in India

Intellectual Property Office (IPO) India

The IPO India, under the Department for Promotion of Industry and Internal Trade (DPIIT), is the primary government agency responsible for the administration and regulation of intellectual property rights in the country. It oversees the grant and registration of patents, trademarks, designs, and geographical indications.

National Intellectual Property Rights (IPR) Policy

The National IPR Policy, launched in 2016 by the Government of India, aims to foster innovation, promote creativity, and enhance access to intellectual property protection. The policy focuses on creating awareness, strengthening enforcement mechanisms, and facilitating the commercialization of IP.

Patent Information Centers (PICs)

The IPO India has established Patent Information Centers across the country to provide information and support on patents and the patenting process.

Technology and Innovation Support Centers (TISCs)

TISCs, set up in collaboration with the World Intellectual Property Organization (WIPO), provide patent-related information and services, fostering innovation and technology transfer.

R&D and IP Facilitation

Various government departments and agencies offer schemes and programs to encourage research and de-

velopment (R&D) with a focus on intellectual property. These initiatives often include funding support and incentives for innovation.

Start-up India and Make in India

The Start-up India initiative and the Make in India campaign encourage entrepreneurship and innovation. They provide support for startups, including facilitation of IP protection and fast-tracking of patent applications.

IP Awareness and Training Programs

The IPO India conducts awareness and training programs to educate stakeholders about intellectual property rights, their importance, and the process of obtaining protection.

Innovations in Science Pursuit for Inspired Research (INSPIRE)

INSPIRE is a program under the Department of Science and Technology that aims to attract talent to the study of science at an early age. It also promotes research and innovation among students.

Question Bank

1. Discuss the eligibility criteria for industrial design protection. Explain the concept of novelty and originality in relation to industrial designs.
2. Discuss the eligibility criteria for industrial designs. Explore the enforcement of design rights and non-protectable industrial designs in India. Provide insights into a famous case law related to industrial designs.
3. Describe the procedure for registration of industrial designs in India. Explain the importance of conducting a prior art search before filing an application.
4. What are the rights granted to the holders of geographical indications? Discuss the procedure for registration of geographical indications and the documents required for the registration process.
5. Explain the concept of design rights. Discuss the enforcement mechanisms available for protecting design rights in India.
6. Discuss the classification of industrial designs based on the Locarno Classification. Explain the significance of classifying industrial designs in the registration process.
7. Describe the protection term and renewal process for registered industrial designs in India. Discuss the importance of design registration for businesses.
8. Explain the concept of non-protectable industrial designs in India. Discuss the criteria for determining the non-protectability of industrial designs.
9. Explain the concept of non-protectable industrial designs in India. Discuss the famous case law between Apple Inc. and Samsung Electronics Co., highlighting the key legal issues, and the prolonged legal proceedings.
10. Discuss the acts, laws, and rules governing geographical indications in India. Explain the ownership of geographical indications and the rights granted to the holders.
11. Define Geographical Indications with example. Explain the procedure for GI Registration.
12. Describe the ecosystem for geographical indications in India. Discuss the role of various organizations and bodies involved in the promotion and protection of geographical indications.

13. Explain the ownership of geographical indications (GIs) and the rights granted to holders. Discuss the classes of GIs and the protection of GIs. Explore collective or certification marks in the context of GIs.
14. Choose one of the case studies on patents (Curcuma, Neem, or Basmati) and discuss the key issues and outcomes of the case. Analyze the impact of these case studies on the protection of traditional knowledge and intellectual property rights.
15. Explore the eligibility criteria and laws governing industrial designs. Discuss the importance of design registration, the procedure for registration, and the duration of the registration of a design. Provide examples of famous case law related to industrial designs.