



ADMINISTRATIVE TRAINING INSTITUTE

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Training Module

on

“Intellectual Property Rights”

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Training Module

on

“INTELLECTUAL PROPERTY RIGHTS”

AIM

Broadly the aim of the training course is to sensitize, provide skills and to give an orientation to officers from different departments in the Government of Karnataka. The officers will be able to develop appropriate managerial skills related to Intellectual Property Rights.

OBJECTIVES

1. To create awareness about Intellectual Property Rights.
2. To stimulate strategic thinking about IPR regimes among officers.
3. To enable the trainees to acquire additional and necessary knowledge and skills related to the management of IPRs.
4. To encourage R & D activities and technology transfer across departments and sectors, which will be helpful in technological / Industrial growth and development.

METHODOLOGY

The training course shall be in workshop mode. It will be based on:

- Lectures
- Case studies
- Interactive and participatory methods.

Reading material and Handouts shall be provided during the course period.

MODULES:

- Module1: Intellectual Property Rights
Background, Categories of IPRs**
- Module 2: IPR Policy and IPR Regimes**
- Module 3: IPRs and WTO**
- Module 4: Law relating to patents and designs**
- Module 5: IPR and Plant Protection
Farmers' Rights and Indigenous Knowledge**
- Module 6: Patents in India
Food Products and processing**
- Module 7 : Geographical Indications and Related Issues.
Trade in service and Related Issues**

PROGRAMME DESCRIPTION

- Three days programme
- Each day, course commences at 9.30 am and may go up to 5.30 pm

Tools for the Training Programme:

- Updated material
- Books
- Research reports / papers
- Audio Video Films
- Photo Copied Materials
- Slides – Markers – White Board – Drawing Sheets
- Computer/laptop/collar mike/LCD Projector/marker/pointer etc

<i>Session: ONE</i>	
Content	Introductory Activities
Sub Content	Eliciting Expectations from Participants
Session objectives / purpose	To brief the objectives of the training course. To obtain expectations from the trainees.
Expected outcome	The trainees will be comfortable and clear about the course objectives and the expected things to learn.
Method/ process	Interactive. The course coordinator introduces himself / herself and welcomes the participant trainees. After brief individual introduction (entry behavior) by all the trainees, the course coordinator presents the objectives of the programme, explain the purpose of the course and initiate participation. Then expectations from individual participant shall be elicited and written on charts. Expectations shall be summed up at the end of the session.
Aids/Materials:	Charts – White Board -
(Time/Duration)	One Hour
(Handouts/FAQ)	--

<i>Session: TWO</i>	
Content	<i>Ice Breaking</i>
Sub content	<i>Role Play</i>
Session objectives/purpose	After the session, trainees will be comfortable with each other as also with the Resource Person. They will interact freely among themselves, as also with Resource Persons.
Expected outcome	The trainees will participate freely.
Method/ process	The resource person himself / herself mixes up with the trainees, and the trainees will be asked to make pairs among themselves, and share maximum information among themselves about each other. Then pairs can be interchanged during the next round. Then the resource person places four charts in different directions—1 st , 2 nd , 3 rd , and 4 th written with Goal, Trust, Good Relationships and Hard work respectively. Each trainee will be asked to stand near one chart of his / her choice. Then the resource person explains the idea behind each concept and the relationship of the individual trainee with his / her choice.
Aids/Materials:	Charts, White Board, Clippings

Time/Duration	One Hour
Handouts/FAQ	---

<i>Session: THREE</i>	
Content	<i>Intellectual Property Rights – Background - Categories of IPRs</i>
Sub content	<p>Patents - Trade Marks - Geographical Indications - Industrial Designs - Layout Designs - Plant Variety Protection - Copy Rights</p> <p><i>"Necessity is the mother of invention, but patent right is the father"</i> – <i>Josh Billings</i></p> <p>The term Intellectual Property (IP) reflects the idea that its subject matter is the product of the mind or the intellect. These could be in the form of Patents; Trademarks; Geographical Indications; Industrial Designs; Layout-Designs (Topographies) of Integrated Circuits; Plant Variety Protection and Copyright.</p> <p>IP, protected through law, like any other form of property can be a matter of trade, that is, it can be owned, bequeathed, sold or bought. The major features that distinguish it from other forms are their intangibility and non-exhaustion by consumption.</p> <p>Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time to inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.</p>
Session objectives/purpose	<p>To familiarize the trainee participants with the concepts of IPR Regimes. To enhance the understanding of IPRs, their background and relevance. The trainees will be able to:</p> <ul style="list-style-type: none"> • Familiarize with the broad IPR related issues that might affect their work. • Engage with possible solutions and develop strategies to deal with the issues that may arise. • Raise issues and questions that may have surrounding IPR issues. • Network and share issues with other staff who may be encountering similar issues.
Expected outcome	After the Session the trainee participants will be able to define

	IPRs, their background, different regimes and relevance.
Method/ process	Interactive – cum – lecture – cum- discussion method. The Resource Person using Charts / White Board elicit the understanding of IPRs among the participants, and lists the same. Then with the help of Power Point Presentation / White Board, He/She defines IPRs, back-ground and different regimes. Then the Resource Person will compare the points listed by the participant trainees with the points made by him / her. The session is open for discussion and gap filling.
Aids/Materials:	Charts, White Board, Power Point Presentation
Time/Duration	Two Hours
Handouts	Will be given

<i>Session:Four</i>	
Content	<i>IPR Policy and IPR Regimes</i>
Sub content	Trade Policy – IPR protection – international organizations and Treaties – IPR Implications – Pros and Cons / Merits and De-merits of IPR Regimes. Why Should You Protect Your Ideas? Who Should Learn IP Protection In Your Organization? Your Creative and Research teams How marketable is your idea? How easy is it for your competitor to steal your idea? Are you unwittingly using another company’s IP? Do you follow necessary IP guidelines?
Session Objectives / purpose	The trainee participants will be able to: understand IPR policy, International Treaties, Organizations, merits and demerits of IPRs
Expected outcome	After the session, the trainees will be able to explain IPR policy, international treaties related to IPRs, merits and demerits of IPR regimes.
Method/ process	Lecture-cum-interactive session. The resource person after introducing the concept in brief, presents the salient features of IPR policy—its origin, background, stakeholders involved, and its impact on economy, business, trade, society and on individuals. He / she also make the presentation on merits and demerits of international organizations, pros and cons of different IPR regimes.
Aids/Materials:	Power Point Presentation, Charts, White Board, Slides
Time/ Duration	Two Hours
Handouts/FAQ	Handouts

Session:Five

Content	<i>IPRs – WTO (World Trade Organizaion)</i>
Sub content	<p>WTO and International Trade – TRIPS</p> <p>India is also member of 2 major treaties, namely, Paris Convention for the Protection of Industrial Property (relating to patents, trademarks, designs, etc.) of 1883 and the Berne Convention for the Protection of Literary and Artistic Works (relating to copyright) of 1886. Apart from these, India is also a member of the Patent Cooperation Treaty (PCT) which facilitates obtaining of patents in several countries by filing a single application.</p> <p>India is a member of the World Trade Organization (WTO). The WTO agreement, inter-alia, contains an agreement on IP, namely, the Agreement on Trade Related Aspects of Intellectual Property (TRIPS). This Agreement made protection of intellectual property an enforceable obligation of the Member States. TRIPS Agreement sets out minimum standards of intellectual property protection for Member States.</p> <p>TRIPS</p> <p>The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) is an International Agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual Property (IP) regulation. It was negotiated at the end of the Uruguay round of the General Agreement on Tariffs and Trade (GATT) in 1994.</p> <p>Patents must be granted in all "fields of technology," although exceptions for certain public interests are allowed (Art. 27.2 and 27.3)</p> <p>Article 27 of the TRIPS Agreement defines which inventions governments are obliged to make eligible for patenting, and what they can exclude from patenting. Inventions that can be patented include both products and processes, and should generally cover all fields of technology.</p>
Session objectives/purpose	The trainee participants will be able to define WTO, its salient features, its role and responsibilities, functions and obligations. They will also be able to explain aspects related to TRIPS.
Expected outcome	After the session the trainee participants will be able to explain WTO and aspects related to TRIPS.

Method/ process	The Resource Person makes the presentation on WTO and TRIPS, their salient features, functions, methods and functioning. He / She motivate the trainees to participate in the interactive discussion. The Resource Person will also list the points raised by the trainees on Chart / White Boards, and keep it for open discussions.
Aids/Materials:	Chart / White Boards, Power Point Presentations.
Time/Duration	Four Hours
Handouts/	Handouts will be given.

Session: Six

Ccontent	<i>Law relating to patents and designs</i>
Sub content	Patentability Criteria, Patentable subject matter – IPR and communication
Session objectives/purpose	The trainee participants will be able to: Define and explain laws related to IPRs, role of different laws in sound management of IPR regimes
(Expected outcome)	After the session, trainees will be able to explain different laws related to IPR regimes, their relevance and importance.
(Method/ process)	Lecture – Cum – Interactive Session. The Resource Person explains in simple language IPR laws related to IPRs in operation. Their salient features, contents, usage in IPRs operations.
Aids/Materials:	Power Point, Charts, White Board
(Time/Duration)	Two Hours
(Handouts/FAQ)	Handouts

Session: Seven

Content	<i>IPR and Plant protection</i>
(Sub content)	Farmers' Rights and Indigenous knowledge
(Session objectives/purpose)	The trainee participants will be able to: explain plant protection and their varieties under IPR regimes.
(Expected outcome)	After the session, the trainees will be able to explain the measures and IPR laws to protect plant varieties, as also indigenous knowledge.
(Method/ process)	Presentations, case studies and interactive. The resource person sensitize the trainees by explaining the role of farmers in IPR regimes, particularly related to plant protection, farmers' rights and protection of indigenous knowledge. With the help of case

	studies, clipping, films, he/she tries to make the trainees understand the role of IPR regimes in plant variety protection as also of safeguarding the interests of farmers and their rights.
Aids/Materials:	Charts, films, slides, white board
(Time/Duration)	Two Hours
(Handouts/FAQ)	Handouts

<i>Session: Eight</i>	
Content	Patents in India – Food products and processing
Sub content	Examples from DFRL
(Session objectives/purpose)	The trainee participants will be able to: understand and explain patents related to food products and processing in India
(Expected outcome)	After the session, the trainees will be able to define patents in food products and food product processing.
(Method/ process)	Presentation, desk work, interactive discussions. The resource person, after introducing the salient features of patents in India related to food products and food products processing, explain with examples the importance of IPR in food products and processing. Then, he/she with case studies from field and tested example will be shared with the participants. Then the session is open for discussion.
Aids/Materials:	Power point, films, slides, white board
(Time/Duration)	Two Hours
(Handouts/FAQ)	Handouts

<i>Session: Nine</i>	
Content	Geographical Indications and Related Issues –
(Sub content)	Trade in Service and Related Issues.
(Session objectives/purpose)	The trainees will be able to: Explain GIs in different products and in different locations, their relevance and usefulness. Explain IPRs related to trade in services.
(Expected outcome)	After the session, the trainees will be able to define GIs, trade in service and related issues, as also their relevance
(Method/ process)	Lecture-cum-interactive session. The Resource Person explains the concept of GIs and related issues with examples. Then with the help of examples and cases, makes the trainees understand

	issues related to Geographical Indications, and trade in services. The session will be largely based on discussion, clarification and learning.
Aids/Materials:	Power point presentation, charts, white board
(Time/Duration)	Four Hours
(Handouts/FAQ)	Handouts

<i>Session: Ten</i>	
Content)	Evaluation of the Training Course Feed back and Concluding Sessions
(Sub content)	Effects – lessons Learnt – Scope for Improvement Session objectives/purpose
(Session objectives/purpose)	To get the feed back from the trainees so that the training course can be designed and training imparted on much better ways
(Expected outcome)	Quality of the training programme can be improved.
(Method/ process)	Evaluation sheets will be given to each trainee. The trainees have to rank (1 to 4) each session covering the content, method, relevance, delivery, presentation. They also have to make their comments on the overall course.
Aids/Materials:	IRQ – Evaluation Sheet – Delphi Test
(Time/Duration)	Two Hours
Handouts	--

FAQs in IPR

FAQS on Copyrights:

1. What is a Copyright?

Copyright is a form of intellectual property protection granted under the Indian Copyright Act 1957, to the creators of original works of authorship such as literary, dramatic, musical, artistic, and certain other intellectual works. The copyright vests in original work in whatever form it may be and in India it is not mandatory but useful in courts where civil and/or criminal proceedings can be taken to protect it.

2. What does a copyright protect?

Copyright law protects creative expression, not fact, idea system or method of process or operation. Expression may be found in product design, written expression, traditional artistic works, and other original works such as literary, dramatic, musical, and artistic works such as poetry, novels, movies, songs, computer software and architecture.

3. How to obtain copyright protection for a software/algorithm developed by us?

To protect your work from piracy etc. you can file application for copyright protection of your software/algorithm and in fact, your single application in India can provide you international protection for your software/algorithm.

4. Is it compulsory for me to register my work with Copyright Office to get copyright protection?

No. Your work is protected by a copyright at the moment you create it in a tangible form (written copy, recorded music, filmed movie, digital data saved on a computer disk).

It is not necessary under the Indian Copyright Act to register with the Copyright Office to get copyright protection. Registration of the work is however highly recommended because such registration is helpful in an infringement suit. As per the Copyright Act, the register of copyrights (where the details of the work are entered on registration) is prima facie evidence of the particulars entered therein. The documents purporting to be copies of any entries therein, or extracts from the register which are certified by the Registrar of copyrights and with the seal of the copyright office, are admissible as evidence in all courts without proof or production of the original. India is a member of both Berne and Universal Conventions and Indian law extends protection to all copyrighted works originating from any of the convention countries. However, in case of infringement of copyright, during court proceedings, copyright registration with the government of India serves as an advantage.

5. What part of my creation does copyright law protect?

Copyright law prevents copying of expression. Facts and ideas are not protectable under copyright law.

6. How long is a copyright valid?

The duration of a copyright depends on when the author acquired the copyright. Currently, the duration for individuals is life of the author plus 70 years, or the case of a joint work, the term lasts for 70 years after the last surviving author's death, alternatively 75 years, whichever is longer. If a company is the author, the duration is 95 years from the year of first publication or 120 years from the year of creation, whichever expires first.

7. What is the geographic scope of protection of a copyright?

Treaties provide for substantially worldwide protection.

8. What is proper copyright notice?

Notice has three parts. First, a word, abbreviation, or symbol designating copyrights (copyright, cp, or ©). Next, the name of the author. Finally, the year in which the work was completed. Multiple years indicate multiple years of completion (i.e. continuing editing). Use of the words "All rights reserved" provides protection in a couple South American countries

9. Can a company be considered the author?

A company can be considered the author of works done within the scope of an employee's duties. Such work by an employee by which the company is considered the author is called "work for hire". A company under certain circumstances can be considered the author of works of independent contractors. Companies can also become the owner of copyrights through assignments.

10. Can I license or sell my copyright?

Yes. Just like patents or trademarks (or any other property), any or all of the rights of ownership in a copyrighted work may be transferred by the owner to another party. Usually, a legal agreement outlining the transfer accompanies the license or sale.

FAQ'S ON PATENTS:

1. What is a Patent?

A Patent is an exclusive monopoly granted by the Government to an inventor over his invention for limited period of time.

2. How do I find out if I need patent, trademark and/or copyright protection?

Patents protect inventions and improvements to existing inventions. Copyrights cover literary, artistic, and musical works. Trademarks are brand names and/or designs, which are applied to products or used in connection with services.

3. Who can obtain a Patent?

An inventor or any other person/company assigned by the inventor can obtain the patent over his invention.

4. How a patent is obtained / filed?

A patent is obtained by the inventor or his assignee by filing an application with the patent office in the stipulated forms as required by the Patent act of that country.

5. Why does the Government encourage filing of patents?

To encourage innovation and investment in the research and development activities so that there is economic, industrial and technological development in the country.

6. How does a patent document help in R&D?

Study of a Patent document may stop re-inventing the wheel. A scientist, who has not consulted the patent literature, may start working on a problem for which the solution might have already been found by someone else and it is available in the patent literature.

7. Which invention qualifies for the grant of a patent?

A patent is granted only on that invention, which is new, non-obvious and has industrial applicability.

8. Upto what extent the inventor has to disclose his invention to get a patent?

An inventor has to disclose his invention in such a manner that any person, other than the inventor, skilled in the art should be able to work out the invention.

9. How does a patent expire?

A patent can expire in the following ways:

The patent has lived its full term i.e. the term specified by the patent act of the country. Generally it is 20 years from the date of filing. The patentee has failed to pay the renewal fee. A patent once granted by the Government has to be maintained by paying annual renewal fee. The validity of the patent has been successfully challenged by an opponent by filing an opposition either with the patent office or with the courts.

10. Is there an International/Global patent?

No. There is no International or Global Patent. An inventor has to file an application in each country, where he seeks to protect his invention. There are regional and/or International treaties to facilitate the procedure to seek protection like Patent co-operation Treaty (PCT) or European Patent Convention (EPC)

11. Can a scientist get a patent on the invention, which he has already published in the form a paper in a national/International journal?

No. A patent is not granted to an invention if it is already available with the public either in the form of published literature of common knowledge.

12. Why one should access the patent literature?

Before the start of the research and development project, one should scan the patent literature to stop re-inventing the wheel or during the development phase, when stuck up with a technical problem, to find a technical solution. or once the research is complete i.e. at the time of filing the patent application, to narrow down or broaden the claims and/or to draft the application for getting a patent

FAQs on Design

1. What is meant by 'Design' under the Designs Act, 2000?

“Design” means only the features of shape, configuration, pattern or ornament or composition of lines or colour or combination thereof applied to any article whether 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, but does not include any mode or principle or construction or any thing which is in substance a mere mechanical device, and does not include any trade mark, as define in clause (v) of sub-section of Section 2 of the Trade and Merchandise Marks Act, 1958, property mark or artistic works as defined under Section 2(c) of the Copyright Act, 1957.

2. What does an article under the Designs Act, 2000, mean?

Under the Designs Act, 2000 the "article" means any article of manufacture and any substance, artificial, or partly artificial and partly natural; and includes any part of an article capable of being made and sold separately;

3. What is the object of registration of Designs?

Object of the Designs Act to protect new or original designs so created to be applied or applicable to particular article to be manufactured by Industrial Process or means. Sometimes purchase of articles for use is influenced not only by their practical efficiency but also by their appearance. The important purpose of design Registration is to see that the artisan, creator, originator of a design having aesthetic look is not deprived of his bonafide reward by others applying it to their goods.

4. What is a Register of Designs?

The Register of Designs is a document maintained by The Patent Office, Kolkatta as a statutory requirement. It contains the design number, class number, date of filing (in this country) and reciprocity

date (if any), name and address of Proprietor and such other matters as would affect the validity of proprietorship of the design and it is open for public inspection on payment of prescribed fee & extract from register may also be obtained on request with the prescribed fee.

5. What is the effect of registration of design?

The registration of a design confers upon the registered proprietor 'Copyright' in the design for the period of registration. 'Copyright' means the exclusive right to apply a design to the article belonging to the class in which it is registered.

6. What is the duration of the registration of a design? Can it be extended?

The duration of the registration of a design is initially ten years from the date of registration, but in cases where claim to priority has been allowed the duration is ten years from the priority date. This initial period of registration may be extended by further period of 5 years on an application made in Form-3 accompanied by a fee of Rs. 2,000/- to the Controller before the expiry of the said initial period of Copyright. The proprietor of a design may make application for such extension even as soon as the design is registered.

7. What is the date of registration?

The date of registration except in case of priority is the actual date of filing of the application. In case of registration of design with priority, the date of registration is the date of making an application in the reciprocal country.

8. What is piracy of a Design?

Piracy of a design means the application of a design or its imitation to any article belonging to class of articles in which the design has been registered for the purpose of sale or importation of such articles without the written consent of the registered proprietor. Publishing such articles or exposing terms for sale with knowledge of the unauthorized application of the design to them also involves piracy of the design.

9. Why is it important for filing the application for registration of design at the earliest possible?

First-to-file rule is applicable for registrability of design. If two or more applications relating to an identical or a similar design are filed on different dates only first application will be considered for registration of design.

10. Can the same applicant make an application for the same design again, if the prior application has been abandoned?

Yes, the same applicant can apply again since no publication of the abandoned application is made by the Patent Office, provided the applicant does not publish the said design in the meanwhile.

11. How to get information on registration of design?

Ans.: After registration of designs the most relevant view(s) of the article along with other bibliographic data will be available in the official gazette, which is being published on every Saturday. However, such provision cannot be implemented at this stage due to insufficient infrastructure.

FAQs on Trademarks

I. What is a Trademark?

Trademarks are words, names, symbols, brands, devices, headings, labels, tickets, signatures, letters or numerals or any combination thereof, used or proposed to be used by manufacturers of goods to identify and to distinguish their goods from goods manufactured and sold by others. A person who sells his goods

under a particular trademark acquires a sort of limited exclusive right to use the mark in relation to those goods

2. What are the benefits of trademark registration?

Trademark registration protects the goodwill of a business and also helps to identify and distinguish the source of the goods or services of one party from those of others. Trademark registration is an evidence of ownership of the trademark and also constructive notice nationwide are issued of the trademark owner's claim. Trademark registration in India can also be used as a basis for obtaining registration in foreign countries.

3. Who can file an application for trademark registration?

The application must be filed in the name of the owner of the trademark; usually an individual, corporation or partnership. Generally, the person who uses or controls the use of the mark, and controls the nature and quality of the goods to which it is affixed, or the services for which it is used, is the owner of the mark.

4. What trademarks can be registered?

A trade mark which consists of at least one of the following essential particulars:

the name of a company, individual or firm represented in a particular or special manner; the signature of the applicant for registration; one or more invented words; one or more words having no direct reference to the character or quality of the goods and not being according to its ordinary signification a geographical name or a surname or a personal name or any common abbreviation thereof or the name of a sect, caste or tribe in India; any other distinctive trade mark; a trade mark which has acquired distinctiveness by use over a prolonged period of time, may be registered.

5. What trademarks may not be registered?

Trademark, which is identical to or deceptively similar to a trademark, which is already registered or has already been applied for in the name of a different proprietor in respect of the same goods or description of goods, may not be registered. Also trademark the use of which would be likely to deceive or cause confusion; the use of which would be contrary to any law in force; which comprises or contains scandalous or obscene matter or any matter likely to hurt the religions susceptibilities of any class or section of the citizens of India; may not be registered.

6. How do I find out whether a mark is already registered?

In order to determine whether any person or company is using a particular trademark, a trademark search can be conducted.

7. What is a trademark search?

A trademark search is designed to identify pre-existing trademarks that have the potential to conflict with your name. Without the benefit of a trademark search, you run the risk of being sued for trademark infringement and losing the right to use your new business name, product name, domain name or slogan after you have invested in that name. Uncovering and avoiding trademark conflicts with your name can often mean the difference between the success and failure of your business venture.

8. Is it advisable to conduct an official search of the govt. records before filing an application?

Yes, it is advisable to get the official search report from the registered and pending application records before filing the application.

9. How long does it take for a mark to be registered?

Due to a lot of back log and also since the applications are processed on "first come first serve" basis generally, it takes on an average about 5-6 years before the mark is registered provided no opposition is entered by any third party.

10. could the office refuse to register a mark?

Yes, the Trademark office will refuse to register matter if it does not function as a trademark. Not all words, names, symbols or devices function as trademarks. For example, matter which is merely the generic name of the goods on which it is used cannot be registered.

11. Do I have to be an Indian citizen to obtain a trademark registration?

No. However, an applicant's citizenship must be set forth in the record. If an applicant is not a citizen of any country, then a statement to that effect is sufficient. If an applicant has dual citizenship, then the applicant must choose which citizenship will be printed in the Official Gazette and on the certificate of registration.

12. Is it possible for a foreign corporation to license a trademark in India against payment of royalty in a foreign currency?

An agreement for payment of royalty to a non-resident requires the prior approval of the government. The government's policy statement makes it clear that in case of a use of a foreign brand name a payment of royalty shall not be allowed unless the products on which the mark is used are intended for export.

13. Can the ownership of a trademark be assigned or transferred from one person to another?

Yes. A registered mark, or a mark for which an application to register has been filed is assignable.

14. When is it proper to use the "TM" and the registration symbol "®" with the mark?

Once you have filed an application for registration of trademark, the "TM" symbol may be used with the mark. Anyone who claims rights in a mark may use the TM (trademark) designation with the mark to alert the public to the claim. However, the registration symbol, ®, may only be used once the mark is actually registered in the Trademark Registrar's Office. Even though an application is pending, the registration symbol may not be used before the mark has actually become registered.

15. What forms of protection are available for trademarks?

There are two forms of legal protection that are available for trademarks. Under the Trade and Merchandise Marks Act, 1958, once the trademark is registered, infringement can be easily established. In case of unregistered marks and marks which are not registerable, the only form of protection is the common law remedy of passing off. Trademark law protects the right of the owner of a mark to use marks that distinguish his goods from others and to prevent others from using marks that are likely to cause confusion.

FAQ's on Geographical Indications

1. What is a Geographical Indication?

It is an indication

It originates from a definite geographical territory.

It is used to identify agricultural, natural or manufactured goods

The manufactured goods should be produced or processed or prepared in that

It should have a special quality or reputation or other characteristics

2. What is the benefit of registration of geographical indications?

It confers legal protection to Geographical Indications in India

Prevents unauthorized use of a Registered Geographical Indication by others

It provides legal protection to Indian Geographical Indications, which in turn boost exports.

It promotes economic prosperity of producers of goods produced in a geographical territory.

3. Who can apply for the registration of a geographical indication?

Any association of persons, producers, organization or authority established by or under the law can apply

The applicant must represent the interest of the producers

The application should be in writing in the prescribed form

The application should be addressed to the Registrar of Geographical Indications along with prescribed fee.

4. Who is a registered proprietor of a geographical indication?

Any association of persons, producers, organization or authority established by or under the law can be a registered proprietor.

Their name should be entered in the Register of Geographical Indication as registered proprietor for the Geographical Indication applied for.

5. Who is an authorized user?

A producer of goods can apply for registration as an authorized user

It must be in respect of a registered geographical indication

He should apply in writing in the prescribed form along with prescribed fee

6. Who is a producer in relation to a Geographical Indication?

The persons dealing with three categories of goods are covered under the term producer

Agricultural Goods includes the production, processing, trading or dealing

Natural Goods includes exploiting, trading or dealing

Handicrafts or Industrial goods includes making, manufacturing, trading or dealing.

7. Is a registration of a geographical indication compulsory and how does it help the applicant?

Registration is not compulsory

Registration affords better legal protection to facilitate an action for infringement

The registered proprietor and authorized users can initiate infringement actions

The authorized users can exercise the exclusive right to use the geographical indication.

8. Who can use the registered geographical indication?

An authorized user has the exclusive rights to the use of geographical indication in relation to goods in respect of which it is registered.

9. How long the registration of Geographical Indication is valid?

The registration of a geographical indication is valid for a period of 10 years.

10. Can a Geographical Indication be renewed?

It can be renewed from time to time for further period of 10 years each.

11. What is the effect if a Geographical Indication if it is not renewed?

If a registered geographical indication is not renewed it is liable to be removed from the register.

12. Who can initiate an infringement action?

The registered proprietor or authorized users of a registered geographical indication can initiate an infringement action.

13. Can a registered geographical indication be assigned, transmitted, etc?

No. A geographical indication is a public property belonging to the producers of the concerned goods.

It shall not be the subject matter of assignment, transmission, licensing, pledge, mortgage or such other agreement

However, when an authorized user dies, his right devolves on his successor in title.

14. How a geographical indication is different from a trademark?

A trademark is a sign which is used in the course of trade and it distinguishes goods or services of one enterprise from those of other enterprises. Whereas a geographical indication is an indication used to identify goods having special characteristics originating from a definite geographical territory.