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Introduction to Intellectual Property

Intellectual property (IP) is a tangible representation of creations of the human mind. IP allows a creator to enjoy exclusive ownership of it.

There are seven types of Intellectual Property Rights:

1. Patents
2. Industrial Designs
3. Trademarks
4. Copyright
5. Plant Variety Protection
6. Geographical Indication
7. Trade Secret

Some examples of intellectual property include music, paintings, brand names, words, logos, machines, devices, etc.

India has a robust legal framework that governs provisions to register and protect intellectual property. It ensures that no one copies or misuses creative and inventive work of others. Further, it encourages innovation and creates an environment that supports and encourages originality.

Patent

Patent is an exclusive right granted by the government to protect an invention and its subsequent use. A novel invention be it a product or process, which offers a unique or technically advanced solution to a problem, and has an industrial applicability, can be patented. Any discovery is not patentable.

The Patents Act, 1970, provides details of protection on inventions, what cannot be patented, and the consequences of patent infringement, among others. Grant of a patent confers to a patentee the right to prevent others from making, using, exercising or selling the invention without his permission.

The procedure of patent registration begins with filing a detailed patent application with drawings (if any) to explain the invention, along with other required documents.

The applicant can opt to file a provisional specification, if the invention is in its early stages, which must be followed by a complete specification within twelve months. All the patent applications are kept secret upto 18 months from the date of filing and thereafter they are published in the Official Journal of the Patent Office which is published every week.

A request for an early publication can also be made.

The examination of the application is undertaken on request. A patent application is not examined automatically after its filing. The examination is done only after receipt of the request of examination.

Examination of the patent application involves examining the patentability of the invention and meeting all the requirements of the Act. A First Examination Report is sent to the applicant.

This report contains reasoned objections to the grant of a patent, prior art, etc. The applicant gets an opportunity to reply to the objections within a specified period of time. Once all the objections are dealt with, a patent is granted. The grant of patent is notified in a Patent Journal.

Patents are granted for a term of twenty years from the date of filing of the complete specification. A registered patent benefits the inventor commercially and ensures complete protection against infringement. In case an infringement takes place, legal recourse is available.



Application



Publication



Pre Grant Opposition



Examination by Patent Examiner

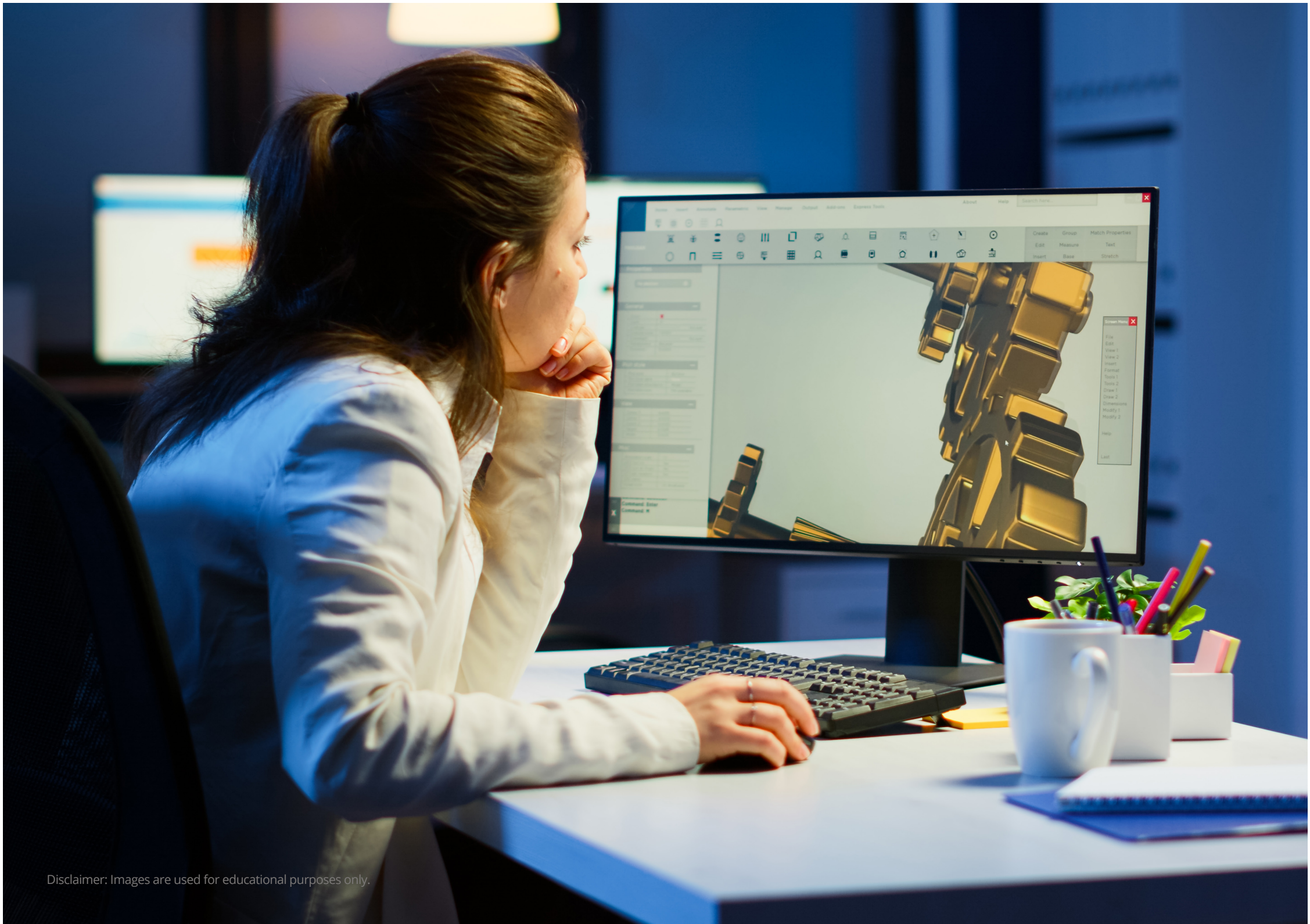


Objection



Disposal - Grant or Rejection by Controller

Patents



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Industrial Design

Industrial designs constitute the aesthetic aspect of an article. These designs appeal to the eye and are ornamental only, i.e., they do not affect the functionality of a product. Such a design may consist of three-dimensional features like the shape of a product, or two-dimensional features, like patterns, lines or color.

The Designs Act, 2000, provides for the protection of novel and original designs. It is advised to conduct a design search on the official portal of the design journal to check for duplicates before proceeding with an application.

A design registration application must be accompanied with a diligent representation sheet and shall be exactly similar drawings, photographs, tracings including computer graphics or specimens of the design.

The application is examined, and an examination report is issued by communicating objections (if any) to the applicant. If objections are raised, the applicant is given an opportunity to present their case. If the applicant does so successfully, the design is granted a certificate of registration by the IP office.

A design registration is valid for ten years, extendable up to fifteen years. After fifteen years, anyone can use the design without seeking permission of its owner.



Application



Examination



Objections



Disposal - Grant or Rejection

Trade Mark

A trade mark is a sign which helps in identifying and differentiating products of one entity from another. It can be a word, name, symbol, or a combination of these. A trade mark denotes the identity of goods or services.

The Trade Marks Act, 1999, provides for registration and protection of trade marks for goods and services and for the prevention of the use of marks fraudulently. A registered trade mark can be used exclusively by its owner, or licensed for use to another party in exchange of commercials.

Trade marks are highly valuable for businesses, and it is advisable to register a mark at the earliest in order to discourage infringement, enforce intellectual property rights and present a strong case, if legal encumbrances arise.

A trade mark must be:

- Capable of being represented graphically
- Distinctive and not descriptive, i.e., it should be unique and must not describe the products or services in question

It is advisable to conduct a trade mark search to avoid adopting a mark which may infringe third-party trademark rights. Once

an application is filed at the Trade Marks office, it is examined and scrutinized by the Examiner.

Objections are invited at this stage. If the trade mark is approved by the Registrar, it is published in the Trade Marks Journal to invite objections from third parties. In case of no objection, registration certificate is issued. Alternatively, if the Registrar objects or any objection is received from the general public, the applicant and other affected parties are directed to present their case. If the issue is resolved in the applicant's favour, the mark is registered.

A registered trade mark can be used exclusively by its owner for ten years and can be renewed for ten years each time, indefinitely.

 **Application**

 **Examination**

 **Objection**

 **Publication**

 **Opposition**

 **Disposal - Grant or Rejection**





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Copyright

Every work of art is an expression of an idea. A copyright is a bundle of rights against copying to protect original work. A work of art is protected under the law even without registration.

The Copyright Act, 1957, contains provisions on the protection of copyrights. It is advisable to register a copyright on an original artistic work as it empowers the creator from preventing misuse of their original works. The procedure of copyright registration begins when the owner of the original work files an application.

The application is examined by the Copyright Examiner and at this stage objections are invited. If no objections are received, the examiner scrutinizes the application to check for shortcomings. If objections are received or the examiner finds discrepancies in the application, the applicant is directed to present their case. Based on this, the outcome of the copyright application is decided. If successful, the Registrar of Copyrights will grant copyright registration.

A copyright subsists for the lifetime of the creator and then for sixty years counted from a year following the death of the creator.



Application



Publication



Opposition



Examination



Objection



Disposal - Grant or Rejection

Geographical Indication (GI)

A geographical indication is a recognition given to certain products through which their origin, location, quality, reputation, and other such characteristics can be easily identified. Such products may be agricultural, manufactured, naturally occurring, or handcrafted. A geographical indication certification is usually displayed on the packaging of a product.

The Geographical Indications of Goods (Registration & Protection) Act, 1999 provides for the registration and protection of geographical indications of Indian goods. A producer or an association of producers of a product can become owners of the GI and get authorization to produce the goods.

GI certification is issued by the Geographical Indication Registry under the Department of Industry Promotion and Internal Trade, Ministry of Commerce and Industry.

The application for a GI certification must include the details of the special characteristics, procedure of maintaining standards, map of the region related to the product, and how the inspection of the product must be conducted.

After receiving the application, the GI Registry will examine the application and check for discrepancies and validity of the claims with the help of experts. Once the application is approved, the product will be published in the GI Journal to invite third party objections. Finally, the Registry will issue the GI tag once all issues are resolved or reject the application if discrepancies stay.

A GI certification is valid for ten years and can be renewed thereafter.



Application



Examination



Objection



Publication



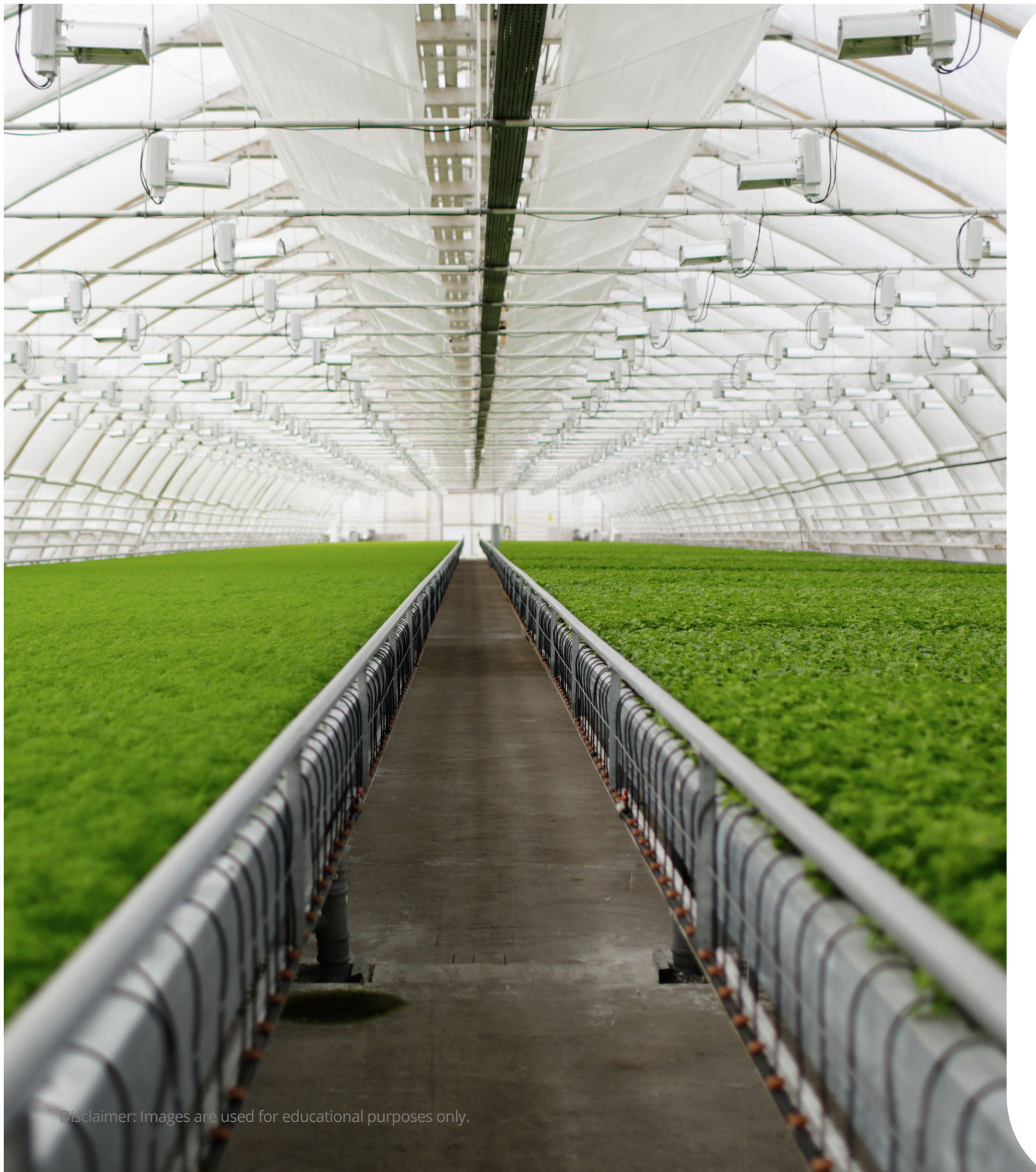
Opposition



Disposal - Grant or Rejection



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Application



**Examination, testing
and evaluation**



Publication



Objection



**Disposal - Grant
or Rejection**

Plant Variety Protection

A plant variety means different types of plants within a species. Breeders cultivate such plant varieties by using different combinations of traits and create a genetically unique plant.

Plant variety protection is that intellectual property right which grants a breeder exclusive ownership over the use of a newly developed plant variety. When a plant variety is protected, no breeding or cultivation can take place without authorization from the breeder. A breeder might be an individual, a farmer, a researcher, a government organization, a private company, etc.

Protection to plant varieties is granted in accordance with the Protection of Plant Varieties and Farmers' Rights Act, 2001. Not all plant varieties can be protected, the breeder must show novelty, stability, distinctiveness, and uniformity in the variety. A certificate of registration is granted to the breeder to show that a plant variety is protected.

Just like patents, trade marks, and industrial designs, prior examination by the relevant authority is required to establish the breeder's right. The government notifies whenever a new plant variety is registered.

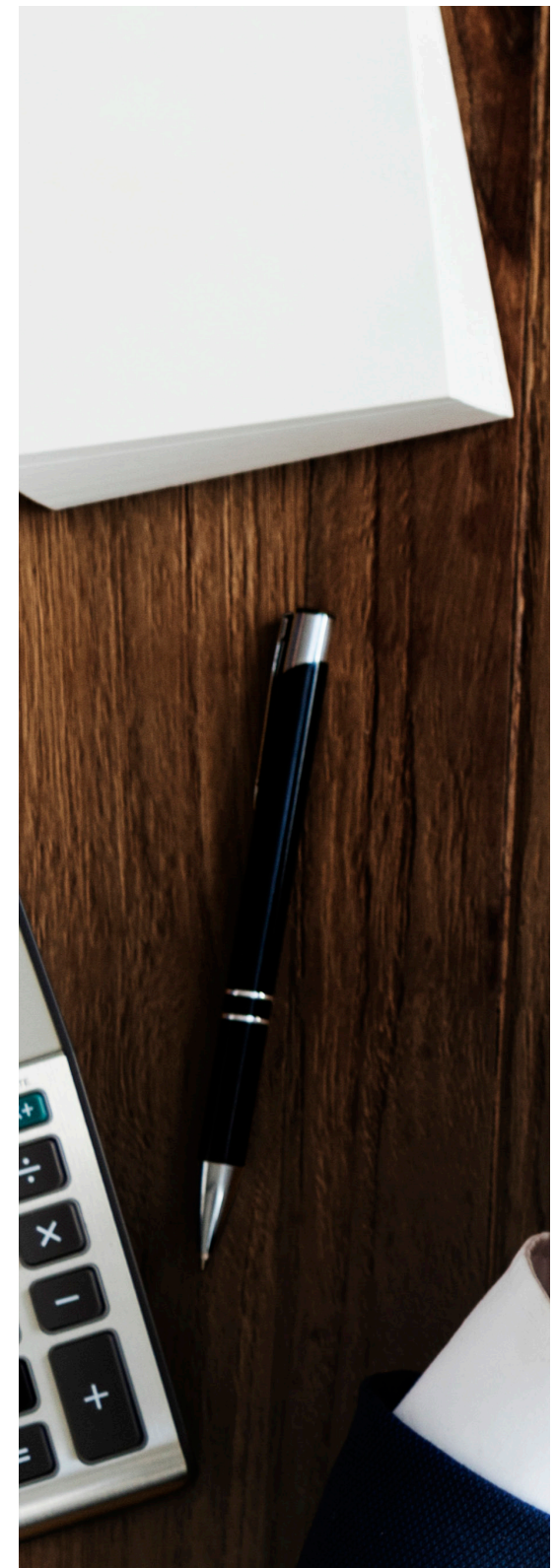
The registration of plant varieties begins with the filing of application, examination of application, and conducting of suitable Distinctiveness, Uniformity, and Stability (DUS) tests, evaluation of test results, publication of passport data (a basic description of a plant variety) in the Plant Variety Journal of India (PVJI) for calling objections and upon successful application, issuance of registration certificate to the applicant.

The registration is valid for nine years in the case of tree and vines and six years for other crops. The total period of validity, including renewals does not exceed eighteen years in case of trees and vines and fifteen years in case of other crops.

Trade Secret

A trade secret is undisclosed information which is kept confidential by a company and its employees. It is exclusively used for business activities. Sometimes, even the job experience one gains while working in an office becomes a trade secret. If such information is leaked, it may cause financial losses to the business or it may give their competitors an undue advantage.

In India, there is no law that protects trade secrets, but businesses sign contracts such as Non-Disclosure Agreement, Confidentiality Agreement, or Non-Compete Agreement, etc., with their employees, to protect their business secrets and prevent the employees from leaking confidential information. Such contracts are legally binding the Indian Contract Act, 1872, thereby helping organisations protect trade secrets without a concrete law in place.



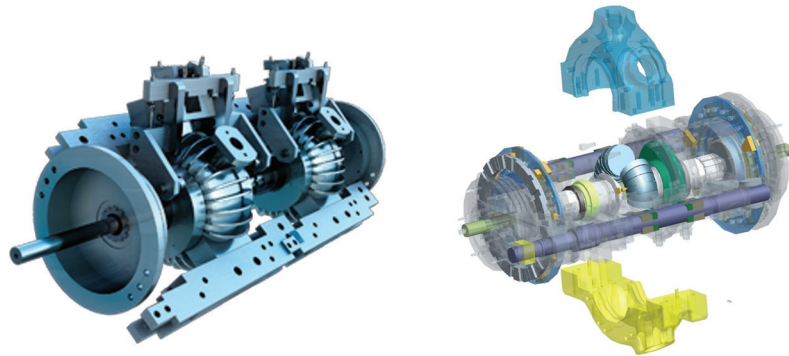


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Case Study

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Case Studies



RVCR patented by GYATK (Patent No. - 3278MUM2013)

Source: www.gyatk.com

1. GYATK RVCR Apparatus Pvt. Ltd.: The inventor Ajee Kamath obtained a patent for his invention entitled “Rotary apparatus adapted to perform as variable compression ratio internal combustion engine, compressor, pump or a metering device” (RVCR). The RVCR technology is a gamechanger in prime mover technology and it surpasses existing technologies to repair climate damage by reversing Green House Effect. GYATK started off with its first patent in India for the invention of RVCR Mechanism and has grown into a company with ownership of IP rights from patents granted in countries world-wide.



*Trade mark registered and owned by
Tata Group (Trademark Application No. – 838434)*

Source: www.tatagroup.com

2. Tata Motors Limited is an Indian multinational automotive manufacturing company. The company has filed and registered hundreds of trade marks. The Delhi High Court had pronounced that the mark TATA has acquired the status of a “well-known” mark on account of its usage for a long period of time.

Case Studies



Ceiling fan, design registered by Crompton Greaves (Design No.- 222238)
Source: www.ipindia.com

3. Crompton Greaves Limited is an Indian electrical equipment company with around 749 design applications/ registrations to its name. The company has lighting and electrical consumer durables including LED lighting, fans, pumps, and household appliances like water heaters, air coolers, and kitchen appliances.



Geographical Indication certified Pochampally Ikat (GI Application No. 4)

4. Pochampally Ikat of Telangana is the first Textile Product in India to get GI registration in 2004. Pochampally Ikat is a weaving style that employs resist dyeing technique to impart colors to the yarns before their interlacement. It is visually identified by the 'chowkra' design which is a diamond within a square, or its derivatives, having diffused edges. The GI status has helped the Pochampally Village and adjoining areas a must place to visit. It has found place in UNESCO tentative list of world heritage sites as part of "iconic saree weaving clusters of India". It has also been selected as one of the best tourism villages in the world by the United Nations World Tourism Organization.

Case Studies



T90 Driving Simulator for which copyright has been applied by Zen Technologies (ROC No. - SW-15186/2022)

Source: www.zentechnologies.com

5. Zen Technologies is a pioneer in the design, development, and manufacture of training simulators and was awarded the Telangana State Intellectual Property Award 2021 for IP Champions organized by CII in association with Government of Telangana for Best Portfolio in Small Entity Category. The company has filed or received copyright registration for around 8 works. It has filed several computer-software registration applications for several of its simulators like Konkurs ATGM Simulator, ICV BMP II Driving Simulator, T90 Driving Simulator, among others.



6. In the case of **M/s. Action Construction Equipment v. M/s. Gulati Industrial Fabric P. Ltd. CS (OS) 1740/2006**, the Delhi High Court held that the defendant hired a former employee of the plaintiff who possessed critical information on manufacturing of mobile hydraulic cranes, and then copied the exact model by imitating the blueprints that formed a part of the plaintiff's trade secret. The court held that the defendant committed a breach of contract and violated the confidentiality of the industrial drawings handed over to them exclusively for the purpose of manufacturing of the components for the plaintiff company.

Who is IP Buddy

IP Buddy (Rachit) is the IP mascot of Intellectual Property Rights (IPR) for Telangana - A Government of Telangana initiative with a vision of "IP4all".

Rachit will be your Deer Friend in your IP journey who advocates creativity, innovation, and IP protection in today's world.

"Get an IP advantage today for your Business and Academia"

Befriend Rachit! Chat with him on WhatsApp



ipbuddy@resolutegroup.in



KTR launches Telangana IP Buddy-Rachit

BB BUREAU
HYDERABAD

KT Rama Rao, Minister for Municipal Administration, IT and Industries on Wednesday unveiled the first of its kind IP mascot of Telangana-IP Buddy-Rachit today at the Dr MCR HRD Institute in the presence of his Cabinet colleagues Harish Rao, Sabitha Indra Reddy, Srinivas Goud, Malla Reddy along with Chief Secretary Mr Somesh Kumar, Jayesh Ranjan, principal Secretary IT and Industry and Raminder Singh Soin, Chairman, Resolute Group of Companies, M Komraiah, Chairman DPS and Bhaskar Reddy, President FTCCI.

The IP mascot is an initiative of State Government powered by Resolute4ip a service arm of the Resolute Group of

Companies with the sole vision of "IP4ALL" and to provide a platform for all stakeholders to connect and get solutions on IPRs.

The initiative is partnered by Delhi Public School, Nacharam and the Federation of Telangana Chambers of Commerce and Industry (FTCCI) and Rocksalt. Rachit will advocate Creativity, Innovation and IP protection in today's world and will work towards creating an IP savvy culture in Telangana. With the recent launch of the National Intellectual Property Awareness Mission by DPIIT of Centre, on 8 December, it has become even more imperative to spread IP awareness in schools, colleges and all stakeholders. The Centre has set a target in sensitising 1 million students from Class 8-12 on IPRs in schools and colleges across the nation.



KTR unveils State gov't's IP mascot

MUAD Minister KT Rama Rao unveiled the first-of-its-kind IP Mascot of Telangana — IP Buddy-Rachit on Wednesday at the Dr MCR HRD Institute, in the presence of Harish Rao, Sabitha Indra Reddy, Srinivas Goud, Malla Reddy and Chief Secretary Somesh Kumar, among others. The IP mascot is an initiative of the TS govt powered by Resolute4ip.



Minister for information technology, municipal administration & urban development, and industries, K.T. Rama Rao unveils 'Rachit', the intellectual property rights mascot of Telangana in Hyderabad on Wednesday. — DC

'Rachit' mascot to promote IP savvy culture in state

DC CORRESPONDENT
HYDERABAD, JAN. 5

Minister for information technology, municipal administration & urban development, and Industries, K.T. Rama Rao on Wednesday unveiled 'Rachit', the intellectual property rights mascot of Telangana.

The creation of an IP mascot was initiated by the state government in collaboration with Resolute4ip, a service arm of Resolute group.

The Rachit platform will advocate creativity, innovation and IP protection and will work towards creating an IP savvy culture in Telangana. The Centre has set a target of sensitising one million students from class 8 - 12 on IPR's in schools and colleges across the nation.

● RACHIT, DESCRIBED as an IP buddy, will enable students, start-ups, MSME's and interested stakeholders to be certified as 'IP Ambassadors' for their institutions and companies

● THE PLATFORM will advocate creativity, innovation and IP protection and will work towards creating an IP savvy culture in state.

● THE MASCOT, and the services offered by Rachit, can be accessed through WhatsApp at 83411-10413.

Rachit, described as an IP buddy, will enable students, start-ups, MSME's and interested stakeholders to be certified as 'IP Ambassadors' for their

institutions and companies. The target is to create 10,000 IP ambassadors by March 31.

The mascot, and the services offered by Rachit, can be accessed through WhatsApp at 83411-10413.

Joining Rama Rao on the occasion ministers T Harish Rao, P Sabitha Indra Reddy, G Srinivas Goud, Ch Malla Reddy, chief secretary Somesh Kumar, principal secretary (IT) Jayesh Ranjan, chairman of Resolute group of companies Raminder Singh Soin, and Chevireddy Bhaskar Reddy, president FTCCI.

Also partnering in the creation of Rachit and IP information related activities are Delhi Public School, Nacharam, the Federation of Telangana Chambers of Commerce and Industry, and Rocksalt.



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