



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SETUP BY AN ACT OF PARLIAMENT)

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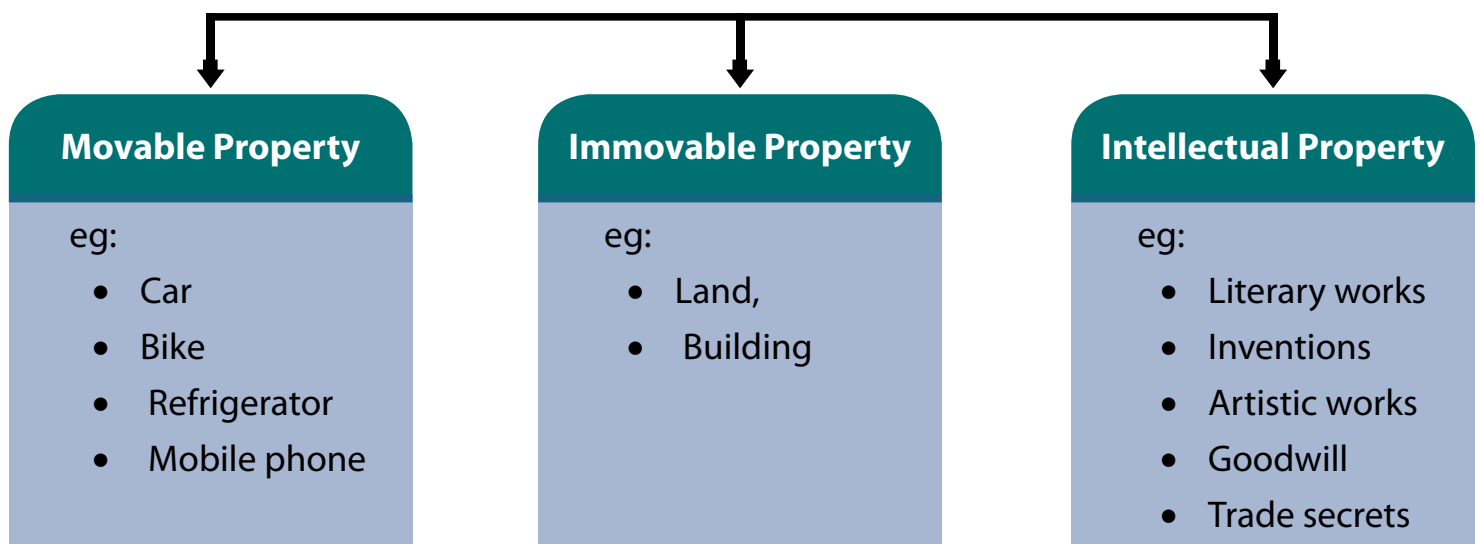
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# AN OVERVIEW OF INTELLECTUAL PROPERTY RIGHTS

- Muhammed Suneer V P  
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## I. Broad classification of PROPERTY



**RIGHT**

A moral or legal entitlement to do something or prevent others from doing something

**PROPERTY**

A thing or things belonging to someone

**INTELLECTUAL**

Relating to the intellect; coming out from the intellect



## II. INTELLECTUAL PROPERTY RIGHTS

- Very broadly means the legal rights on property which result from intellectual activity; in the industrial, scientific, literary and artistic fields
- Thus, it is – A WISE MAN'S GAME; MEANT FOR ONLY INTELLECTS

## III. Rights under Intellectual Property at a glance

- Literary, artistic, dramatic and musical works
- Performances of performing artists, phonograms and broadcasts
- Trade secrets and confidential know-how
- Inventions in all fields of human endeavour
- Scientific discoveries
- Industrial designs
- Trademarks, service marks and commercial names and designations
- Appellations of origin – Geographical Indications
- Protection against unfair competition

## IV. Evolution/Transformation

Idea + Expression = **COPYRIGHT**

Idea + Innovation + Invention = **PATENT**

Idea + Quality + Identity = **TRADEMARK**

Idea + Appearance = **DESIGN**



## **V. Intellectual Property – Basic Natures**

- Intangible
- Transferable
- Territorial
- Quid pro quo :a favour or advantage granted in return for something
- Limitations and exceptions
- Time-bound
- Exclusive right / Monopoly

## **VI. IP - In tune with international treaties**

- ▶ Paris Convention for the Protection of Industrial Property 1883
- ▶ Berne Convention for the Protection of Literary and Artistic Works 1886
- ▶ The Rome Convention (performers, phonograms, broadcasting) 1961
- ▶ Treaty of Intellectual Property in respect of Integrated Circuits (1989)
- ▶ Locarno Treaty (Industrial Designs)
- ▶ International Union for New Varieties of Plants (UPOV) 1961, 1972, 1978 and 1991
- ▶ Convention on Biodiversity, 1992
- ▶ Agreement on Trade Related Aspects of Intellectual Property Rights 1994 (TRIPS)
- ▶ Internet Treaties 1996



## **VII. Kinds**

Patents, Copyright and related rights, Industrial property

- Patents
- Industrial designs
- Trade marks
- Geographical indications
- Semi-conductor Layout designs/topographies integrated circuits
- Trade secrets
- New plant varieties

## **VIII. IP Laws in INDIA**

- The Copyright Act, 1957
- The Patents Act, 1970
- The Designs Act, 2000
- The Trade Marks Act, 1999
- The Geographical Indications of Goods (Registration and Protection) Act, 1999
- The Semiconductor Integrated Circuits Layout- Design Act, 2000
- The Protection of Plant Varieties and Farmers' Rights Act, 2001

## **IX. Copyright and Related Rights**

- Original literary, dramatic, musical and artistic works
- Cinematograph films
- Sound recordings





## **X. Rights under Copyright**

### ▶ Moral rights

- Right of authorship
- Right of integrity
- Inalienable rights

### ▶ Economic rights

- To reproduce the work in any material form
- To issue copies of the work
- To perform the work in public
- To make any translation or adaptation of the work
- To sell or give on hire

## **XI. Advantages of copyright registration**

- Public record created
- Can sue if infringed
- Term of copyright –
  - Literary, artistic works - Life + 60 years
  - Cinematographic films, sound recording – 60 years from the date of publication

## **XII. PATENTS**

### ▣ What is a patent?

Patent is a monopoly right granted by the State to exclude others from exploiting or using a particular invention. This exclusive monopoly granted by a Patent is provided in return for the inventor disclosing the details of the invention to the public.

Term of a Patent – 20 years



### **XIII. Conditions of Patentability**

- o Novelty - If there in the Prior Art – No Patent
- o Non-obvious - If obvious to a person with ordinary skill in the art – No Patent
- o Industrial application/utility

### **XIV. Inventions not PATENTABLE (Section 3)**

- a. Frivolous;
- b. Contrary to public order or morality;
- c. The mere discovery of A scientific principle;
- d. Mere discovery of any new property or new use of an existing substance
- e. Mere admixture
- f. The mere arrangement or re-arrangement or duplication
- g. A method of agriculture or horticulture
- h. Any process for the medicinal, surgical, curative, prophylactic diagnostic, therapeutic;
- i. Plants and animals in whole or any part thereof other than micro organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants and animals;
- j. A mathematical or business method
- k. A literary, dramatic, musical or artistic work or any other aesthetic creation whatsoever including cinematographic works and television productions;
- l. A mere scheme or rule or method of performing mental act or method of playing game;
- m. A presentation of information;
- n. An invention which in effect, is traditional
- o. An invention relating to atomic energy



## **XV. Compulsory Licenses**

- ❑ After the expiration of three years -
  - (a) reasonable requirements not met with
  - (b) not available at a reasonably affordable price
  - (c) not worked in the territory of India

## **XVI. Important Patents in the History**

1. Cotton Gin (Eli Whitney - 1794) – to separate cotton fiber from seed
2. Electric Motor (Nicola Tesla - 1837)
3. Light Bulb (Thomas Edison- 1880)
4. Airplane (Wright Brothers - 1906)

## **XVII. INDUSTRIAL DESIGNS**

- Features of shape, configuration, pattern or ornaments.
- Three-dimensional features, such as the shape or configuration of an article, or of
- Two-dimensional features, such as patterns or ornaments.
- Term 10 years initially +5 years renewable

## **XVIII. Conditions of Design Registration**

- New or original
- Not disclosed to the public
- Significantly distinguishable from known designs
- Not scandalous or obscene
- Not contrary to public order or morality





## **XIX. TRADEMARK**

- Word
- Device
- Label
- Letters or numerals or any combination thereof.
- Combination of colors
- Shape of goods or their packaging
- Marks constituting a 3- dimensional sign applied to articles of commerce
- ▶ Nature – Territorial; Term - 10 years and can be renewed indefinitely

## **XX. Kinds of Trademarks**

- Marks on goods (Brand names)
- Service marks (includes Trade names)
- Certification trademark – ISO, ISI, AGMARK
- Collective marks – CA, ADVOCATE, DOCTOR, ENGINEER
- Well known marks (super brands)

## **XXI. Geographical Indications (GI)**

- Quality
- Reputation
- Characteristics
  - Agricultural goods
  - Natural goods or Manufactured goods
- ▶ Term 10 years – renewable indefinitely

Eg: Kancheepuram saree, Aranmula Kannadi, Kolapuri Chappal



## XXII. Trade Secrets

- Invention
- Idea
- Manufacturing Process
- Chemical Formula
- Recipe
- Client Database Etc.....

**Eg: Cocacola Recipe**

## XXIII. Benefits of IP

- ▶ Good fences make good neighbours
- ▶ Encourages innovation
- ▶ Encourages product development
- ▶ Technology Transfer
- ▶ Monetary gains to inventors

# ACTIVITIES - MAY, 2023



**Seminar on Taxation of 'Specified Entities' under the Income-tax Act  
Speaker - CA. Venugopal M V , Calicut - 03.05.2023**



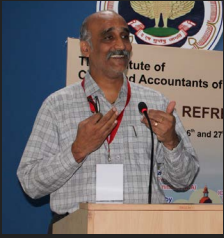
**Seminar on Reassessments Under New Scheme Issues and Procedures  
Speaker - CA. Rajagopalakrishnan R., Calicut - 10.05.2023**





**One Day Workshop on RERA**  
**Committee on Commercial Laws, Economic Advisory & NPO Cooperative of ICAI.**  
**Speakers - CA Ramesh S. Prabhu, Mumbai & Mr. P H Kurian IAS (Retd.), Chairman K-RERA- 06.05.2023**





**3 Days Residential Refresher Course (RRC), Organised by CPE Committee of ICAI. Jointly hosted by Kozhikode and Mysore Branches of SIRC**  
**Speakers - CA. Pattabhi Ram, CA. Neeraj Mitran, CA. Madhukar N. Hirengage, CA. Jatin Christopher, CA. M.P. Vijay Kumar, CA. Mohan R. Lavi, - 25.05.2023 to 26.05.2023**



# UPCOMING PROGRAMMES JUNE, 2023

**4**

CA Sports Day at Exclusive Club, Kozhikode

**5**

World Environmental Day celebration  
Event Inauguration : Sri. Ahamed Devarkovil,  
Minister of Ports, Museums & Archaeology,  
Govt. of Kerala  
Distribution of Tree Saplings to members and students

**8**

CPE Seminar on Intellectual Property Right Laws and Some Points on  
Drafting Ideas at ICAI Bhawan, Kozhikode.  
Speaker : Adv. Muhammed Suneer V P, Calicut

**16**

Two Day Seminar on Direct Taxes

**17**

Organised by Direct Taxes Committee of ICAI  
Venue : Hotel Paramount Tower, Town Hall Road, Kozhikode

**21**

International Yoga Day celebration  
Yoga Session for Members at 7:30 AM

**26**

Branch Formation Day 2023

**27**

MSME Program



## HOLIDAYS - JUNE, 2023

Date & Day	Particulars
28.06.2023 - Wednesday	Bakrid

### Contributions to e-newsletter

Contributions in the form of articles, poems, jokes, travelogues etc. are invited from members for consideration in the monthly e-Newsletter. Interested members may email their contribution to [icaikoznewsletter@gmail.com](mailto:icaikoznewsletter@gmail.com) along with name, membership number and mobile number.

