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Workshop on Intellectual Property Rights

What is meant by Intellectual Property Rights (IPR)?

IPR are the legally recognized exclusive rights to creation of the mind.

They refer to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. They are intangible (not having physical presence) assets.



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SOME TERMS

Intellectual Property Rights (IPR) [as Patent Cooperation Treaty 19-6-1970]

World Trade Organisation (WTO) 1-1-1995

Trade Related Aspects of Intellectual Property Rights (TRIPS) 1-1-1995

World Intellectual Property Organization (WIPO) 26-4-1970

International Union for the Protection of New Varieties of Plants (UPOV) 1961



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What is the World Intellectual Property Organization?

Established in 1970, the World Intellectual Property Organization (WIPO) is an international organization dedicated to helping ensure that the rights of creators and owners of intellectual property are protected worldwide, and that inventors and authors are therefore recognized and rewarded for their ingenuity (originality, inventiveness).



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Industrial Property includes patents for inventions, trademarks, industrial designs and geographical indications.

Copyright covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design.



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Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.



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Intellectual property rights allow creators, or owners, of patents (a right or title for a set period to exclude others from making, using, or selling an invention), trademarks or copyrighted works to benefit from their own work or investment in a creation.



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These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.



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Why promote and protect intellectual property?

There are several compelling reasons:

First, the progress and well-being of humanity rests on its capacity to create and invent new works in the areas of technology and culture.



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Second, the legal protection of new creations encourages the commitment of additional resources for further innovation.

Third, the promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.



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The intellectual property system:

1. Helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish, for the benefit of all.
2. Serves as a catalyst for economic development and social and cultural well-being.



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How does the average person benefit from IPR?

Intellectual property rights reward creativity and human endeavor, which fuel the progress of humankind.

Some examples:

The multibillion dollar film, recording, publishing and software industries – which bring pleasure to millions of people worldwide – would not exist without copyright protection.



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Without the rewards provided by the patent system, researchers and inventors would have little incentive to continue producing better and more efficient products for consumers.

Consumers would have no means to confidently buy products or services without reliable, international trademark protection and enforcement mechanisms to discourage counterfeiting and piracy.



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What kinds of inventions can be protected?

An invention must, in general, fulfill the following conditions to be protected by a patent.

It must be of practical use; it must show an element of “novelty”, meaning some new characteristic that is not part of the body of existing knowledge in its particular technical field. That body of existing knowledge is called “prior art”.



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The invention must show an “inventive step” that could not be deduced (realized) by a person with average knowledge of the technical field.

Its subject matter must be accepted as “patentable” (meets the relevant legal conditions to be granted a patent) under law.



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A patent provides patent owners with protection for their inventions. Protection is granted for a limited period, generally 20 years.

What kind of protection do patents offer?

Patent protection means an invention cannot be commercially made, used, distributed or sold without the patent owner's consent.



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Patent rights are usually enforced in courts that hold the authority to stop patent infringement (violation).

On the other hand, a court can also declare a patent invalid upon a successful challenge by a third party.

A patent owner has the right to decide who may – or may not – use the patented invention for the period during which it is protected.



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Patent owners may give permission to, or license, other parties to use their inventions on mutually agreed terms.

Owners may also sell their invention rights to someone else, who then becomes the new owner of the patent.

Once a patent expires, protection ends and the invention enters the public domain.



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How is a patent granted?

The first step in securing a patent is to file a patent application with the title of the invention, as well as an indication of its technical field.

It must include the background and a description of the invention, in clear language and enough detail that an individual with an average understanding of the field could use or reproduce the invention.



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Such descriptions are usually accompanied by visual materials – drawings, plans or diagrams – that describe the invention in greater detail.

The application also contains various “claims”, that is, information to help determine the extent of protection to be granted by the patent.



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What is a trademark?

A trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company.

Its origin dates back to ancient times when craftsmen reproduced their signatures, or “marks”, on their artistic works or products of a functional or practical nature.



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Over the years, these marks have evolved into today's system of trademark registration and protection.

The 10 most valuable trademarks in 2011:

Google, Microsoft, Walmart, IBM, Vodafone, Bank of America, GE, Apple, Wells Fargo, AT&T.

<https://www.forbes.com/sites/seanstonefield/2011/06/15/the-10-most-valuable-trademarks/#45de004936b8>



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The 10 most valuable trademarks in 2019:

Apple, Google, Amazon, Microsoft, Coca-Cola, Samsung, Toyota, Mercedes Benz, McDonald's, Disney.

<https://www.businessinsider.in/slideshows/miscellaneous/these-are-the-top-10-brands-in-the-world-in-2019-facebook-isnt-one-of-them-/10-disney-brand-value-44-3-million/slideshow/71647316.cms>



The Top 100 Most Valuable Brands in 2020

Companies by Brand Valuation Around the World

Industry



Article & Sources:
<https://howmuch.net/articles/top-100-most-valuable-brands-2020>
 Brand Finance - <https://brandirectory.com>



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What do trademarks do?

Trademark protection ensures owners exclusive right to use them to identify goods or services - authorize others to use them in return for payment.

The period of protection varies, but can be renewed indefinitely upon payment of the corresponding fees.

Trademark is legally enforced by courts that can stop trademark infringement.



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What are industrial designs and why protect them?

Industrial designs are what make an article attractive and appealing; they add to the commercial value of a product and increase its marketability.

Once a design is registered, the term of protection granted is generally 5 years. It can be renewed in most cases for a period of up to 15 years.



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Generally, industrial design protection is limited to the country in which protection is granted.

But, “The Hague Agreement” concerning the International Registration of Industrial Designs, a WIPO (World Intellectual Property Organization) administered treaty, offers a procedure for international registration of designs.



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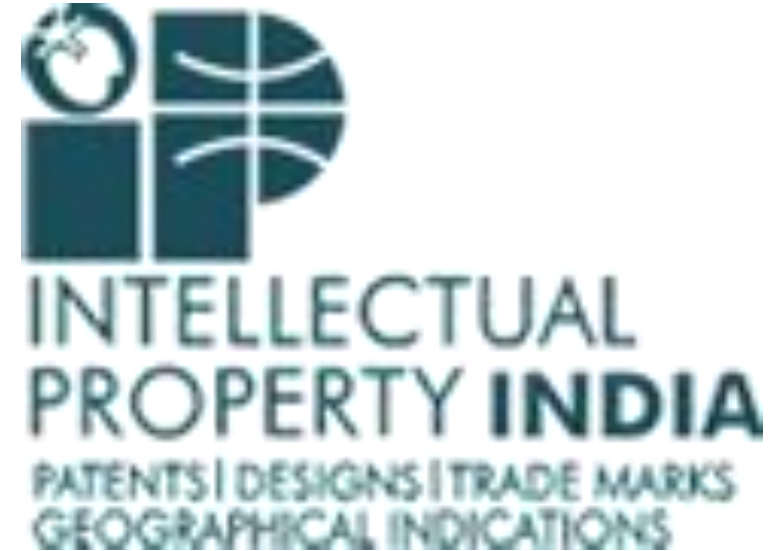
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Applicants can file a single international application either with WIPO or the national or regional office of a country party to the treaty.

The design will then be protected in as many member countries of the treaty as the applicant designates.



Trade Marks Registry,
Boudhik Sampada
Bhavan, S. M. Road,
Antop Hill,
Mumbai – 400 037.



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What is a Geographical Indication?

A geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin.

Most commonly, a geographical indication consists of the name of the place of origin of the goods.



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For example, “Tuscany” for olive oil produced in a specific area of Italy, or “Roquefort” for cheese produced in that region of France.

Darjeeling Tea, Kancheepuram Silk, Srikalahasthi Kalamkari, Mysore Sandal soap, Kondapalli Bommallu, Machilipatnam (Pedana) Kalamkari, Santiniketan Leather Goods, Uppada Jamdani Sarees (The name Jamdani Sari is a Persian terminology, in which Jam means flower and Dani means Vase), Banaras Brocades and Sarees, Guntur Sannam Chilli, Gadwal Sarees, Araku Valley Arabica Coffee.



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What are Copyright and Related Rights?

Copyright laws grant authors, artists and other creators protection for their literary and artistic creations, generally referred to as “works”. Rights related to copyright encompass rights similar or identical to those of copyright, although sometimes more limited and of shorter duration.



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The beneficiaries of related rights are:

Performers - as actors and musicians - producers of phonograms (for example, compact discs); and broadcasting organizations in their radio and television programs.

Works covered by copyright include, but are not limited to: novels, poems, plays, reference works, newspapers, advertisements, computer programs, databases, films, musical compositions, choreography, paintings, drawings, photographs, sculpture, architecture, maps and technical drawings.



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The right holder(s) of a work can authorize or prohibit:

- its reproduction in all forms, including print form and sound recording;
- its public performance and communication to the public; its broadcasting;
- its translation into other languages; and
- its adaptation, such as from a novel to a screenplay for a film.



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How does WIPO promote the protection of intellectual property?

As part of the United Nations system of specialized agencies, WIPO serves as a forum for its Member States to establish and harmonize rules and practices for the protection of intellectual property rights.



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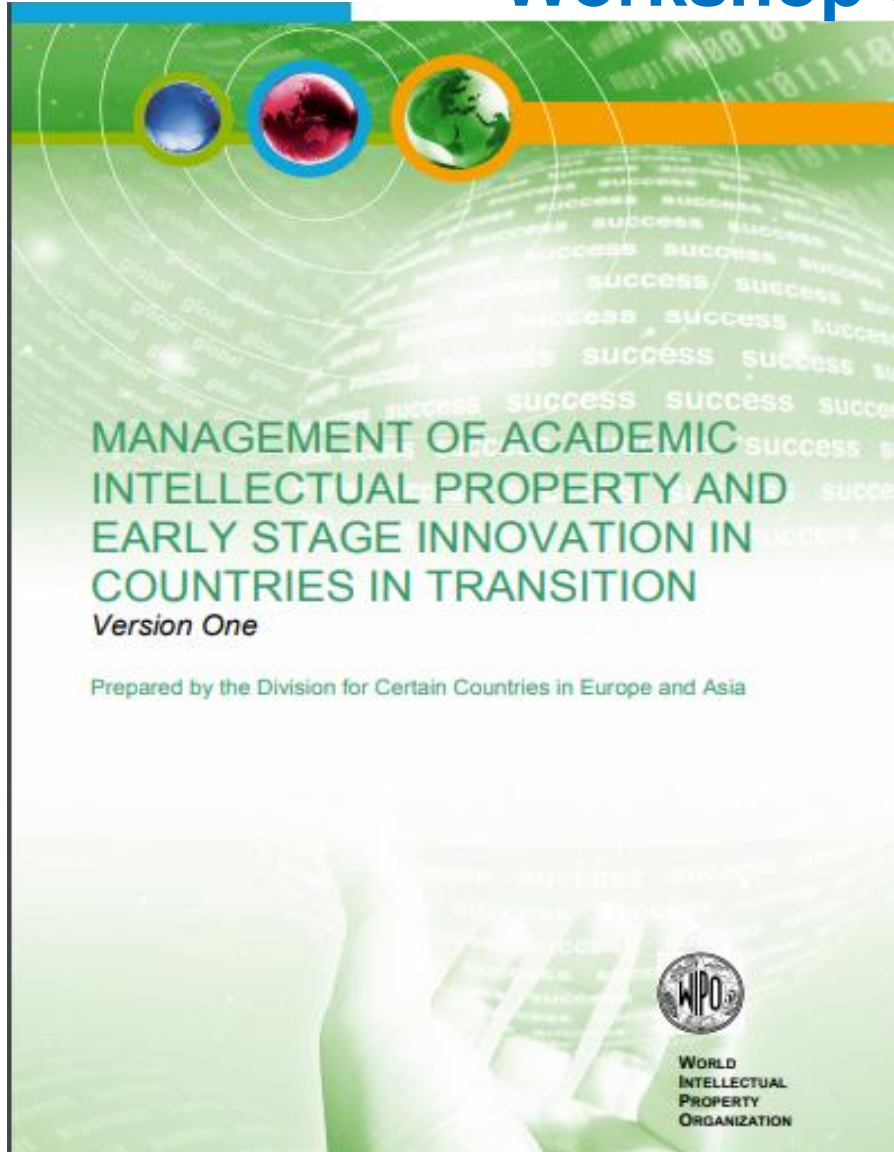


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Even at the earliest stage of research there is a need for an understanding of IPRs, in two senses.

First, researchers need to understand the IPRs context in which they are conducting their research so as to be aware of existing IPRs covering the area within which they are undertaking research.

Second, the IPR potential of research needs to be understood as early as possible to ensure that IPRs are not inadvertently lost or compromised by way of premature publication for example.



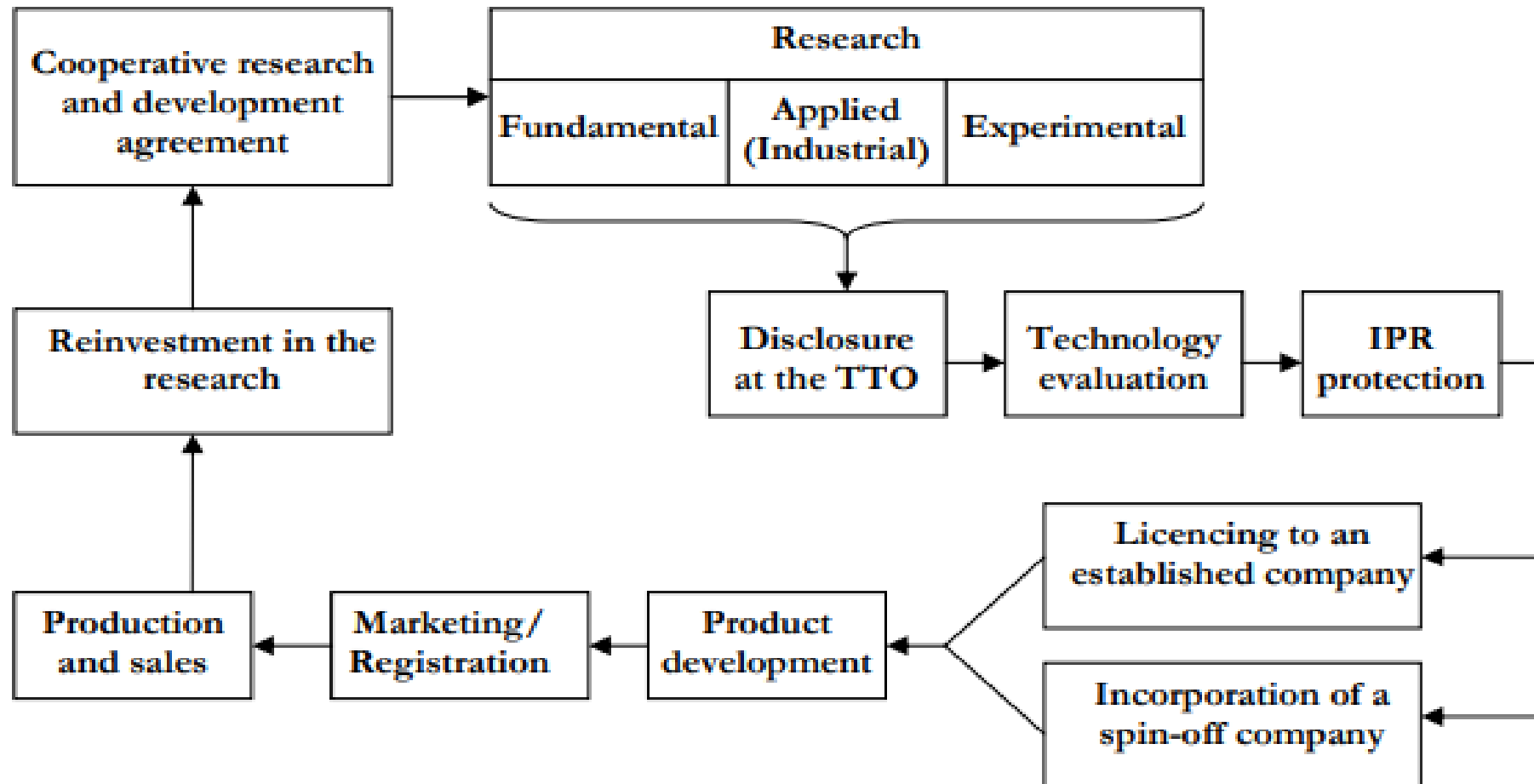


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The simplified process of technology transfer at universities





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The idea of E- Theses and Dissertations (ETD) is coming up in International scenario, which can be easily located, readily accessible and delivered over the web.

Universities can start collecting e-format of theses, creating a digital archive for easy access. But in terms of access, still only a minimum majority is favoring online global access to Indian research.

This may be because of Copy Right Issues, Chances of Plagiarism and Poor Quality in Research, which may be solved through policy frameworks and enhancing standards through national agencies like UGC.



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- Plagiarism is Using others' language, thoughts, ideas, or expressions as one's own original work.
- Plagiarism is considered academic dishonesty and a breach of journalistic ethics.
- It is subject to sanctions such as penalties, suspension, expulsion from school / college / university or work, substantial fines and even imprisonment.
- See this also: <https://www.mondaq.com/india/education/845682/what-do-academicians-need-to-know-about-plagiarism-and-ugc-regulations-2018>



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The UGC through its regulations:

https://www.ugc.ac.in/pdfnews/7771545_academic-integrity-Regulation2018.pdf

wishes to create awareness about responsible conduct of research, thesis, dissertation, promotion of academic integrity and prevention of misconduct including plagiarism in academic writing among student, faculty, researcher and staff.

There should be an institutional mechanism through education and training to facilitate responsible conduct of research, thesis, dissertation, promotion of academic integrity and deterrence from plagiarism.



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Here are four of the most famous intellectual property disputes between world-renowned company brands: <https://www.edology.com/blog/law-criminology/4-famous-intellectual-property-cases/>

1. In 2000, A&M Record Inc. and superstars including Dr. Dre and Metallica, won significant lawsuits against Napster citing copyright infringement on an unrivalled scale.
2. In 2007, the high-end signature hand-bag and luggage maker, Louis Vuitton Malletier, lost an outrageous copyright infringement case against comedy fashion company Haute Diggity Dog.
3. Mattel Inc., creators of the Barbie doll, won a huge case against rival toy doll maker, MGA Entertainment Inc. back in 2008.
4. In 2011, Naruto, a curious macaque monkey in Indonesia picked up nature photographer David Slater's camera and took one of the most famous selfies in recent years.