

Intellectual Property Rights PYQ 2020

Q1. Write the definition of GI and briefly explain Appellation of Origin? Name one agricultural, handicraft and industrial product which are under GI and briefly explain about them.

Ans. Geographical Indication (GI):

A Geographical Indication (GI) is a form of intellectual property right that identifies a product as originating from a specific geographical location, where a particular quality, reputation, or other characteristic of the product is essentially attributable to its geographical origin. GIs are used to protect the unique qualities and reputation of products that are deeply rooted in their place of origin.

Appellation of Origin:

An Appellation of Origin is a subcategory of GI that places even stricter requirements on the geographical origin of a product. It not only links the quality or characteristics of the product to its geographical location but also implies that the unique qualities are exclusively or essentially due to the geographic environment, including natural and human factors. Products with an Appellation of Origin are typically deeply tied to the culture, traditions, and expertise of the specific region.

Examples of Products under GI and Appellation of Origin:

- 1. Agricultural Product - Champagne (Appellation of Origin):** Champagne is a famous sparkling wine produced in the Champagne region of France. The Appellation of Origin "Champagne" is one of the most well-known examples of GI. To bear the label "Champagne," the wine must be produced within the Champagne region, using specific grape varieties and traditional methods. The unique characteristics of Champagne, including its effervescence and flavor profile, are closely linked to the terroir of this region.
- 2. Handicraft Product - Kutch Embroidery (Geographical Indication):** Kutch Embroidery is a traditional handicraft from the Kutch region of Gujarat, India. It involves intricate hand embroidery on textiles, often using mirror work and vibrant colors. The GI status ensures that products labeled as "Kutch Embroidery" are made within this specific region and adhere to the traditional techniques and designs. The cultural significance and craftsmanship associated with Kutch Embroidery are closely tied to its geographical origin.
- 3. Industrial Product - Solingen Knives (Geographical Indication):** Solingen is a city in Germany renowned for its high-quality blades and cutlery. Products like Solingen knives, scissors, and razors have gained international recognition for their craftsmanship and durability. The GI protection ensures that products labeled as "Solingen" are manufactured in this region, using the expertise and traditions that have been passed down for generations. The reputation of Solingen as a hub for quality blades is inseparable from its geographical origin.

In all these cases, GI or Appellation of Origin status not only protects the reputation and quality of the products but also promotes the economic well-being of the specific regions by preserving traditional production methods and encouraging responsible use of the geographical name.

Q2. Is it true that Industrial Design needs three forms of IPRs to protect them? If Yes, then explain with one example.

Ans. Yes, it is true that industrial design often requires the use of three forms of intellectual property rights (IPRs) to provide comprehensive protection. **These three forms of IPRs are:**

- 1. Copyright:** Copyright protects the original artistic or creative elements of a design. In the context of industrial design, it typically covers two-dimensional representations of the design, such as drawings, sketches, and plans. Copyright protects against direct copying of these representations.
- 2. Design Patents:** Design patents protect the ornamental or aesthetic aspects of a functional object. They grant exclusive rights to make, use, and sell the design for a specified period, typically around 15 to 20 years. Design patents are particularly valuable for protecting the unique visual appearance of a product.
- 3. Trademark:** Trademarks protect brand names, logos, and symbols associated with products or services. In the context of industrial design, trademarks can be used to protect specific visual elements that are strongly associated with a product or brand. While not the primary form of protection for the design itself, trademarks play a crucial role in protecting a design's market identity.

Example: The Coca-Cola Bottle

One classic example of a product that benefits from the use of all three forms of IPRs is the Coca-Cola bottle.

Copyright: The original design sketches and drawings of the Coca-Cola bottle may be protected by copyright. The distinctive script logo and label design also have copyright protection.

Design Patents: Coca-Cola has historically used design patents to protect the unique contour shape of its bottle. The contour bottle design is instantly recognizable and sets Coca-Cola apart from other soft drink brands.

Trademark: The Coca-Cola Company has registered its brand name, the script logo, and the shape of the bottle as trademarks. The shape of the bottle, in particular, has become so iconic that it is instantly associated with Coca-Cola.

By employing all three forms of IPRs—copyright for design drawings, design patents for the bottle shape, and trademarks for the brand elements—Coca-Cola has created a comprehensive protection strategy that safeguards the distinctiveness, appearance, and identity of its product. This multi-faceted approach has helped Coca-Cola maintain its market presence and fend off imitators for over a century.

Q3. Discuss the objectives and significances of Biotech Patenting and Moral Issues related to it.

Ans. Objectives of Biotech Patenting:

Biotech patenting, a subset of intellectual property law, serves several key objectives:

- 1. Incentivizing Innovation:** Patents provide inventors and biotech companies with exclusive rights to their inventions for a limited period, typically 20 years. This exclusivity incentivizes investment

in research and development, as it allows innovators to recoup their investments and potentially profit from their discoveries.

- 2. Fostering Investment:** Biotech research often involves substantial financial investment and risk. Patents enable companies to secure funding by demonstrating their ability to protect their innovations, making it more attractive for investors to support groundbreaking research.
- 3. Promoting Disclosure:** Patent applications require inventors to disclose their inventions in detail, including how they work and how they are made. This disclosure contributes to the dissemination of knowledge, helping others build upon existing innovations and advance scientific understanding.
- 4. Commercialization:** Patents enable inventors and companies to commercialize their biotechnological innovations by licensing the technology to other organizations or by using it as a basis for new products and therapies.

Significances of Biotech Patenting:

- 1. Advancing Medical Research:** Biotech patents have played a pivotal role in the development of life-saving drugs, vaccines, and medical treatments. They facilitate the translation of scientific discoveries into practical applications for improving human health.
- 2. Economic Growth:** Biotechnology is a significant driver of economic growth. Patented innovations create jobs, generate revenue, and stimulate economic activity in the biotech industry.
- 3. Global Competitiveness:** Patent protection allows biotech companies to compete on a global scale. It encourages the development of cutting-edge technologies and positions countries at the forefront of biotechnological advancements.
- 4. Innovation Ecosystem:** Biotech patents contribute to a robust innovation ecosystem by fostering collaboration between academia and industry. Researchers often work closely with companies to bring their discoveries to market, leveraging patent protection to ensure their intellectual property is respected.

Moral Issues Related to Biotech Patenting:

Biotech patenting also raises important moral and ethical considerations:

- 1. Access to Healthcare:** Some argue that the high cost of patented biotech products and treatments can limit access to essential healthcare for those who cannot afford them. This issue highlights the ethical dilemma of balancing profit incentives with ensuring access to life-saving therapies for all.
- 2. Monopoly Power:** Critics argue that biotech patents can grant companies monopoly power over certain technologies or treatments, which can stifle competition and hinder the development of affordable alternatives.
- 3. Ethical Use of Biotechnology:** Biotech patents may cover inventions related to genetic engineering, cloning, and other controversial areas of biotechnology. This raises questions about the ethical use of such technologies and the potential for misuse or unintended consequences.
- 4. Biopiracy:** Biopiracy refers to the unethical appropriation of genetic resources or traditional knowledge from indigenous communities. Some argue that patents on biological materials or processes can enable biopiracy and undermine the rights and interests of indigenous peoples.
- 5. Patent Thickets:** In some cases, the accumulation of numerous patents around a particular technology or area of biotech can create what is known as a "patent thicket." This can lead to legal conflicts, hinder innovation, and impede research.

Balancing the need to incentivize biotech innovation through patents with ethical considerations related to access, fairness, and responsible research is an ongoing challenge for policymakers, bioethicists, and society as a whole. Finding a middle ground that promotes innovation while addressing moral issues is essential to the responsible development of biotechnology.

Q4. Integrated Circuit comes under which form of IPR and why it need protection both in Patent and Copyright. Discuss Hybrid Law for that.

Ans. Integrated circuits, commonly known as microchips or semiconductors, typically come under the form of intellectual property rights (IPR) known as Integrated Circuit Layout Design Protection. This form of protection is distinct from patents and copyrights and is specifically designed to safeguard the layout and design of integrated circuits.

Here's why integrated circuits need protection through both patents and copyright and how hybrid law can be applied:

1. Patents for Functional Aspects:

Integrated circuits often contain inventive and functional aspects that can be protected through patents. These functional aspects may include new circuit architectures, novel manufacturing processes, or innovative features that enhance the performance or functionality of the circuit. Patents provide exclusive rights to make, use, and sell the patented inventions for a limited period (usually 20 years), which encourages innovation and investment in the semiconductor industry.

2. Copyright for Artistic and Creative Aspects:

While integrated circuits primarily serve functional purposes, there are often artistic and creative elements associated with their design. These elements may include graphical representations of the circuit layout, artistic patterns, or design choices that are not purely functional but contribute to the aesthetics or branding of the circuit. Copyright protection can be sought for these non-functional, creative aspects, as copyright covers original works of authorship. This dual protection ensures that both the functional and creative elements of the integrated circuit are safeguarded.

Hybrid Law for Integrated Circuits:

The hybrid approach involves leveraging both patent and copyright protections to cover different aspects of an integrated circuit's design. This is particularly important in the semiconductor industry, where both functionality and aesthetics are critical. **Here's how it works:**

Patent Protection: Seek patents for the functional and innovative aspects of the integrated circuit. This can include the circuit's unique architecture, manufacturing processes, and any novel features that enhance performance or functionality.

Copyright Protection: Register copyrights for any creative and non-functional elements of the integrated circuit's design. This can encompass graphical representations, decorative patterns, or artistic choices that are original and add value to the circuit.

By combining patent and copyright protections, semiconductor manufacturers can ensure comprehensive coverage for their integrated circuits. This approach recognizes that integrated circuits are complex creations that often involve both technical innovation and creative design.

It's worth noting that this hybrid approach may require careful consideration of the boundaries between patentable functional elements and copyrightable creative elements. Intellectual property lawyers and experts in the field play a crucial role in determining the most appropriate strategy for protecting integrated circuits while complying with relevant intellectual property laws and regulations.

Q5. Indian Trademark Law ensure the Protection of goodwill of a product in the market. Discuss the need and measures of Protection.

Ans. Indian Trademark Law indeed plays a vital role in ensuring the protection of the goodwill of a product in the market. Goodwill refers to the reputation and positive associations that consumers have with a particular brand or product. Protecting goodwill is crucial for businesses as it helps maintain consumer trust, brand recognition, and market competitiveness. **Here's a discussion on the need for protection and the measures involved:**

Need for Protection:

- 1. Consumer Confidence:** Goodwill is built over time through consistent quality and positive consumer experiences. When consumers see a familiar trademark on a product, they are more likely to trust its quality and make repeat purchases.
- 2. Brand Recognition:** A strong trademark helps a product or service stand out in a crowded marketplace. It allows consumers to easily identify and choose products they are familiar with.
- 3. Competitive Advantage:** Protecting goodwill through trademarks prevents competitors from using similar marks or imitating the brand's image, reducing consumer confusion and ensuring a competitive edge.
- 4. Asset Value:** A well-established trademark with strong goodwill can be a valuable intangible asset for a business. It can be licensed, franchised, or sold, adding to the company's overall value.

Measures of Protection under Indian Trademark Law:

- 1. Trademark Registration:** Registering a trademark with the Indian Trademarks Registry provides exclusive rights to use the mark for the specified goods or services. This registration acts as a legal safeguard against unauthorized use and helps protect the goodwill associated with the brand.
- 2. Trademark Renewal:** Trademark protection in India is granted initially for ten years and can be renewed indefinitely as long as the mark is in use. Regular renewal ensures that the goodwill associated with the brand remains protected over time.
- 3. Enforcement:** Trademark owners can take legal action against any unauthorized use, infringement, or counterfeiting of their trademark. This includes seeking injunctions, damages, and the destruction of counterfeit goods.
- 4. Monitoring and Surveillance:** Businesses should actively monitor the market to detect any unauthorized or infringing use of their trademark. This involves market research, online monitoring, and cooperation with customs authorities to prevent the importation of counterfeit goods.

5. **Licensing and Franchising:** Licensing the trademark to others can be a way to expand the brand's reach while maintaining control over its use. This allows businesses to capitalize on their goodwill in new markets and product categories.
6. **Brand Protection Strategies:** Developing comprehensive brand protection strategies, including trademark portfolio management, is essential. This includes registering variations of the trademark, domain name registration, and protecting the trademark against dilution or tarnishment.
7. **Educating the Public:** Businesses can educate consumers about the importance of trademarks in ensuring product quality and authenticity. Public awareness campaigns can help reduce the demand for counterfeit or infringing products.

In conclusion, the protection of goodwill through trademarks is essential for maintaining consumer trust, brand recognition, and market competitiveness. Indian Trademark Law provides a robust framework for businesses to safeguard their brands and take legal action against any unauthorized use, ensuring that the goodwill built over time is protected and continues to contribute to the success of the business.

Q6. Do you think that 'Protection of Plant Varieties and Farmers' Rights Act, 2001' is helpful in protection of farmer and breeder rights, and promoting novelty in plant varieties? If Yes, explain.

Ans. The "Protection of Plant Varieties and Farmers' Rights Act, 2001" (PPVFR Act) in India is designed to provide protection to both plant breeders and farmers. It aims to encourage the development of new plant varieties, protect the rights of breeders, and safeguard the interests of farmers who have been traditionally conserving and using plant varieties. **Here's an assessment of how the PPVFR Act is helpful in protecting farmer and breeder rights and promoting novelty in plant varieties:**

Protection of Breeder Rights:

- a) **Encouragement of Innovation:** The PPVFR Act provides intellectual property protection to plant breeders, encouraging them to invest in research and development to create new and improved plant varieties. This protection incentivizes the development of novel plant varieties that can have better traits such as higher yield, disease resistance, or improved nutritional value.
- b) **Exclusive Rights:** Breeders are granted exclusive rights over their registered plant varieties. This means that no one can produce, sell, or distribute these varieties without the breeder's permission. This exclusivity helps breeders recover their investment in breeding programs.
- c) **Term of Protection:** The Act grants breeders a certain period of exclusive rights, typically 15 years for most crops. After this period, the plant variety enters the public domain, contributing to a pool of genetic resources that can be used for further breeding and innovation.

Protection of Farmer Rights:

- a) **Farmers' Rights:** The PPVFR Act recognizes and protects the rights of farmers who have traditionally saved, used, and exchanged seeds of protected plant varieties. It acknowledges their role in conserving genetic diversity and allows them to continue these practices.
- b) **Safeguards against Extensive Royalties:** The Act includes provisions to ensure that farmers are not burdened with excessive royalty payments for using protected varieties. It balances the interests of breeders with the rights of farmers.

Promoting Novelty in Plant Varieties:

- a) **Examination and DUS Testing:** To be eligible for protection under the PPVFR Act, a plant variety must be distinct, uniform, and stable (DUS). This encourages breeders to develop new and distinct varieties, which contributes to plant diversity and innovation.
- b) **Incentivizing Research:** By providing breeders with protection and potential financial rewards, the Act encourages investment in research and development, leading to the creation of novel plant varieties.
- c) **Facilitating Exchange of Plant Genetic Resources:** The Act also facilitates the exchange of plant genetic resources by establishing a National Gene Fund. This helps breeders access diverse genetic material for breeding purposes, promoting novelty in plant varieties.

In conclusion, the Protection of Plant Varieties and Farmers' Rights Act, 2001, serves the dual purpose of protecting the rights of both plant breeders and farmers while promoting the development of novel plant varieties. It provides a balanced framework that encourages innovation in plant breeding, ensures the rights of all stakeholders are respected, and contributes to the conservation of plant genetic resources. However, effective implementation and enforcement of the Act are crucial to realizing its full potential in protecting rights and promoting novelty in plant varieties.