

INTELLECTUAL PROPERTY RIGHTS



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LEGAL ENVIRONMENT OF BUSINESS

Intellectual Property

- Intellectual Property is a property that arises from the human intellect. It is a product of human creation.
- Intellectual property refers to creations of the mind: inventions, literary and artistic works, and symbols, names, and images used in commerce.

Intellectual Property

- ⦿ It is an intangible form of property.
- ⦿ It is a personal property.
- ⦿ It is a basic form of property.
- ⦿ It is based on information.

Objects of Intellectual Property

- The objects of the rights covered by the concept of intellectual property are manifestations of human creativity.
 - The form of the work;
 - The invention; and
 - The relationship between a symbol and a business.

Protected Intellectual Property

- ⦿ Invention by a patent or as trade secret.
- ⦿ Utility models by a certificate or secret.
- ⦿ Industrial Design by a certificate.
- ⦿ Trade and Service Mark by a certificate.
- ⦿ Copyright by reducing to a fixed form.

Why Protect Intellectual Property

- Protect investment in time, money or other resources used to create new contribution to technology, commerce and entertainment.
- Governments **encourage** Creators to **disclose** their creations to the public in order to promote the progress of science and useful arts which are the engines of development- investors demand this guarantee

Why Protect Intellectual Property

- ⦿ Fosters economic growth
- ⦿ Provides incentives for technological innovation, and
- ⦿ Attracts investment that will create new jobs and opportunities.

Intellectual Property Branches

- Industrial Property
- Copyright
- Plant breeders Rights (PBR).

Industrial Property

- Industrial Property Includes:

- ❑ Patents
- ❑ Utility Models
- ❑ Industrial Designs
- ❑ Trade Secrets
- ❑ Trade and Service Marks
- ❑ Geographical Indications
- ❑ Layout Designs of Integrated Circuits.



Copyright

© Copyright includes:

- Literary
- Artistic works
- Musical works



Other Forms Of Protection Being Considered

- Traditional Knowledge and Folklore
- Genetic resources



Patents

- ⦿ A patent describes an invention for which the inventor claims the exclusive right.
- ⦿ Invention is a new solution to “technical” problem. (product, process and new use)
 - ❑ It must be new
 - ❑ Have an inventive step
 - ❑ Be Industrially applicable

Patentable Subject Matter

- Human necessities: agriculture, foodstuff, tobacco, personal or domestic articles, health and amusement.
- Performing operations and transporting: separating, mixing, shaping, printing and transporting.
- Chemistry and metallurgy.
- Textiles and paper.

Patentable Subject Matter

- ⦿ Fixed constructions: building, earth moving and mining.
- ⦿ Mechanical engineering, lighting, heating, weapons, blasting including engines or pumps and engineering in general.
- ⦿ Physics: instruments and nucleonic.
- ⦿ Electricity.

Unpatentable Subject Matter

- ⦿ A discovery, scientific theory or mathematical method;
- ⦿ A literary, dramatic, musical or artistic work, or any other aesthetic creation;
- ⦿ A scheme, rule or method for performing any mental act, playing a game or doing business, or a program for a computer;
- ⦿ Mere presentation of information.

Unpatentable Subject Matter

- ⦿ Plant varieties, but not parts thereof or products or biotechnological processes;
- ⦿ Inventions contrary to public order, morality, public health and safety, principles of humanity, and environmental conservation; and
- ⦿ Any other invention that may be declared non-patentable by the Minister in charge of Industrial Property matters.

Industrial Design

- Industrial Design is the **ornamental or aesthetic** aspect of a useful article of industry. The aspect that gives **special appearance to a product** of industry

The Industrial Property Tribunal

- There exist the Industrial Property Tribunal which deals with hearing of IP matters, particularly evaluating and determining appeals from the decisions of the KIPI Managing Ddirector affecting grants.
- It handles disputes concerning patents, utility models, industrial designs.

Copyright

- Protection of cultural, artistic and literary written works such as poems, novels, articles, musical works, paintings, cinematographic work, photographic, sculpture and computer programs.

Trade and Service Marks

- A trade mark is a sign used on, or in connection with the marketing of, goods or services.
- Used “on” the goods means that it may appear not only on the goods themselves but on the container or wrapper in which the goods are when they are sold.

Trade and Service Marks

- Used “in connection with” the marketing of the goods refers mainly to:

- The appearance of the sign in advertisements (newspaper, television, etc.)

or

- In the shop windows of the shops in which the goods are sold.

Category of Trade Marks

● Certain types of marks should not be protected, Marks are categorized as:

- ❑ Generic,
- ❑ Descriptive,
- ❑ Suggestive, and
- ❑ Arbitrary or fanciful.

Category of Trade Marks

- Trade Mark cannot be categorized in a vacuum. It is essential to know the product or service to which the mark will be applied in order to place it in the proper category
- Example: ***APPLE*** is generic for apples, but arbitrary for computers.

Registration Procedure

- Application for search.
- Application for registration.
- Examination of trade mark.
- Advertisement of trade mark.
- Filing of opposition.
- Certificate issued/hearing set.

Goods Covered

- ◎ **18** Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- ◎ **24** Textiles and textile goods, not included in other classes; bed and table covers.
- ◎ **25** Clothing, footwear, headgear.

Goods Covered

- **29** Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.
- **30** Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.