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PROFESSIONAL OPPORTUNITIES IN IPR



JKPL



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Intellectual Property Rights

- ▶ IPR refers to creation of mind i.e. inventions, industrial designs, literary and artistic work, symbols etc. used in commerce.
- ▶ There are two categories :- Industrial property & copyright.
- ▶ Industrial property : Trademark, Patents etc.
- ▶ Copyright covers Artistic works, Literary works etc.

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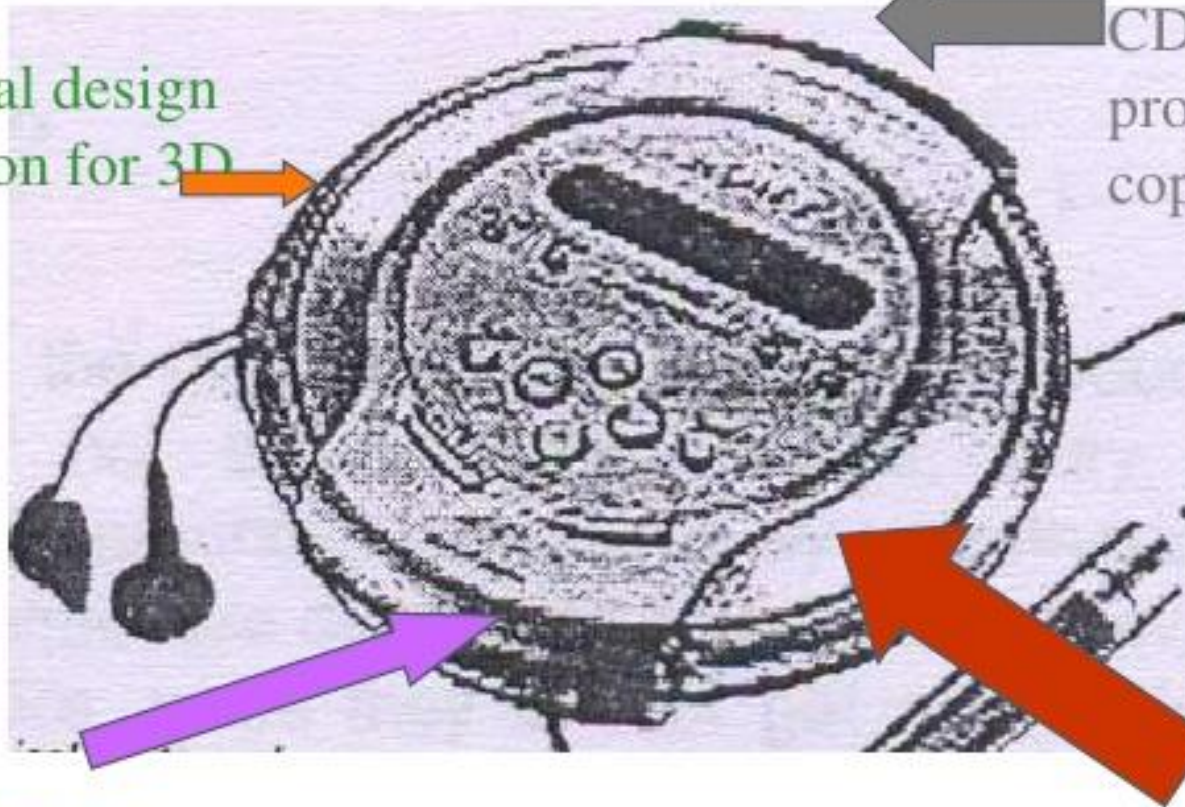
- ▶ Rights which can be used for protecting different aspects of an inventive work for multiple protection.
- ▶ Outlined in Article 27 of the Universal Declaration of Human Rights.
- ▶ IPR can be assigned, gifted, sold and licensed like any other property.

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- ▶ Intellectual Property Rights as a collective term includes the following independent IP rights :
 - a) Trademark
 - b) Geographical Indications
 - c) Patent
 - d) Copyright
 - e) Industrial Design

CD PLAYER

Industrial design protection for 3D shape



Music played on the CD player is protected by copyright

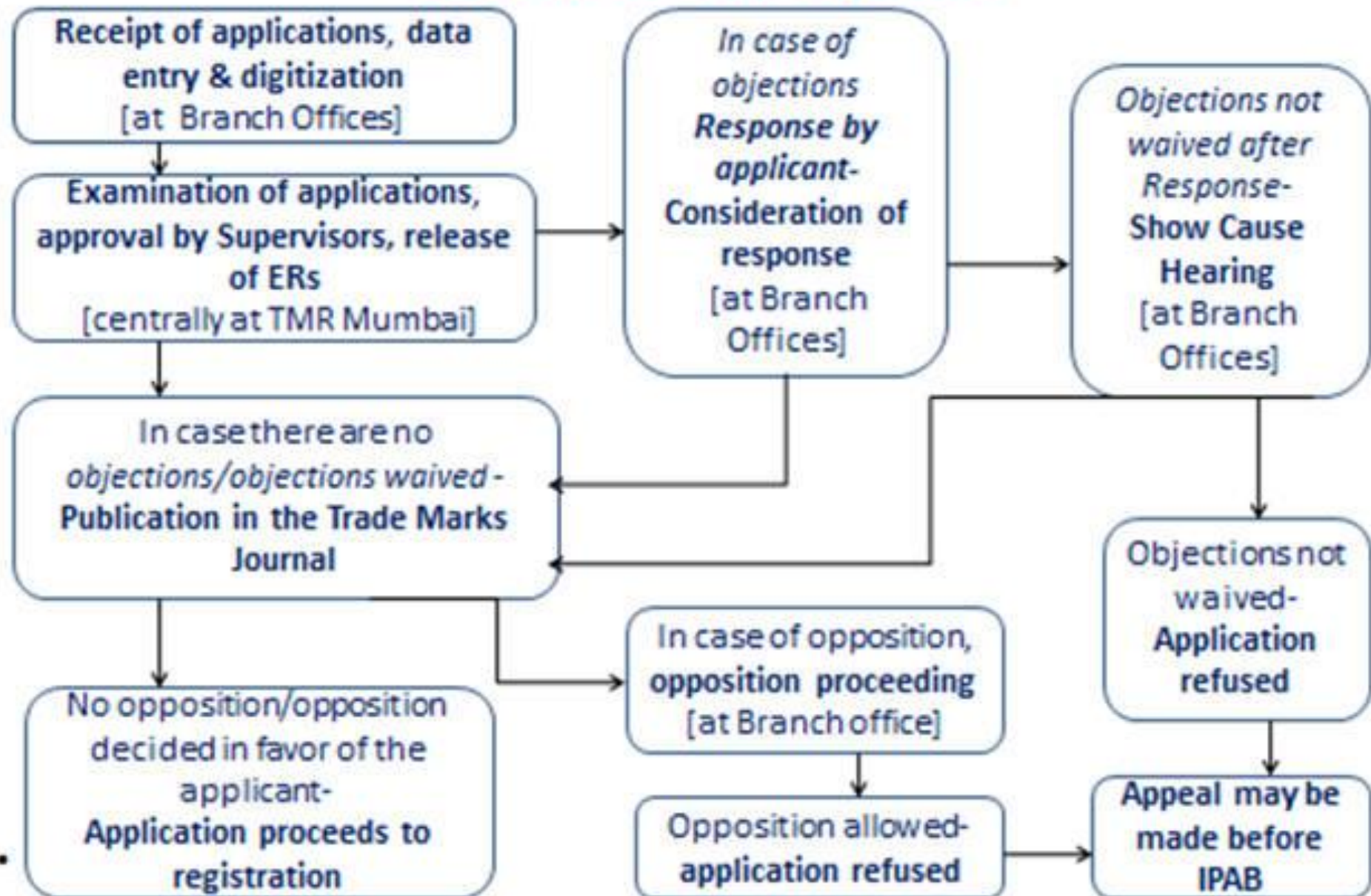
Various technical parts & mechanisms are subject matter of protection under Patents

Brand name- registered under trademark

Trademark

- ▶ It is a distinctive sign that provides to the owner of the mark by ensuring the exclusive right to use it to identify goods and services.
- ▶ Well-known Trademark, Associated Trademarks, Service Marks, Certification Trademark, Collective Mark.
- ▶ Term of Registered Trademark : 10 years and Renewable.
- ▶ International classification of Goods and Services(Nice classification).

Office actions in processing applications for registration of trademarks

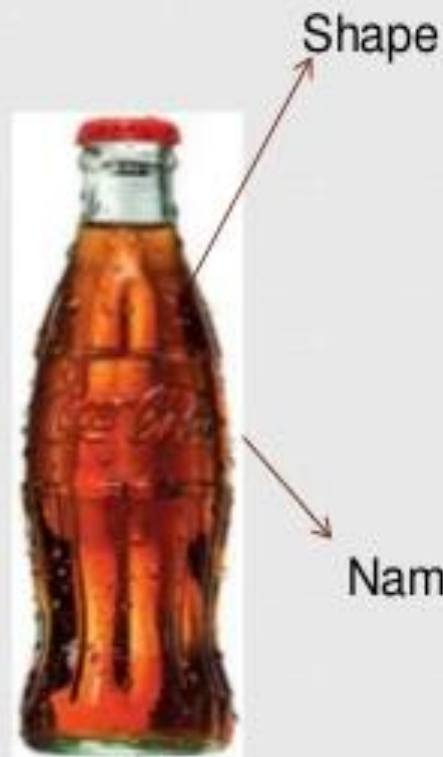


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- ▶ It is governed by Trademark Act, 1999 and Trademark Rules, 2002.
- ▶ To be registrable, the mark must be distinctive, and capable of being represented graphically.
- ▶ The main purpose of trade mark law is to serve as an indicator of trade origin.
- ▶ Prohibiting use of someone else Trademark as a part of Corporate name or a name of business concern under Sec 16(1)(b) of Companies Act, 2013.

Trademark

Different types of Trademarks -



Geographical Indications

- ▶ A sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin.
- ▶ Registration of a Geographical Indication is for 10 years and is renewable.
- ▶ It is correctly said “Every region has its claim to fame.”

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- ▶ The Act would be administered by the Geographical Indications of Goods (Registration and Protection) Act, 1999.
- ▶ The Geographical Indications Registry is located at Chennai.
- ▶ Examples of possible Indian Geographical Indications.
 - Ø Darjeeling Tea
 - Ø Kanchipuram Silk Saree
 - Ø Alphanso Mango



AGRA KA PETHA



BANARASI SAREE



BIKANERI SEV

PATENT

- ▶ An exclusive right granted by a country to the owner of an invention to make, use, manufacture and market the invention.
- ▶ The patent right is territorial in nature.
- ▶ Separate patents should be obtained in each country where the applicant requires protection of his invention in those countries. There is no patent valid worldwide.

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- ▶ It is possible to file an international application known as PCT(Patent Cooperation Treaty) application in India in the Patent Offices located at Kolkata, Chennai, Mumbai and Delhi.
- ▶ Patent can be renewed up to total of 20 years.
- ▶ It is governed by Patent Act 1970.

Figure J

PATENTABILITY CRITERIA



Industrial Designs

- ▶ The ornamental or Aesthetic aspects of an article which may consist of 3D or 2D features, such as shape or surface, patterns, lines or color.
- ▶ It makes an article attractive and appealing; hence, they add to commercial value of product and increase its marketability.
- ▶ Any technical features of the article not protected by it.

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- ▶ Applicant can file a single international application either with WIPO or the national or the regional office of the country party of the treaty.
- ▶ The design should be new or original, not previously published or used on any country before Registration.
- ▶ Total term of a registered design is 10 years + 5 years Extended period.



Copyright

- ▶ A right, which is available for creating an original literary or dramatic or musical or artistic work.
- ▶ It is governed by Copyright Act, 1957 and Copyright Rules, 2013.
- ▶ Registration can be done at the office of the Registrar of copyright in New Delhi.

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- ▶ Protection of an Expression of an idea and not for the idea it self.
- ▶ The owner may assign to any person the copyright.
- ▶ The work is open for public inspection once the copyright is registered.
- ▶ A provision of 'fair Use' in the law, which allows copyrighted work to be use for teaching and research and development.

What is covered by copyright?

Literary



Films



Dramatic



Musical



Artistic



Sound Recording



INFRINGEMENT

- ▶ Any reproduction, use, distribution, performance, etc. of the work without the permission of the owner.
- ▶ An identical or substantial similar reproduction is also covered.
- ▶ Infringement- damages- Injunction.

WIPO

- ▶ WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. They are self-funding agency of the United Nations, with 193 member states.
- ▶ Their mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all member states.
- ▶ The Madrid Protocol is a treaty providing for the international registration of trade marks. It is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva.
- ▶ The Madrid System is a convenient and cost-effective solution for registering and managing trademarks worldwide. File a single application and pay one set of fees to apply for protection in up to 122 countries. Modify, renew or expand your global trademark portfolio through one centralized system.

How the Madrid System Works

The International Trademark Registration Process



Professional Opportunities

- ▶ Brand Management.
- ▶ Professional Services in relation to IPR application Filling, Renewals.
- ▶ Brand Development.
- ▶ Start up in IPR.
- ▶ IPR Valuations. (South Korea's Lotte Confectionery to buy Havmor's ice cream business for Rs 1,020 crore)
- ▶ IPR Assignments.
- ▶ Assist in IPR Litigation Matters.
- ▶ Advice to client on IPR Matters.
- ▶ Rectification of Name of Company u/s 16 of Companies Act, 2013.
- ▶ GST and Brand Registration.
- ▶ Registered Trademark and Name approval at ROC.

CASE STUDIES

- ▶ **M/s Bikanerwala v. M/s Aggarwal Bikanerwala.**
- ▶ **Rasiklal Manickchand Dhariwal & V/s M/S M.S.S.Food Products.**
- ▶ **Rasna Hotel's Pvt. Ltd. V/S Rasna Industries Ltd.**
- ▶ **Shrinath Cargo Pvt Ltd. V/S ShrinathExpress Cargo Pvt. Ltd.**

CONCLUSION

- ▶ Intellectual Property Rights rewards creativity and human Endeavour, which fuel the progress of human kind.
- ▶ Understanding the Country's IP rights and following the best practices can drastically reduce the risk of losing the company's intellectual property.
- ▶ Indian Government has initiated various steps towards Intellectual property rights Association.



THANK

YOU